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STATE OF ARIZONA
ARIZONA INDEPENDENT REDISTRICTING COMMISSION

REPORTER' S TRANSCRIPT OF PROCEEDINGS

PUBLIC SESSION

Tempe, Arizona
May 22, 2002
9: 00 a. m.

PREPARED FOR:
ARIZONA INDEPENDENT
REDISTRICTING COMMISSION

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

1 The State of Arizona Independent Redistricting
2 Commission convened in Public Session on May 22, 2002,
3 at 9:00 o'clock a.m., at the Wyndham Buttes Resort,
4 Kachina Ballroom, 2000 Westcourt Way, Tempe, Arizona, in
5 the presence of:

6

7 APPEARANCES:

8

CHAIRMAN STEVEN W. LYNN

9

VICE CHAIRMAN ANDI MINKOFF

10

COMMISSIONER JAMES R. HUNTWORK

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COMMISSIONER DANIEL R. ELDER

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COMMISSIONER JOSHUA M. HALL

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2 ADDITIONAL APPEARANCES:

3

4 LISA T. HAUSER, Commission Counsel

5 JOSE de JESUS RIVERA, Commission Counsel

6 MARGUERITE MARY LEONI, Counsel

7 ADOLFO ECHEVESTE, IRC Executive Director

8 LOU JONES, IRC Staff

9 KRISTINA GOMEZ, IRC Staff

10 DR. FLORENCE ADAMS, NDC, Consultant

11 DOUG JOHNSON, NDC, Consultant

12 BRUCE CAIN, Federal Court Special Master

13 LISA A. NANCE, RPR, CCR, Court Reporter

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2 SPEAKERS FROM THE PUBLIC:

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4 ROBERT ZAMORA, ISAAC SCHOOL DISTRICT
5 NEIL WAKE, ARIZONANS FOR FAIR AND LEGAL
6 REDISTRICTING
7 SUPERVISOR MARY ROSE WILCOX, ARIZONA MINORITY
8 COALITION
9 AARON KIZER, ARIZONA MINORITY COALITION
10 JIM HARTDEGEN, CITY OF CASA GRANDE AND
11 CASA GRANDE CHAMBER
12 ANDREA GONZALES, CITY OF CASA GRANDE
13 MICHAEL MANDELL, ARIZONA MINORITY COALITION
14 REPRESENTATIVE CARLOS AVELAR
15 SENATOR LINDA AGUIRRE
16 SENATOR MARY HARTLEY

17 SCHEDULED SPEAKERS:

18 DOUG JOHNSON
19
20
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1 Public Session
2 Phoenix, Arizona
3 May 22, 2002
4 9:00 o'clock a.m.

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P R O C E E D I N G S

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CHAIRMAN LYNN: The Commission will come

8

to order.

9

For the record, roll call.

10

Mr. Elder?

11

COMMISSIONER ELDER: Here.

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CHAIRMAN LYNN: Ms. Minkoff?

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COMMISSIONER MINKOFF: Here.

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CHAIRMAN LYNN: Mr. Hall?

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COMMISSIONER HALL: Here.

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CHAIRMAN LYNN: Mr. Huntwork?

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COMMISSIONER HUNTWORK: Here.

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CHAIRMAN LYNN: The Chairman is here along

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with NDC, counsel, and NDC counsel.

20

With permission of the Commission and

21

staff, we have several things coming to the attention of

22

the Commission and staff. We've not heard back from the

23

Coalition. The Commission hasn't heard back from the

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Coalition. They've had our input and everything from

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the website. At the time they arrive and have something

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for us, without objection, I'd like to take that

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whenever it comes.

3

The second thing I want to make everyone

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aware of is that at some point, I suspect that some

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point will be today, however long it turns out to be, we

6

will need to conclude our business on selection of our

7 remedies for the Department of Justice objections and
8 turn that information over to our legal team and our
9 consultants to put in proper format to deliver to the
10 court. And we will take as much time as necessary to
11 get that done today. It will be my hope it not go into
12 tomorrow unless absolutely necessary to afford our legal
13 and consulting team enough time to prepare Exhibits and
14 make the presentation to the court as full and complete
15 as it needs to be.

16 Having said that, I also wish to indulge
17 the Commission in terms of having perhaps several
18 opportunities for the public to address us today given
19 that it appears as though the groups of people who might
20 be willing or interested in addressing the Commission
21 may be here at various times. So we will sort of play
22 that by ear, if that is acceptable.

23 I thought we would start this morning with
24 a report from NDC.

25 Mr. Johnson, based on the instructions

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1 yesterday, has information for us. And I would ask him
2 to go through that information at this time.

3 As we did yesterday, I would suggest that
4 we take questions as each of the alternatives is
5 presented just so that we understand the alternatives
6 and then perhaps have a more full and open discussion of
7 the various alternatives at the conclusion of the

8 presentation.

9 Without objection, Mr. Johnson.

10 MR. JOHNSON: Mr. Chairman, Members of the
11 Commission, today's presentation will be considerably
12 shorter primarily because the instructions that the
13 Commission gave, just to refresh everyone's memories,
14 was to take the discussion and the comments from the
15 Commission and the public yesterday and to attempt to
16 draw a second alternative for the Maricopa area, achieve
17 similar goals to what yesterday was called 2A, or DOJ
18 2A, in that area fixing essentially two of the districts
19 instead of just one, which is what the 1A and 1B
20 alternatives did.

21 Additionally, the Commission, in the
22 interests primarily of time, it was stated, instructed
23 us not to revisit the Pima issue, or not to do
24 additional work on the Pima issue. So that area is
25 essentially unchanged.

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1 In addition, while doing this work, the
2 Pinal district, District 23, is also unchanged from what
3 you saw yesterday.

4 So what I have to show you this morning is
5 a very slightly revised version of 2A and a new map that
6 I've called 2B. I was so innovative in the numbering
7 scheme.

8 Up on the screen currently, and you now
9 have data sheets in front of you -- I should note the

10 data sheets and the maps have been posted on the website
11 this morning by our ever quick Tim Johnson, so they are
12 available to the public. And we do have copies of the
13 spread sheet in the back.

14 What I did on 2A is fairly limited. I, as
15 we discussed yesterday, and as instructed by the
16 Commission, just went through and cleaned up a couple
17 precinct splits in Maricopa County. I also looked to
18 eliminate some of the jags in 2A, primarily in District
19 14, the middle section, to make it smoother without
20 quite as many jags as they had before. I also did some
21 clean-up on the lines to make them more familiar, more
22 recognizable, more attuned to the major roads and other
23 guidelines on 15 -- on 15 in this plan.

24 It's also somewhat smoother than the plan
25 I showed you yesterday.

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1 I also went through, ran a computerized
2 city split report and county split report so there are
3 no technical mistakes in the drawing of this report.
4 This plan is polished for the Commission's final
5 consideration, if that's the Commission's wish.

6 A couple notes in the process. The spread
7 sheet in front of you, the percentages are essentially
8 unchanged. The changes were a 10th of a point here,
9 couple hundredths of a point there.

10 On the county splits, as discussed

11 yesterday, District 19 now extends in, picks up a part
12 of Apache Junction and Pinal, part of the 23 fix, one
13 additional fix of Pinal.

14 There is one additional split of Pinal in
15 this plan; otherwise, it is the same as the adopted
16 plan.

17 On the city splits front, there are still
18 the same number of city splits as in the adopted plan,
19 15. There are three additional splits, however.

20 As discussed yesterday, Avondale has an
21 additional split. Glendale has an additional split.
22 And it turned out the City of Phoenix has an additional
23 split.

24 COMMISSIONER MINKOFF: I didn't hear you.

25 MR. JOHNSON: Avondale, Glendale, and City

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1 of Phoenix each get one additional split. Again, those
2 are all obviously things we tried very hard to avoid
3 doing in the adopted plan; but the requirements of DOJ
4 led to those changes.

5 Also, on the deviation front, as you can
6 see from the spread sheet in front of you, the total
7 deviation, the two differences between the largest and
8 smallest districts is now up to 8.69 percent. The
9 adopted plan had a 3.79. That could be reduced by
10 spreading some of the deviations through additional
11 districts to reduce the total spread between the largest
12 and smallest; however, that would require changing

13 additional districts. And the goal that I was following
14 as I drew this was to touch the fewest number of
15 districts possible. So that is a tradeoff there.

16 That is the quick summary on this plan.

17 Oh, the other question that did come up
18 yesterday was the issue of the portion of old 19, '94 to
19 2000 Legislative District 7. And a small piece of it in
20 Avondale that we looked at, that extends north of
21 Western. The concern as we discussed it yesterday was
22 that area had gone to 12, which took it from a district
23 that had a history of electing Hispanics and put it into
24 what would be termed an influence district.

25 As I did these changes in order to achieve

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1 these goals and keep 14 and -- 14 and 15, I'm sorry, at
2 the percentages that DOJ appears to require, there were
3 some changes necessary. And what I was able to do was
4 put that small neighborhood north of Western that was in
5 old District 7 into District 14, which puts them into a
6 district that is now 59 Hispanic voting age and expects
7 it to be effective. Not in Pinal district, where it had
8 been, remain in a district we consider effective and
9 anticipate able to elect voters of their choice.

10 So if there are any questions on this, I'd
11 be happy to address them or go on to the other plan.

12 CHAIRMAN LYNN: Mr. Johnson, I have one
13 question. If you would concentrate on the area off

14 District 14 that is the western-most area of that
15 district and the area that is north of the I-10
16 alignment, could you give me an idea of the population
17 in that little notch?

18 MR. JOHNSON: This little notch?

19 CHAIRMAN LYNN: Yes.

20 COMMISSIONER ELDER: Yes.

21 MR. JOHNSON: 231 people in that notch.

22 And this is actually -- the only reason I put that in
23 there, it is a portion of Senator Rios' district
24 currently. His district has, as many as current
25 districts, odd little jags. And that was one of them.

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1 CHAIRMAN LYNN: Old District 7 is
2 characterized by a fairly large number of jags and jogs.
3 And I might suggest in terms of -- well, I guess what
4 I'm suggesting, and I think -- and the gray district
5 would be 12?

6 MR. JOHNSON: Correct.

7 CHAIRMAN LYNN: It seems to me that
8 belongs in 12. Looking at this, it's an odd anomaly,
9 not a huge deal, because of the freeway separation,
10 there are a number of other other districts. Unless
11 breaking the school district some other way, it makes
12 sense to break it that way. Seems to me it ought to go
13 north.

14 Mr. Huntwork.

15 COMMISSIONER HUNTWORK: Well, I certainly

16 agree in terms of the compactness, and contiguity, and
17 all of those -- geographical separation, all of those
18 type of issues we're supposed to look at. However, I am
19 thinking about the reaction of some of the voters down
20 in the mining communities in Pinal County where for
21 demographic reasons of compactness, everything else, we
22 included them in another district but in -- took away,
23 in fact separated them from the district where there
24 was -- where they felt there was an opportunity to elect
25 a Hispanic representative. I think that at least at

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1 this point in attempting to respond to the Department of
2 Justice concerns, that we -- we should be going the
3 extra mile. The voting rights issues do outweigh the
4 other Prop 106 considerations. And if by making a small
5 deviation we can keep that population in a district that
6 has the opportunity to elect a Hispanic representative,
7 I think we need to be sensitive to that concern.

8 CHAIRMAN LYNN: Thank you, Mr. Huntwork.

9 Mr. Elder?

10 COMMISSIONER ELDER: Thank you,
11 Mr. Chairman.

12 Mr. Johnson, right below that notch we
13 were just referring to, if you go to the west, there's
14 another, in-held piece of gray, District 12, or two,
15 excuse me. What are the demographics of that area
16 there? Looks like there's 120, 20, and 11, or something

17 in there.

18 CHAIRMAN LYNN: City boundaries.

19 MR. JOHNSON: This I can get you
20 demographics in there. It's actually following the city
21 boundary out there.

22 There are adds. You noted 123 people,
23 noted there. 55 are Hispanic origin.

24 COMMISSIONER ELDER: So actually reduce
25 percentages or numbers there, if we included that.

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1 The only thing looking at, deviation from,
2 I believe, in District 12, we have 172,000. And
3 District 14, 166. It would almost seem we want to
4 increase only when it would benefit percentages.

5 What is the area to the north of, you
6 know, the city line below I-10, if squaring off the west
7 end? What is that, demographics there we want to
8 include in District 14 to be able to increase population
9 there and balance out, reduce deviation there again?

10 MR. JOHNSON: Let me take a quick look at
11 a couple of these samples.

12 I don't believe we are.

13 This one is 300, 198. That one is fairly
14 high. But these others are -- it drops down.

15 These are all about a third Hispanic
16 origin or less. That one is back up.

17 It's a fairly even trade. I was looking
18 at -- I looked a little at this area.

19 Mainly I was following city lines and
20 current district lines, also looking for anything that
21 would help us meet DOJ's targets.

22 COMMISSIONER ELDER: Right where the
23 cursor is are now areas north of I-10. If we look at
24 the little promontory we're discussing, or the chairman
25 was discussing, if we went to the east of that, are any

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1 of those districts there though small population, are
2 they beneficial to us?

3 MR. JOHNSON: No. That's the Avondale
4 split they've come in and talked about.

5 COMMISSIONER ELDER: Thank you.

6 CHAIRMAN LYNN: Mr. Hall.

7 COMMISSIONER HALL: Couple general
8 questions.

9 Doug, as I look at the two maps, I know we
10 haven't gone together yet, why are we changing numbers,
11 an additional effort to provide confusion or --

12 MR. JOHNSON: The numbering is a lot
13 simpler when you have the nice compact districts that we
14 had before. When the districts are wrapping around each
15 other, it definitely gets weird.

16 COMMISSIONER HALL: It just seems to me 14
17 in this map was currently 13 under our plan, and it --
18 13 under DOJ 2B, but it's 14 here. So -- I don't want
19 to belabor the point. I just wondered if there's a

20 legitimate reason. I'm just --

21 MR. JOHNSON: The numbering is an attempt,
22 or it starts as the heart of the district. You'll see
23 in the second one that 14 is the center -- and 14 is the
24 center of 13. In this case we're addressing DOJ's
25 objection we had split a district that had a history of

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1 electing a minority candidate of choice. One side comes
2 out numbered weird one way or another. I was trying to
3 decide north-south or west-east. I can change it if
4 that's the Commission's choice.

5 COMMISSIONER HALL: I was just asking.
6 Can you superimpose on this map the
7 Hispanic AUR, please?

8 MR. JOHNSON: Sure.

9 COMMISSIONER HALL: So the little square
10 that's the subject of this discussion is within that
11 AUR, you mean?

12 MR. JOHNSON: The Avondale piece?

13 COMMISSIONER MINKOFF: Yeah.

14 MR. JOHNSON: Yes.

15 COMMISSIONER HALL: And what is the piece
16 to the west? Is that basically no population in the
17 west of 14, the little square there, now in 12?

18 COMMISSIONER ELDER: He said it doesn't
19 really help us, though.

20 COMMISSIONER HALL: I see. Just nothing
21 there?

22 COMMISSIONER ELDER: Percentages weren't
23 there.

24 MR. JOHNSON: It is part --
25 Let's see something.

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1 COMMISSIONER HALL: That's Avondale city
2 limits?

3 MR. JOHNSON: No. That's actually in
4 Goodyear, that piece.

5 COMMISSIONER HALL: I see.
6 What about the square up above 13?

7 MR. JOHNSON: 13? This portion here?
8 That is, I believe -- that is the portion of Peoria that
9 we have left out in order to keep that city.

10 COMMISSIONER HALL: I see.

11 CHAIRMAN LYNN: Mr. Huntwork?

12 COMMISSIONER HUNTWORK: Doug, as I look at
13 the demographics between 14 and 15, they seem to be
14 almost identical, the same -- virtually the same voting
15 age population, virtually the same total population; I
16 know a little under, but you've evened them out. What
17 I'm wondering about is why the line between them is so
18 noncompact. You would think if you drew a vertical line
19 north and south and just evened it out on both sides it
20 would all even out; but maybe there's some hidden thing
21 there that is not obvious.

22 MR. JOHNSON: See, I had -- as I drew, I

23 had many more lines on them than I do now.

24 Each of the vertical lines is a different
25 explanation.

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1 The western one, this is Isaac School
2 District. I was attempting to keep the school district
3 whole as much as possible. As noted yesterday, a small
4 piece was cut out of it, but that's just following the
5 precinct line.

6 One on the west, in the center, in 16,
7 that's done because it's a different demographic between
8 two demographics. In order achieve Department of
9 Justice goals, it needed to be shaped that way.

10 COMMISSIONER HUNTWORK: Thank you.

11 CHAIRMAN LYNN: Ms. Minkoff.

12 COMMISSIONER MINKOFF: Can you go back
13 to --

14 CHAIRMAN LYNN: Microphone.

15 COMMISSIONER MINKOFF: Thank you.

16 I'm just trying to look at ways to achieve
17 some of the population variances between primarily 12,
18 which is a little overpopulated, and 14 which is a
19 little underpopulated.

20 You've got the eastern edge of District 12
21 that kind of juts into 14, which looks like it's within
22 the Hispanic AUR. Are there numbers there that could be
23 shifted between those two districts so that the
24 disparity isn't quite as great as it is?

25 MR. JOHNSON: This area, obviously, is not

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1 the most compact section of the plan. The challenge,
2 though, the nature of those communities, as you can see
3 on the zoom-in, you've got the golf course down here,
4 the municipal golf course, and apartment complexes, and
5 mobile home parks in here.

6 Essentially the demographics and community
7 borders through there are very different than areas to
8 the east of them.

9 COMMISSIONER MINKOFF: Uh-huh.

10 MR. JOHNSON: I did, in drawing this,
11 square all that off early in the test. There's no way
12 to do that.

13 COMMISSIONER MINKOFF: You can't find --
14 there's a fairly long border between 12 and 14. And
15 there aren't any areas where the demographics make sense
16 to move population from 12 into 14?

17 MR. JOHNSON: Everything that moved, as I
18 went along that looking for areas, did take us down
19 below the Department of Justice targets.

20 COMMISSIONER MINKOFF: Thank you.

21 CHAIRMAN LYNN: Other questions on test
22 DOJ 2A new.

23 If not, Mr. Johnson, would you proceed to
24 test DOJ 2B.

25 MR. JOHNSON: Mr. Chairman, DOJ 2B started

1 with the goal of restoring to somewhat of its adopted
2 form District 13, bringing it up to what we're sort of
3 terming Department of Justice targets. The lower were
4 sort of precleared. Attempting to sort of bring 13 up
5 to that level, different from the alternative we were
6 just looking at.

7 What ends up here is District 15 becomes a
8 somewhat influence district and is no longer a majority
9 Hispanic district, or as was in the adopted plan, a
10 majority-minority voting age district.

11 When I drew this test, I did not want to
12 change our fix, as we term it, of District 23, so the
13 District 23 line for Avondale is unchanged from
14 everything that you saw yesterday.

15 Again, that portion of old District 7 is
16 moved into now District 13. It's the same issue of they
17 were in a district that elected, District 13 is now 59
18 percent Hispanic voting age and we believe it will be an
19 effective district. So they are remaining in a district
20 where they have effective voting strength.

21 District 13, as you can see from this map,
22 is closely shaped to the adopted version with two big
23 changes, three big changes. District 12 now comes in,
24 in the South Glendale area, and takes a piece of what
25 was District 13.

1 This is the area we were just looking at
2 on the other map. And then to offset that, and also to
3 move us up from the adopted Hispanic voting age to what
4 the Department of Justice termed effective in District
5 16, we moved north further into Glendale, into the
6 community up there that has been mentioned many times by
7 the Coalition as a strong part of the Hispanic
8 community, and we incorporate that.

9 And the third significant change is the
10 district moves east.

11 This -- there was no way to avoid moving
12 east in order to reach the goals of this test. However,
13 this did have one detrimental effect, as can you see.
14 The Isaac School District winds up divided into three
15 pieces under this test. We tried many, many ways to get
16 around that, and there just weren't any ways to avoid
17 the ways of achieving goals of this test without doing
18 that.

19 CHAIRMAN LYNN: Since you brought that up,
20 in test DOJ test 2A new, what is the impact on that
21 school district?

22 MR. JOHNSON: It is essentially intact.
23 There is a small piece taken out only to unite a
24 precinct.

25 So District 13, in this plan, ends up, I

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1 can get the exact figure for you, 59.48 percent Hispanic
2 voting age population, as drawn here.

3 The next step was to look at District 14.

4 Just a quick side note, District 16 is
5 essentially unchanged from 2A. And let me give one
6 other side note. District 11, as you can see on this
7 map, is essentially one block difference, but it is
8 essentially the exact same district as adopted by the
9 IRC back in November. So this scenario, we touched one
10 fewer districts than we did in 2A.

11 So District 14 keeps a significant portion
12 of the central adopted District 14. It loses a portion
13 in the south to District 16, as it did in 2A, and it
14 loses a portion in the north. In 2A it loses it to 13.
15 In 2B it loses it to 15.

16 I can refer to this district as the -- to
17 this test as the two barbell plan. 15 comes from the
18 north to 13 and 14 comes down through a somewhat narrow
19 connector and ends up around the golf course. The
20 reason for that is twofold, one, to achieve the goals of
21 the test of hitting our voting age percentages in 13 and
22 14 while doing the least damage to other criteria and,
23 two, to touch as few districts as possible.

24 This could be rearranged where part of 15
25 would essentially be split in half and merged in with 10

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1 and 11, but obviously we'd be bringing a lot of other
2 districts into play for this review. And in addition,
3 that would probably, I haven't looked at any numbers or
4 run any tests, that would probably doom the
5 competitiveness nature of 10.

6 But again, until looking at it in detail,
7 I wouldn't be able to confirm that. So -- but the
8 instructions on this were to try to meet these goals
9 while touching as few districts as possible, and that is
10 what you are seeing here.

11 District 14 ends up beginning in the
12 north, goes through to Bethany Home Road. Initially
13 it's entirely west of the freeway at I-17. It then
14 comes down, moves slightly east of the freeway at
15 Missouri Avenue, and goes over and continues south and
16 along 19th Avenue. It comes south essentially to the
17 freeway loop, the 10 freeway, and then moves to the
18 east. You'll note that the eastern extension is similar
19 to what you saw in 2A from District 15. It is not as
20 significant a chunk, does not go all the way up to
21 District 11, for example, and does go all the way over
22 to the Tempe city border, city line.

23 There are some jagged edges on the north
24 side of 14, as you can tell. Those are precincts that
25 are divided through there, which was a concern.

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2 down below the level at which District 16 was
3 precleared.

4 So one thing I should note is that this
5 plan, I've not gone through the detail level review that
6 I have of 2A. I would like to do that before the
7 Commission took final action on this, if possible, but
8 this illustrates essentially how the districts would be
9 shaped short of some minor changes here.

10 CHAIRMAN LYNN: Questions?

11 Mr. Hall.

12 COMMISSIONER HALL: Well, Mr. Johnson, the
13 barbell certainly symbolized that redistricting is heavy
14 lifting.

15 The question I had was, and maybe one of
16 my fellow Commissioners is better able to answer it, but
17 in just comparing these two plans, I think a
18 consideration, and while maybe it's required legally, is
19 the issue of growth in this. So, simply, in essence,
20 we're saying leave these two or leave these two. My
21 question, and maybe it's better answered by some of my
22 fellow metropolitan Commissioners, where are the growth
23 areas most prevalent, and probably growth areas for
24 Hispanic voters?

25 CHAIRMAN LYNN: Ms. Minkoff.

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1 COMMISSIONER MINKOFF: Mr. Chairman and
2 Commissioner Hall, I don't think we're talking about

3 growth areas that much in any of these districts. There
4 might be a little bit -- you know, I have trouble
5 referring to numbers, because, Doug, you've flipped
6 these clockwise; and that is why District 15 is affected
7 in one plan, District 13 is affected in the other.

8 If you look at them, 15 looks like 13.

9 But, west of Tolleson, when you go into
10 Avondale, there is some limited growth there. But most
11 of the rest of these are already highly developed urban
12 neighborhoods and the growth areas are more further to
13 the north, to the southeast, to the northeast in
14 Maricopa County. I'm not sure that is in play in either
15 one of these scenarios.

16 Jim, would you agree?

17 COMMISSIONER HUNTWORK: I agree in total
18 population. I think that the -- I think that Joshua's
19 question included the idea of the growth of the Hispanic
20 AUR, where that is likely to occur. And I think it is
21 more likely to occur from south to north; generally, to
22 some extent from west -- from southwest to northeast,
23 out of 14 into the central area. But I think both plans
24 include that area within one of the two Hispanic
25 districts that are being composed. So I don't think

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1 there is much difference between them in that regard.

2 COMMISSIONER MINKOFF: I would think if
3 you are looking for significant growth of the Hispanic
4 AUR geographically, that it would probably occur in 12,

5 in the future.

6 COMMISSIONER HALL: No question.

7 COMMISSIONER MINKOFF: So I don't see that
8 as a serious declaration in 13, 14, and 15.

9 CHAIRMAN LYNN: Mr. Huntwork.

10 COMMISSIONER HUNTWORK: Well, I think,
11 just looking, comparing the two plans demographically,
12 based on the spread sheets that we were given, I think
13 that, on the positive side for plan 2B, I think without
14 affecting District 11, you've achieved essentially the
15 same demographics for the two majority-minority
16 districts. And that is certainly worth considering.

17 On the other hand, I think that the
18 changes to 11 were insignificant. 11 was never involved
19 in the -- in the question at all, and so I don't think
20 we have to be concerned about DOJ scrutiny of the minor
21 changes that were being made in 11 in test 2A. And so I
22 think we're free to compare the two based on other
23 criteria, really.

24 And in that regard, I've got a couple
25 concerns about 2B. One is that we now have a district

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1 which -- where population comes below 164,000. I
2 believe, if I'm reading this correctly, we have one with
3 a 265,500, District 14. That is, given the emergency
4 that we're dealing with, it's hardly a major population
5 deviation when we currently have districts that range

6 from 130 to 250 thousand, whatever the -- whatever it
7 is, but, nevertheless, there's nothing more important,
8 more fundamental, than equal representation. And to the
9 extent that test 2A does not go quite that far, you
10 know, I consider that to be a factor in favor of test
11 2A.

12 Before I go on to the other issues,
13 comparisons, I want to ask you whether you looked at any
14 possible way to balance that within the confines of what
15 you are trying to do here. Is there any way to create a
16 more equal population and still achieve the
17 demographics?

18 MR. JOHNSON: On the districts that are
19 short in population, no. Anything -- any additions I
20 could find -- any additions I could find would drop them
21 below the percentage at which 16 precleared. The only
22 exception to that is some small areas where I could pick
23 up a few blocks here and few blocks here. In each of
24 those cases, I was splitting additional precincts. On
25 the districts that are overpopulated, there would be an

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1 option to bring down total population, but that would be
2 deviation by bringing down additional districts.

3 COMMISSIONER HUNTWORK: Okay.

4 CHAIRMAN LYNN: Mr. Huntwork.

5 COMMISSIONER HUNTWORK: One more
6 observation, and that is just compactness of the
7 district. I guess two more observations.

8 We have two -- I would call them dumbbells
9 rather than barbells. Even in the literature about
10 Proposition 106, they were talking about dumbbell or
11 barbell-shaped districts. It is definitely something we
12 are charged to avoid, if we can.

13 To the extent we're looking at two plans
14 here that really have equal demographic values, I think
15 we need to favor the one that avoids districts like
16 that, to the extent possible. And 15 in test 2B is
17 getting -- it's getting somewhat ridiculous.

18 Does the northwest corner of it go into
19 Glendale or stop short of Glendale?

20 MR. JOHNSON: No, goes into Glendale.

21 COMMISSIONER HUNTWORK: Southeast corner
22 stays in Phoenix?

23 MR. JOHNSON: Yes.

24 COMMISSIONER HUNTWORK: Okay. So at least
25 it doesn't go all the way to Tempe or -- but it gets

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1 close.

2 MR. JOHNSON: Right.

3 COMMISSIONER HUNTWORK: All right.

4 The other thing I wanted to say, at the
5 invitation of Representative Miranda, I went over and
6 attended a community meeting over in kind of the
7 southwest valley area. And the message I got there was:
8 Don't divide our school districts. Keeping Isaac School

9 District together is an extremely important
10 consideration for that population. The Mayor of
11 Tolleson was there at the meeting. It was almost like
12 if you have to divide our city, go ahead, we understand,
13 but don't mess around with our school districts. So I
14 think that that also ways very heavily in favor of plan
15 2A in comparing these two possibilities.

16 CHAIRMAN LYNN: Ms. Minkoff.

17 COMMISSIONER MINKOFF: Thank you,
18 Mr. Chairman.

19 I don't need to repeat a lot of what
20 Commissioner Huntwork said except to say that I agree
21 with a lot of it.

22 What we're looking for is really a fix for
23 this election. And I think that 2A is a little bit less
24 disruptive to neighborhoods and to communities of
25 interest. And choosing between these two, because of

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1 all of the reasons that Commissioner Huntwork mentioned,
2 I think I would favor 2A as well.

3 CHAIRMAN LYNN: If I may, Mr. Elder, I had
4 a question. Let me just jump in for one question.

5 Now that we've seen both, Mr. Johnson, I
6 had a question about 2A new, if we could return to that
7 map for a moment.

8 And for the record, I see that some of the
9 representatives of the Minority Coalition are here, and
10 we'll get to you very shortly.

11 Mr. Johnson, in -- I would like you to
12 concentrate on the lower portion of District 13 on that
13 map as it interfaces with District 15. Thank you.

14 That is, for some reason, is that --
15 that's a golf course that appears in the center of that?

16 MR. JOHNSON: Yes, the Encanto Golf Course
17 is in the center of the district coming down.

18 CHAIRMAN LYNN: So it is a part of 13.
19 It's not a part of 15 that comes around and enters 13.

20 MR. JOHNSON: Right. The golf course is
21 in 13.

22 CHAIRMAN LYNN: So it's a coloration
23 issue. I want to make sure don't have an appendage of
24 15 coming into 13.

25 MR. JOHNSON: The shading issue is

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1 Maptitude showing the golf course.

2 Mr. Elder.

3 COMMISSIONER ELDER: Yes. Going back to
4 issues of trying to get the vote squared around and the
5 county administration of a split precinct, are we really
6 having a problem of one or two precincts being difficult
7 for the counties to manage? And where I'm going, if
8 we're looking at that Isaac School District, if it's a
9 matter of one precinct to be able get the thing to work,
10 will that put undue hardship on the county, Maricopa
11 County, to make that shift?

12 CHAIRMAN LYNN: Mr. Johnson.

13 MR. JOHNSON: It is -- the issue is in the
14 schools we've had to split a number of precincts that
15 are unavoidably split. So this would be adding, it's
16 actually, I think, two precincts to that list. It's not
17 going to make the difference as to elections one way or
18 another over precincts, trying to minimize effects. We
19 could choose to split them, if that was the preference.

20 COMMISSIONER ELDER: My preference, I
21 guess, if counties have already made their splits based
22 on the previous plan, and this does not add on any
23 really heavy lifting to make that change, and then based
24 on Mr. Huntwork's comments of attending the meeting and
25 the push that these constituents have to keep their

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1 school district together, I would like to see that
2 change shifted or change made.

3 MR. JOHNSON: If I may, one thing I forgot
4 to mention early on, when I'm talking about precinct
5 shifts in Maricopa, based on the new precincts Maricopa
6 has drawn, pinal did send a file, it turned out to be a
7 map I could only print out, not anything I could use in
8 this process. We've gotten back in touch with them,
9 obviously, that the clock is ticking.

10 Pima County, we have two different files
11 and no direction from them as to which one to follow.

12 In terms of precincts, I've only been
13 looking at Maricopa. Either one of those options will

14 be heavy lifting for Maricopa County, just a matter of
15 trying to minimize how heavy.

16 CHAIRMAN LYNN: Ms. Minkoff.

17 COMMISSIONER MINKOFF: Mr. Chairman, I
18 sympathize with the comments Mr. Elder made. It would
19 be nice if we could unify Isaac School District. What
20 I'd like to suggest is because Maricopa County has
21 expressed very serious concern about any splits to
22 precincts, or any change in precincts maps, already has
23 been precleared by the Department of Justice, already
24 have everything set up, maybe during one of the breaks
25 we could contact the county election department and ask

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1 them if we are already splitting a few precincts, as
2 apparently we are in any of these scenarios, to ask them
3 what impact that would have, because, if -- if it's
4 going to cause no more trouble to them than what we're
5 doing already, it makes some sense. If it causes
6 serious disruption for this election, we might have to
7 go forward with the split in a district. I ask to get
8 input from them.

9 CHAIRMAN LYNN: Everybody wants in,
10 Mr. Hall, Mr. Huntwork, Mr. Elder.

11 COMMISSIONER HALL: So summarize for me
12 again, please, Doug, the total number of districts
13 affected in each map.

14 MR. JOHNSON: Well, excluding the changes

15 in 23 and 27 --

16 COMMISSIONER HALL: Maricopa County.

17 MR. JOHNSON: Maricopa County 2A, we're
18 changing 12, 13, 14, 15, 16, and 11. We're not touching
19 9, 10, 17.

20 2B new, the plan presented this morning,
21 we're touching 12, 13, 14, 15, and 16.

22 COMMISSIONER HALL: So one less in 2B.

23 MR. JOHNSON: Yeah. District 11 changed
24 in 2A and was not changed in 2B.

25 COMMISSIONER HALL: So, just one final

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1 question, Mr. Chairman, for legal counsel, I just wanted
2 to -- there seems to be some discussion relative to
3 communities of interest, compactness, et cetera.

4 On the face, the numbers seem to be
5 essentially equivalent. I didn't know if there was any
6 additional input counsel would like to provide relative
7 to comparison of numbers on one versus numbers on
8 another, or if it's -- if the face appears what it is.

9 MS. HAUSER: Yes.

10 CHAIRMAN LYNN: Could we do that
11 auditorily for the record.

12 MS. HAUSER: Yes, Mr. Chairman.

13 CHAIRMAN LYNN: Mr. Huntwork.

14 COMMISSIONER HUNTWORK: I also have a
15 request for counsel regarding the preclearance of the
16 precincts in Maricopa County.

17 I would assume that if we come back to the
18 court with a proposal that we think meets the objections
19 of the Department of Justice, and if as part of that
20 proposal we find it necessary to change some of the
21 precincts, that we would simply point that out to the
22 court and obtain the court's approval for the changed
23 precincts as well; is that correct?

24 CHAIRMAN LYNN: Ms. Hauser?

25 MS. HAUSER: Mr. Chairman, Commissioner

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1 Huntwork, we would not actually make any precinct
2 changes ourselves. That must be done by the counties.
3 They go through their Boards of Supervisors to do that.
4 But I would anticipate that the court will be hearing
5 from the affected counties. They've united them to come
6 in and present information as to the additional relief
7 that they need.

8 COMMISSIONER HUNTWORK: Thank you.

9 CHAIRMAN LYNN: Mr. Elder.

10 COMMISSIONER ELDER: That was really mine,
11 is whether the court had the authority to say so what,
12 they've been precleared; we need to make these changes
13 for the 2002 election in the counties' precincts. If
14 that's the case, then we could go forward.

15 CHAIRMAN LYNN: If there are no other
16 immediately pressing questions, I wonder if it might not
17 be a reasonable time to hear from the public. We do

18 have representatives of the Minority Coalition here.

19 What I would like to do, in deference to
20 those individuals who were here earlier, we only have
21 three speakers who have submitted speaker slips, I'd
22 like to take them in order. And so, if you can, and
23 will bear with us, we'll get to you very shortly.

24 Without objection -- maybe we have four,
25 but we have the Coalition in third place, at the moment.

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1 Let us first hear from Mr. Robert Zamora
2 who is a member of the governing board of the Isaac
3 School District.

4 Mr. Zamora.

5 MR. ZAMORA: Thank you, Mr. Chair, Members
6 of the Commission.

7 We want to thank you, first of all, for
8 taking our concerns and taking a look at your maps. We
9 know that in 2A you kept us mostly intact. What we
10 wanted to tell you is that we have a proposal coming
11 forward after tonight's meeting, a little late, that's
12 why I'm speaking on our behalf right now. What we're
13 looking at is trying to keep Isaac intact. It's very
14 important for our constituents and students in that
15 area. We know, we deal with legislators all the time,
16 and we have a good group. And we like keeping that
17 working relationship.

18 What we will ask you, though, is this: In
19 keeping in mind to keep us together, we wanted to say,

20 and the intent of the letter we first submitted was to
21 keep a westerly feel as being in the West Valley. As
22 although we know that's pretty tough, we just wanted --
23 basically they sent me here, thank you very much for
24 taking our concerns and listening to us, as long as you
25 keep us intact, we'll greatly appreciate that.

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1 CHAIRMAN LYNN: Mr. Zamora, if you would
2 entertain a question.

3 MR. ZAMORA: Sure.

4 CHAIRMAN LYNN: Could you comment on the
5 Isaac School District's feeling about the current
6 district, Legislative district, in which you find
7 yourselves in terms of our adopted map, that is our
8 proposed district, not what you see on the screen here,
9 the proposed district Isaac School District currently
10 finds itself our proposed and adopted Legislative map?

11 MR. ZAMORA: I know some concerns. We
12 didn't feel, and I know we had some discussion at one
13 point about being so far north. We didn't know whether
14 or not that fit the feel for our district. We know we
15 work alongside and have inter-governmental agreements
16 with Murphy School District, Cartwright School District,
17 other school districts which are further to the west.
18 Moving up north, we didn't know whether or not going
19 that route would really give us cohesion in working with
20 those districts, although if that was the plan, we'd

21 have to make those ties and try to get in with them and
22 have some working agreements. But when we looked at, I
23 know a couple members have looked at some of the
24 proposed maps, they have appreciated it has moved
25 further south. That has been expressed.

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1 So that's my -- I believe we have come
2 forward to say that keeping us together is important,
3 although we do wish they could look at keeping us in a
4 western portion of the map.

5 CHAIRMAN LYNN: Thank you.

6 Mr. Elder may have a question as well,
7 Mr. Zamora.

8 COMMISSIONER ELDER: Yes. Mr. Zamora, I'd
9 like to get a little better understanding about the role
10 of the school district and why the cohesiveness and the
11 district being held whole is so important. In Tucson,
12 the schools are not necessarily purely just a school,
13 they are -- there are tremendous number of programs
14 oriented through either inter-governmental agreements,
15 social districts, parents, mothers, WIC programs, and it
16 is district school based. Is that true up here in
17 Isaac?

18 MR. ZAMORA: Absolutely true.
19 Inter-governmental agreements, students with special
20 needs, Murphy District, Cartwright District, one to our
21 south, one to our west; also, after-school programs deal
22 with both of those school districts, and including

23 Phoenix Union High School District where we have the
24 Away Program, which is through the City of Phoenix
25 Police Department. And we'll be working Phoenix Union

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1 on that. So, you are absolutely correct. We do have
2 parenting programs where we do have inter-governmental
3 agreements with them, also. So there are a lot of
4 programs that deal with the district just to the south
5 and to the west. And that's why we wanted to keep that
6 intact.

7 COMMISSIONER ELDER: Okay. Thank you.

8 CHAIRMAN LYNN: Thank you, Mr. Zamora,
9 very much. We appreciate you being here.

10 The next speaker is Neil Wake representing
11 Arizonans for Fair and Legal Representation.

12 Mr. Wake.

13 MR. WAKE: Thank you, Mr. Chairman.

14 I came here prepared to talk about one
15 subject, but in light of what has happened this morning,
16 I'd like to talk about two subjects. First, I would
17 like to point out that my client is a corporation,
18 nonprofit corporation, John Winny president. His
19 officers are recorded, filed with the Secretary of
20 State's Office. And we speak for the Republican Party
21 interests in redistricting interests.

22 My usual adversaries have called
23 themselves the Minority Coalition. In fact, the parties

24 they represent in state and federal court litigation are
25 for incumbent Democratic Party legislators and other

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1 Democratic Party office holders, presumably other people
2 who have not been identified.

3 The first thing I want to say is that we
4 are all disadvantaged by the speed of this. I am
5 disadvantaged because I was not able to be here in the
6 room for the entire morning. So I'm going to say some
7 things based on what I've been told about what has
8 happened.

9 I understand that the revised map that
10 Mr. Johnson presented this morning has a maximum
11 population deviation in excess of nine percent. If,
12 Mr. Chairman, if I could, with your permission, be sure
13 I'm right about that, it would affect my comments.

14 CHAIRMAN LYNN: Mr. Johnson?

15 MR. JOHNSON: It is essentially nine
16 percent. It's 8.96.

17 MR. WAKE: Thank you, Mr. Chairman,
18 Mr. Johnson.

19 Here is my concern. It's both a matter of
20 equity and a matter of law. A nine percent deviation is
21 right at the cutting edge as a violation of the
22 Constitution for Federal Constitutional purposes; and
23 our State Constitution requires constitutional equality
24 be equal to the extent practicable.

25 Now, if there is a need to fix the voting

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1 rights at issue, to fix an objection from the Department
2 of Justice, then that justifies greater rather than
3 lesser population deviation. The map I think called 2A
4 last night does that. It got to population deviation I
5 think in excess of something around seven percent, but
6 it fixed the Justice Department problem.

7 To exceed deviation further without
8 justification, to respond to a, an objection, to meet a
9 Voting Rights Act problem, is highly problematic from a
10 constitutional point of view, at least under the State
11 Constitution. So there's -- but whether we get to talk
12 about law and constitutionality, we ought to think first
13 about equity and fairness.

14 We have an increasing population
15 deviation, which I submit should not be accepted as not
16 being justified by the need to meet those federal law
17 requirements. And it is brinkmanship to go further just
18 out of some other motivation that I can't see because
19 last night's fix did deal with those problems. That's
20 the first point.

21 I didn't plan to say, but because things
22 just happened this morning, let me go on to the point,
23 the subject that I also want to address, and that goes
24 to the concern about what you are about to hear from the
25 four Democratic Party incumbent legislators and their

1 politically applied group, and it has to do with the
2 process that you are engaged in and the legitimacy of
3 your process and, therefore, of whatever product you
4 arrive at.

5 Now, this Commission has done an excellent
6 job in a short time frame in approaching the current
7 circumstances in utter good faith. You have heard
8 comments from everyone who wanted to present them. But
9 now you are about to receive a map from party sources.
10 And we submit that that would be inappropriate in the
11 extreme for this court to be bargaining with a
12 party-sourced map.

13 Now, I would also, as a preface for that,
14 like to make clear my understanding of what the federal
15 court proceedings are; because some of the comments I
16 heard yesterday would reflect a misunderstanding of
17 that, if my understanding is correct.

18 The purpose of the federal court
19 proceeding is to authorize the conduct of an election
20 under a plan that does not have preclearance. The court
21 will specific -- because of the objections from the
22 Department of Justice, the court will address directly
23 and immediately the adequacy of this Commission's
24 changes to meet the objections voiced by the Department
25 of Justice. And if the court concludes that the

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1 responses taken by this Commission's revised map is
2 adequate, then that, I believe, is the end of the
3 inquiry and the end of the court proceeding. If the
4 court feels that this Commission's response is not
5 adequate, then the court may consider any alternative
6 and may draw its own changes to adequately meet those
7 responses. But any change must first be looked at
8 coming from this Commission.

9 Secondly is the question of state law and
10 state policy. I believe that the federal court is not
11 properly to address questions or challenges of state law
12 unless it first concludes that this, the Legislative
13 action to be taken by this Commission, is
14 unconstitutional under state law. This is not a
15 situation where the court and the process of selecting
16 an interim map may simply disregard the Legislative
17 preference of this Commission or treat it as simply one
18 of a number of choices.

19 Now, I believe from the order the federal
20 court entered last week that that was their ruling last
21 week.

22 We had a meeting of all the lawyers in the
23 lawsuit on Sunday afternoon, directed by the court, at
24 which I laid this subject on the table again. And the
25 other side acknowledged to me the language in the

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1 court's order from last week that I read to require
2 deferral to this Commission's fix. And they
3 acknowledged it could be read that way; but they also
4 felt there was other language in another place that left
5 it open.

6 When we were before the federal court on
7 Monday, I brought this subject up again of the legal
8 requirement under federal law to defer to this
9 Commission's determination of state law. And the court
10 quickly shut me off informing me that that had been
11 resolved last week. Well, I confess that's what I
12 thought, too. But since my adversary attorneys didn't
13 think so, I was happy to bring it up and be corrected.

14 Now I point that out because this court,
15 this Commission's determination, is enacted as a
16 Legislative branch of our state government. You are
17 co-equal with the legislators for a limited purpose here
18 when you adopt a plan and file it with the Secretary of
19 State. That is the legislative end of this state cannot
20 be set aside by the federal court unless, under various
21 cases, unless it determines you have violated the state
22 constitution. Indeed, the position we've taken in
23 federal court is time exigency does not allow fair
24 inquiry whether you have violated the state
25 Constitution.

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1 When you filed the map, indeed 10 years
2 ago, that's what the federal court did in identical
3 circumstances when the Legislature passed a fix and the
4 court held we don't have the time to address that, we'll
5 allow that to be used on an interim basis and everybody
6 can take their challenges to court later.

7 Now, to conclude that preliminary thought,
8 I submit to the Commission that what you do is state
9 legislation and it is entitled to being deferred to by
10 the federal court unless any challenger can make a
11 showing to the the persuasion of the court you have
12 violated the state Constitution.

13 I'll ask the court to not even undertake
14 that for the same reason they did not 10 years ago,
15 there's not time to do it.

16 Let me come to my last point. It is worth
17 the briefest of summary of the fundamentals of
18 Proposition 106, because they'll be jeopardized in the
19 next presentation. Our voters rejected the old style of
20 districting in which people are gathered in and put
21 aside because of the party advantage or detriment to be
22 received by the. Lines were not to be fixed by
23 legislators who have a conflict of interest.

24 Indeed, as we all know, the hard core of
25 political gerrymandering is usually invisible to all but

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1 the knowledgeable. And the process there was totally
2 changed to take legislators out of that process and

3 instead we have a politically neutral citizens'
4 Commission to make this portion of our law making. Now,
5 that reform was received by procedure in which this
6 Commission is not to know and is not to take account of
7 incumbents' residences, of potential candidates, or
8 where they are, might be, and where they live. And you
9 have done a diligent, thorough job over the 15 months of
10 carrying out that process with the result that you've
11 come up with a product that I will quickly tell you
12 there is a lot about that my party does not like. There
13 are things we would not have drawn a district that put
14 eight incumbent Republican legislators in one district.
15 But that result was fair because your process was fair.
16 You weren't doing that knowing what you were doing. You
17 were looking at the communities of interest that you
18 identified before you drew the first line and then you
19 drew your lines to respect communities of interest and
20 made adjustments as permissible to achieve political
21 competitiveness.

22 Now, I am troubled by what I saw yesterday
23 out of total good faith on the part of the Commission
24 about maps that are going to be presented that originate
25 from Democratic Party incumbent legislators and

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1 political sources in general. You must hear what
2 everyone has to say. The Republican party has never
3 submitted a map to you. Because we know that a map that

4 comes from a political party or partisan sources will
5 unavoidably have the input and the motivations that you
6 are constitutionally forbidden from considering, it will
7 have the knowledge of incumbents, of potential
8 candidates, and the smallest of lines that mean nothing
9 to someone looking at a map that can mean everything to
10 a politically-motivated source. That's why we never
11 gave you a map but we participated, gave you comments on
12 communities of interest, and various other things.

13 Now, I suggest then when you hear my
14 adversaries, my political and litigation adversaries,
15 that you keep in mind that there's a process here that
16 my clients may or may not like the outcome, but the
17 process is what legitimates it. And it -- there's every
18 reason to think that what you will see will have those
19 same political motivations.

20 Let me conclude by saying, I'm not
21 speculating, I'm not guessing, I have a track record to
22 go by. This Commission adopted a map. Lawsuits were
23 then filed by some of the same people who stood before
24 this Commission last year and urged this Commission to
25 draw the lines that you did that have now resulted in

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1 the objections from DOJ. They turned around, filed a
2 lawsuit in state court, in federal court, in which they
3 submitted their own map. Now, that map is replete with
4 old-fashioned, garden variety aggressive party
5 gerrymandering. Now, I intend in my comments to respect

6 this Commission's need not to know the residences of
7 incumbents or even candidates. Indeed, in the papers
8 we've exchanged in court where some of that is filed,
9 the Commission's attorneys asked us not to supply that
10 information to them. That's one court Exhibit they
11 don't have. They don't want to know, they don't want to
12 have in their file everywhere any residences are.

13 I just want to check a few examples of
14 things the same people who will be speaking next did in
15 their court filing. And I'm going to not name names.
16 I'm not going to name geography. I'll speak in only the
17 most generic way so as to not risk any embarrassment to
18 this Commission in carrying out its duties under its
19 constitutional processes.

20 In one district that they changed, they
21 swapped about a mile and a half of territory for another
22 mile and a half of territory of indistinguishable
23 demographic character. The result of that change was to
24 take an incumbent Republican Representative in a swing
25 district which has an incumbent Democratic Senator where

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1 that incumbent Republican Senator announced, the
2 incumbent Republican Senator, take the incumbent
3 Republican, put him in a different district. The
4 incumbent Republican Senator will now not that have that
5 contest. Moved the Republican Senator, put in with
6 another Republican Senator. They will face an

7 interprimary party fight with another Republican
8 Representative.

9 Another example in another district, an
10 incumbent Republican Representative, who by chance was,
11 lives a third of a mile from your boundary, was moved
12 into another district where they will face a primary
13 contest against another Republican Representative.

14 Another district, by a move of a --
15 three-quarters of a mile of a line, a Democrat incumbent
16 term limited as a Representative will be moved from a
17 district that has an incumbent Senator and moved into a
18 district with no incumbent Senator, and, therefore, an
19 easy run for office in that respect.

20 There's another example where a line was
21 moved less than 1,000 feet to take an incumbent
22 Republican Representative and put them into a Democrat
23 District.

24 These are changes from your map to the
25 Coalition map.

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1 Now, Mr. Chairman, Members of the
2 Commission, I'm not suggesting that there's any
3 immorality in what I've described. This is just what
4 legislators do when you let them draw the lines. And
5 that is why it was taken away from them at the behest of
6 some of the people that will be standing here.

7 In conclusion -- oh, one other concluding
8 thought. Everything I'm saying, although I'm not being

9 specific, is in court papers being filed in federal
10 court. My adversaries are free to go look at it. It's
11 been supplied to them. Although you do not want to be
12 embarrassed with details that might compromise the
13 details of your task, my comments can all be checked.
14 Everything is in the papers they have.

15 One last thought of the same nature, we
16 took a general look at the political detriments and
17 political benefits of what the Coalition's court map did
18 as contrasted to the Commission's adopted map, and we
19 took a simple measure, one is move an incumbent to a
20 district of opposite party registration, and another is
21 do you move an incumbent into a district to face a
22 primary fight with an incumbent of their own party.
23 Using those two measures of party detriment and party
24 benefit, we found that the Coalition's map submitted to
25 the courts have four benefits, eight incumbent Democrats

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1 benefited by their map compared to the Commission's map,
2 and three Republicans who are benefited. When you look
3 at political detriments, their map has zero Democrats
4 politically detrimented and 16 Republicans politically
5 set up to be detrimented. It defies the laws of chance.

6 A party-drawn map drawn by incumbent
7 legislators has inevitable numerous, conscious,
8 old-fashioned gerrymandering.

9 As you complete your task, please bear

10 that in mind. Please bear that in mind as you go on
11 with the process you are mandated to. Please do not
12 impose on the people of the state an inequality of
13 population deviation that is not justified by the needs
14 of meeting the requirements of the voting rights or the
15 Department of Justice.

16 CHAIRMAN LYNN: Thank you, Mr. Wake.
17 Mr. Huntwork.

18 COMMISSIONER HUNTWORK: Mr. Chairman, I
19 would like to comment on what we've just heard.

20 CHAIRMAN LYNN: I'd be happy to have you
21 comment. My concern is that what I would like to do is
22 get public comment out of the way. I would also like to
23 move forward. The other concern I have is that, in
24 Mr. Wake's comments, certainly throughout this process,
25 we have listened to everyone and anyone who has come

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1 before us and wished to present information. Had the
2 Republican party wished to submit a map, they would have
3 been free to do so. Others submitted who wished to do
4 so. Maps have come from Republican incumbents on the
5 Congressional side, Democrats on the Congressional side.
6 There have been a number of maps from a number of
7 parties, and the Commission has given consideration to
8 all maps that have been submitted.

9 My concern is that, in the opinion of the
10 Chair, some of Mr. Wake's comments certainly are
11 appropriate for the court proceedings, and they are

12 certainly interesting to the Commission, but our task is
13 to come up with the solution that the Court has ordered
14 us to pursue.

15 I would like to stay on that track as much
16 as possible and to hear from the Coalition as we move
17 forward. With that having been said, I'd be happy to
18 entertain your comments.

19 COMMISSIONER HUNTWORK: Well, that is
20 essentially what I wanted to say.

21 I want to add that this is not an
22 adversarial proceeding. We are here today to receive
23 input from everybody, as we have done for the last year
24 and a half. That type of input has been the source of
25 most of the ideas that are reflected in the maps that

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1 we've drawn. And we're continuing that process here
2 today. The adversarial proceeding can take place in the
3 courtroom but not here.

4 CHAIRMAN LYNN: Thank you, Mr. Huntwork.

5 As I have said before, I'm awed by your
6 intellect. And when you agree with me, it's never more
7 awesome than it is. I appreciate that very much.

8 COMMISSIONER ELDER: How thick can we get
9 it.

10 CHAIRMAN LYNN: Give me a rest. It's been
11 a long week.

12 Ms. Minkoff.

13 COMMISSIONER MINKOFF: I just wanted --
14 this is just really worrisome. I'm agreeing with
15 Mr. Huntwork and Mr. Chairman.

16 I don't think it's unreasonable for people
17 that bring maps to reflect their own self-interests.
18 That's why they're bringing the maps. I'm happy to look
19 at any map that any group brings to us, understanding
20 that they are bringing a map that does what they want it
21 to do. That's why they are bringing it to us. That's
22 the framework in which we welcome it and consider it and
23 deal with it.

24 CHAIRMAN LYNN: Thank you.

25 The next speaker is County Supervisor Mary

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1 Rose Wilcox representing the Minority Coalition for Fair
2 Redistricting.

3 SUPERVISOR WILCOX: Thank you, Mr. Lynn
4 and Members of the Coalition.

5 I'd like to start by defining and
6 reminding everybody who the Minority Coalition for Fair
7 Redistricting is, who we are. We are a group of
8 Hispanic elected officials, community leaders, community
9 organizations, and we cover the whole state. Various
10 members are Esther Lumm, President of the Hispanic
11 Forum, has chapters throughout the whole state; Los
12 Abrigados, a group of Hispanic lawyers which make up the
13 state bar Hispanic lawyers; various individuals ranging
14 from community citizens to elected officials, school

15 board members, state senators, county school board
16 members, a vast array of disciplines in our Coalition.
17 And our main purpose is assure the process is one -- we
18 came together to assure Hispanics and other minorities
19 could have a place at the table in the state
20 legislature. That was the main goal, to make sure
21 districts were drawn so we could have a fighting chance
22 of making sure minorities were represented.

23 I wanted to remind people of that, because
24 sometimes we're misconstrued. We do not have a map
25 today. We are working on a map as we speak, and we'll

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1 have one ready by noon tomorrow, I believe the
2 stipulation Jose worked, or Jose has worked and Aaron
3 worked, and we'll have one ready. We'll have comments
4 I'll share with you. Unfortunately, we don't have the
5 resources to present the map today, but we will have it
6 ready by the time the court asked us to perform.

7 Let me comment, in the DOJ 2A, I wanted to
8 bring up some points. This is the map we think you are
9 focusing in on. Obviously we feel very strongly that
10 you have basically packed us to the extent we do not
11 need to be packed. Our bench mark has been between 53,
12 55 percent, and we believe strongly that is something
13 DOJ would accept. And we believe in this, particularly
14 DOJ 2A, we are packed unnecessarily.

15 In our map, the districts that we've

16 created in 13, 14, 15, and 16, it will -- 13 and 14, and
17 16, will have the bench marks we've set and 15 will have
18 a very high percentage of Hispanics.

19 We believe firmly that candidates who are
20 already announced and have put together packets and are
21 doing petitions in 15, Richard Miranda, Senator Richard
22 Gallardo for House in 14, Robert Messa, and Robert
23 Zamora for the House in 15, Peter Moraga in 16, we have
24 Carlos Avelar, Linda Aguirre --

25 CHAIRMAN LYNN: Ms. Wilcox, the Commission

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1 cannot nor do -- nor are we able to entertain
2 information about which candidates for office or which
3 incumbents live in which district.

4 SUPERVISOR WILCOX: Okay.

5 CHAIRMAN LYNN: Suffice it to say on
6 behalf of the Coalition you are telling us there are
7 candidates you may favor in the districts in which you
8 are referring to. I'd appreciate it if you keep your
9 comments to that generic comment.

10 SUPERVISOR WILCOX: I'm not saying we
11 support these, but I point out we have a potential to
12 elect candidates. Names can be substituted for other
13 names or there may be more candidates. We're not
14 endorsing candidates. I'm trying to point out in the
15 maps we're drawing, there's the potential to elect
16 Hispanic candidates. We have people interested.

17 We would like to say that we are trying to

18 keep faith with Maricopa Counties' precincts. We've not
19 split, knowingly, intelligently, and voluntarily any
20 precincts in our map we will present. We basically will
21 not split precincts unless it's absolutely necessary.
22 At this point we've not found that.

23 We believe that, you know, in the
24 guidelines we've set, with our bench marks, again, we'll
25 have ability to elect more minorities.

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1 District 23, Pete Rios' current district,
2 Mr. Rios came before you as a member of the Coalition
3 and gave you guidelines. We do appreciate the
4 Commission in District 23 following one of the
5 guidelines. We said keep Oracle, San Manuel in District
6 23. None of the other guidelines have been followed.

7 We would ask you to review what Pete
8 conveyed and perhaps look again at following those
9 guidelines, taking population out of Casa Grande instead
10 of the Gold Canyon area.

11 We also believe in 27 and 29, in Tucson,
12 these are areas that we are in concurrent with the way
13 you are proceeding.

14 But bottom line for us is we believe that
15 we have an opportunity to have representation at the
16 State House and the Senate of our population in Arizona
17 if we can put bench marks at 53 and 55 and not pack us
18 in.

19 We are regretful we do not have a map to
20 present, but unfortunately we do not have the
21 technology. We wish we could borrow this machine. We
22 do not have the technology and are proceeding in a
23 slower manner.

24 We do hope the guidelines given you today
25 you'll take into consideration.

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1 CHAIRMAN LYNN: Ms. Wilcox, there may be
2 questions from the Commission or --

3 SUPERVISOR WILCOX: I wanted to point out
4 also, 13 no way could elect a Hispanic. Traditionally
5 that encompasses a lot of West Phoenix, have been
6 strongholds for Hispanics. Packing 14, dividing
7 Avondale between 23 and 14, is basically lessening the
8 chances of electing Hispanic officials.

9 CHAIRMAN LYNN: All right. Thank you.
10 Ms. Hauser.

11 MS. HAUSER: Thank you, Mr. Chairman.

12 I just wanted to note something with
13 respect to the location of incumbents. My understanding
14 is, Mrs. Wilcox, you were referring to which districts
15 Hispanic candidates or candidates were running from
16 under the IRC adopted map DOJ recently objected to; is
17 that correct?

18 SUPERVISOR WILCOX: No. I was referring
19 to -- we're drawing a map using the guidelines of some
20 IRC maps and we're adjusting them. I was referring to

21 our map.

22 MS. HAUSER: Mr. Chairman, what the
23 Constitution prohibits us from doing is considering
24 addresses of incumbents or candidates. We cannot plot
25 those addresses.

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1 When we began this process we knew, of
2 course, in the existing districts, somewhere within
3 those districts, although we didn't know specific
4 addresses, that there were three incumbents, two House
5 members and one Senator. DOJ asked us to provide the
6 same kind of information with respect to the IRC's
7 adopted map. We did so through secondary sources. The
8 Arizona Capitol Times had done an analysis of where
9 everyone ended up in the new districts. We took that
10 information and presented it to DOJ. We did not do it
11 by addresses of incumbents.

12 So to the extent we know from someone's
13 testimony what district an incumbent would end up in,
14 when all is said and done, that is fine. But in
15 connection with a map, that is coming in, that certainly
16 could be a different story.

17 But the bottom line concern is no plotting
18 of addresses. We shouldn't see any map that pinpoints
19 exactly where someone lives.

20 I assume the Coalition is not going to
21 present that information.

22 SUPERVISOR WILCOX: No. I wanted to say,
23 once again, the reason I stated the names is to show if
24 we can draw a bench mark of 53 to 55, we have candidates
25 ready, willing, and able to run. We do not endorse as a

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1 Coalition, but I wanted to show not where incumbents
2 live but the fact if you draw the map right, we can have
3 an opportunity to have candidates who are ready, have
4 drawn packets, and are ready to run. It could be four
5 candidates, Hispanic candidates, but I stated the names
6 to give an example of we know we can elect Hispanics,
7 and Hispanics know they can run and win.

8 CHAIRMAN LYNN: Ms. Wilcox, that having
9 been said by counsel, I stand corrected. I was overly
10 cautious, as I'm usually cautious when dealing with
11 state law and orders of the court.

12 If you would like to complete your list of
13 candidates and specific districts, I'd be more than
14 happy for you to do that, for the record.

15 SUPERVISOR WILCOX: That's okay, Mr. Lynn.
16 I completed.

17 MS. HAUSER: I want note one other thing,
18 Mrs. Wilcox. I don't think you were here during
19 Mr. Johnson's presentation of the map on the screen
20 referred to, that it's not the only map they're
21 considering in terms of Maricopa County.

22 SUPERVISOR WILCOX: We figured since you
23 e-mailed us this map, this is the one you were keying in

24 on. We've been really cognizant of other options.
25 Other options are worse. We're hoping this is the one

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1 you were at least keying in on. If that's not the case,
2 you know, we did not have comments on the other, but on
3 this one, again, we felt you were unnecessarily packing
4 us. And the others, it was even worse.

5 CHAIRMAN LYNN: Mr. Rivera.

6 MR. RIVERA: Mr. Chairman, I want to make
7 sure the record is clear in terms of what the
8 stipulation was we reached with the Hispanic Coalition
9 and the agreement we reached with the Hispanic Coalition
10 last night.

11 The agreement was we would continue the
12 Exhibits that were supposed to be presented to the court
13 Thursday based on one assumption, and the assumption was
14 the Hispanic Coalition would come in and provide us
15 draft maps, or draft information the Commission could
16 consider, the criteria the Commission could consider in
17 deliberations. Ms. Wilcox is telling us the draft maps
18 are not ready at this time for the Commission, thereby
19 they can make no consideration of them. There is no
20 agreement, as I understand it, of maps we're willing to
21 stipulate together to the Court, based on that concept.

22 What Ms. Wilcox is telling us right now,
23 the Commission will never have an opportunity to review
24 that.

25

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My understanding is that what happens is

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1 we're still back under the old deadline of the court to
2 turn in our maps at 9:00 a.m. tomorrow morning. And I,
3 as your attorney, and I advise the Commission we can't
4 enter into a stipulation beyond that. Moreover, I'm
5 somewhat disappointed Mr. Kizer was up here yesterday
6 and I specifically asked Mr. Kizer, we exchanged e-mail
7 addresses with him, based on the fact even if they did
8 not have a draft map, Mr. Johnson was working on this,
9 Mr. Johnson would be able to allow -- would be able to
10 look at some information they provide us, even if rough
11 demographics.

12 We complied with our agreement.
13 Mr. Johnson gave them his e-mail, we posted our maps to
14 the website, e-mailed to them directly. As of this
15 minute, we've not received anything from the Coalition.

16 Again, I think it shows a basis for bad
17 faith in terms of dealing with us. It's obvious from
18 Ms. Wilcox, from us today, to have looked at
19 demographics, to have draft maps, none of that
20 information has been provided to the Commission to
21 properly review this and take it into consideration.

22 I see no basis for keeping a stipulation
23 on this and for being able to provide this beyond
24 whatever the court deadline is.

25 Thank you.

1 CHAIRMAN LYNN: Thank you, Mr. Rivera.

2 SUPERVISOR WILCOX: I would like to say
3 part of the reason you do not have the maps, quite
4 frankly, is we don't have the elaborate technology you
5 do. We're trying very hard to get all the Coalition
6 members in agreement before we present the final map.
7 And everybody is gathering as we speak.

8 MR. RIVERA: Mr. Chairman, if I can
9 comment, I've gone through the litigation proceeding. I
10 can assure you the Coalition has technology equal to our
11 technology if not better than our technology. They can
12 work on this without public forum, without having to
13 listen to public comment. They can better use their
14 time. Their technology excuse is not a valid excuse.
15 They have Maptitude, everything else. I deposed both of
16 the people that provide their maps. I can guarantee you
17 their technology is as good as ours.

18 CHAIRMAN LYNN: Thank you, Mr. Rivera.

19 Mr. Elder.

20 COMMISSIONER ELDER: Let me -- this may be
21 a question for counsel.

22 In relation to the federal panel, we're
23 hearing one set of bench marks, or percentages, that
24 their goal to establish reliability and the ability to
25 elect a person of their choice is much higher than what

1 I heard Ms. Wilcox present this morning. How much
2 weight does the Coalition, or whatever, play with the
3 federal panel as approving a plan that does not meet the
4 Department of Justice's bench marks, or numbers, and,
5 the numbers that we're hearing from the Coalition?

6 CHAIRMAN LYNN: Comment from counsel?

7 MR. RIVERA: Could you repeat that
8 question, please?

9 COMMISSIONER ELDER: Jose, I guess what I
10 want to find out is we heard from Ms. Wilcox they're
11 willing to agree to 55 percent. DOJ is telling us a
12 number somewhat substantially higher than that, what
13 they're willing to certify and verify as an ability to
14 elect a member of their choice. How much weight does
15 the Coalition's number play in the panel's ability to
16 approve districts that do not meet DOJ standards?

17 CHAIRMAN LYNN: Before you respond to
18 that, counsel, I think Ms. Minkoff has a -- a connected
19 concern or question.

20 COMMISSIONER MINKOFF: Yeah. My addition
21 to what Commissioner Elder wants to know is that we've
22 given Doug a bench mark to use in developing these new
23 districts. And I'm not sure that that came from DOJ. I
24 want to know what is the source of the bench mark Doug
25 has been working with and why has he been working with

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1 that particular bench mark?

2 MS. HAUSER: Mr. Chairman, I think --

3 CHAIRMAN LYNN: Ms. Hauser.

4 MS. HAUSER: It would probably be best for
5 Jose and I to confer and to perhaps have a more detailed
6 discussion of those particular concerns at another time.

7 CHAIRMAN LYNN: Thank you, Ms. Hauser.

8 Mr. Huntwork.

9 COMMISSIONER HUNTWORK: Well, I want to --
10 I want to make a comment to you that is somewhat
11 difficult for me to formulate.

12 You are much more accustomed than I am to
13 representing people. You've been doing it for many more
14 years than I have. One of the criteria to be a member
15 of this Commission, of course, was you can't be a
16 politician, can't run for office, have to agree not to
17 run for office, and so on and so forth.

18 COMMISSIONER ELDER: Not a chance.

19 COMMISSIONER HUNTWORK: But insofar as I
20 am a member of this Commission, Ms. Wilcox, I represent
21 you. And if I understand what you've said to me this
22 morning, you are not giving me the chance to do that.
23 You described to me that you have in your mind districts
24 which you believe can represent Hispanics and can elect
25 Hispanics and do a better job than the one we have on

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1 the screen. You are refusing to tell me what they are
2 because your whole group hasn't approved them yet. We
3 didn't ask you to get approval from your whole group.
4 And that's not what I'm asking you here this morning.
5 I'm asking you to share those ideas with me, whether
6 they are fully done, or rudimentary, or whatever they
7 may be, so that I can take them into consideration and
8 attempt to carry out my constitutional duty, which I --
9 I take just as seriously as you do yours to try to
10 represent you and the people that you are here
11 representing. So when you describe those districts that
12 had those candidates that could be elected, is there
13 anything that you can share with the Commission that
14 would give us an insight into what you are talking about
15 in the hope that we could take that into consideration
16 and come at least closer to what you want us to do?

17 SUPERVISOR WILCOX: Mr. Huntwork, I
18 will -- I have tried to share that based on the maps
19 that were brought back from DOJ. We looked at those
20 maps, and we felt that Districts 13, Districts 14,
21 Districts 16, with a bench mark between 53 and 55, which
22 we are trying to achieve, you know, could be areas where
23 not candidates -- not only minority, but candidates of
24 our choice representing minorities could be represented,
25 and District 15 could be given a very high percentage of

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1 minority candidates, perhaps not 50 percent, but close

2 to it. And that is the guidance that we have asked.

3 We did give you guidance for District 23.
4 Pete Rios came before you, and I would ask that you
5 review, because he gave clear guidance on 23. And
6 except for the inclusion of Oracle and San Manuel, you
7 have not followed it.

8 So we're here to give you as much guidance
9 as we can.

10 CHAIRMAN LYNN: Mr. Huntwork.

11 COMMISSIONER HUNTWORK: I wanted to point
12 out we did come up in the southwest valley in District
13 23, one of his key points.

14 SUPERVISOR WILCOX: I think one of the key
15 points was Casa Grande. My understanding, I wasn't here
16 when he testified, I talked with Mr. Rios, Senator Rios,
17 one of the points was Casa Grande, excluding population.
18 That was not done. 14 where you did come in and take
19 out 23, the town of Avondale was part of the Coalition.
20 I strongly ask that they be kept intact. And that's not
21 done. You've divided it.

22 COMMISSIONER HUNTWORK: Okay. I want to
23 ask you if you could give me some idea. One of my
24 concerns, one of the things I'm struggling with
25 intellectually is how to do this.

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1 Look at District 13 and 14, comment on our
2 proposed District 13 and 14. Comment we received from
3 the Justice Department was, in effect, was we had drawn

4 the line in a place that divided the core of the
5 Hispanic community. And we've attempted to reunite
6 that, which seemed to leave a -- the non-Hispanic
7 portion of District 13. And it seemed easier to create
8 another minority district in 15.

9 SUPERVISOR WILCOX: Mr. Huntwork.

10 COMMISSIONER HUNTWORK: The question is
11 how do you create a majority-minority district out of
12 what is left of 13 after you reunite that community in
13 14?

14 SUPERVISOR WILCOX: Mr. Huntwork, we
15 believe that this map is one that we couldn't work with.
16 We think that the original map that was sent to Justice
17 can be adjusted and look at our bench marks.

18 If you can beef up 13, 14 to 53 to 55
19 percent, you can do that and keep intact the Hispanic
20 community.

21 You remember when the Hispanic forum came
22 before you, we participated in all the process and
23 outlined areas of commonalities in our map. Again, the
24 basis is the DOJ rejection map, because we wanted to
25 take that and start fixing it. We basically, using our

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1 bench mark, have been able to get close, because we're
2 still working on it, to 53 to 54 percent in 13, 14, and
3 in 15. Below 50, there is still a healthy number of
4 Hispanics, still in 16 a healthy number of Hispanics.

5 COMMISSIONER HUNTWORK: I'm trying to ask:
6 How did you do that? I'm not telling you it couldn't be
7 done, how did you do it?

8 SUPERVISOR WILCOX: As soon as our maps
9 are ready, we'll show you. We know the community, know
10 every nook, cranny.

11 COMMISSIONER HUNTWORK: I'm trying to
12 get --

13 SUPERVISOR WILCOX: If I could show you --
14 I beg to differ with Mr. Rivera. We do not have the
15 technology. We were asked to come today with a draft.
16 Unfortunately, we only have one computer that has that.

17 COMMISSIONER HUNTWORK: Is there any way
18 we can share the technology, send Doug --

19 CHAIRMAN LYNN: Mr. Huntwork, we have
20 offered to exchange information on a regular basis with
21 the Coalition. We have offered our expert, Mr. Johnson,
22 to communicate with them during the course of any of the
23 breaks that we've had. We have offered to take any
24 information, even though it is piecemeal, from the
25 Coalition as to the very question you are asking, that

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1 is to say what strategies or what tactics are they using
2 to achieve whichever goals are being talked about as
3 goals for voting percentage. And we have asked that
4 that information be shared in an attempt to try to
5 resolve the differences that may exist between their
6 approach and our approach so as to return to the court

7 with a unified or as unified as possible approach. To
8 date we have heard what Ms. Wilcox has given us this
9 morning and there has been, to my understanding, no
10 other communication between their experts or mapping
11 information and ours. And it is frustrating, there is
12 no question about it.

13 COMMISSIONER HUNTWORK: Let me ask one
14 more question.

15 CHAIRMAN LYNN: Quickly, then we need to
16 move on.

17 COMMISSIONER HUNTWORK: The question with
18 regard to this is perhaps in the deadline set by the
19 court. There may have been some assumption about
20 technological ability to do this.

21 Is there -- is there any possible way of
22 delaying for another day so that we can have the
23 opportunity see this and compare the notes? I believe
24 that was the intent of the court. I would like to
25 fulfill it, if we possibly can. I think that's in the

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1 best interests of the State of Arizona, best interests
2 of the Coalition, and what we should do, if possible, in
3 order to perform our constitutional job.

4 CHAIRMAN LYNN: Mr. Rivera.

5 MR. RIVERA: The Court ruling, as I --

6 SUPERVISOR WILCOX: If we go with a new
7 deadline -- we'll give you our map by 9:00. We believe

8 can work really late tonight, get our Coalition
9 together, and give you a map, our best draft of the
10 final by 9:00. We could go with 12:00 so we can
11 continue to work with it.

12 CHAIRMAN LYNN: Mr. Rivera.

13 MR. RIVERA: Let me -- can I walk you
14 through the time lines the Court has given us?

15 CHAIRMAN LYNN: Certainly.

16 MR. RIVERA: The court has given us a
17 deadline to be in court tomorrow morning at 9:00 a.m. to
18 turn in maps to the court, our map and the Coalition
19 map, and that of any other party, party to the lawsuit,
20 map.

21 One of the reasons -- that takes obviously
22 the logistical background. After the court drafts of
23 the map get into a format and put together so the court
24 read it, Special Master understand it, and have it to
25 them. The agreement was, thought pattern was, that if

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1 they could come in and provide that information to us
2 today, we could do it, the Commission review it, too,
3 this evening, reach a stipulation, turn it in at noon,
4 give us tomorrow morning during the day to provide all
5 material to the court.

6 The problem becomes now there is no
7 stipulation with the court. We don't -- even if we have
8 a stipulation -- I'm sorry, we have to exchange it, you
9 are right. The problem is we still have to do that. If

10 the Commission, we still have to get a court order --
11 COMMISSIONER MINKOFF: Do what?
12 MS. HAUSER: Back up.
13 MR. RIVERA: To exchange both our maps.
14 We still have to get a court order to extend that date
15 at any point in time. The parties can stipulate all
16 they want to. The court still has to make a decision as
17 to it. Right now we have the trial scheduled on
18 Tuesday. Monday is a holiday. If there's an agreement
19 worked out to try -- start trial on Wednesday --
20 Ms. Osborne will probably kill me after I make that
21 comment, but -- if it's the Commission's wish, if you
22 want to have another day, it's obviously at your
23 pleasure, but you won't be looking at this until
24 tomorrow morning, we will not be able to exchange this
25 until Friday. If we go on Wednesday, it really puts a

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1 crimp on this, but we will do what the Commission
2 wishes.

3 If the Commission wishes to do that, we
4 will get together and be able to put that together, if
5 the Commission wishes to hear everything else. I'm just
6 afraid if it doesn't come in again, we're just one day
7 late.

8 CHAIRMAN LYNN: Let me try to narrow the
9 focus of our discussion, at this moment.

10 First of all, what I don't want to have is

11 a rehearing of all of the legal arguments in the federal
12 case before the Commission. That would not be
13 appropriate nor will we do that this morning. Second, I
14 think what is appropriate is for the Commission,
15 clearly, to follow a schedule that allows us the
16 opportunity to fully and fairly look at solutions to
17 Department of Justice objections as the Court has
18 ordered us to do in a manner that will give us the most
19 opportunity to present a full and factual presentation
20 to the court of not only our solution but why it was
21 arrived at, how we arrived at that decision, and what we
22 expect in terms of supporting material put before the
23 federal panel. I think anything short of that would be
24 doing not only this Commission but the people of Arizona
25 a disservice. We must do that.

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1 That means we must move in a fashion that
2 gives our attorneys and our experts the opportunity to
3 prepare that case adequately so that our position can be
4 fairly defended in court when it comes before the
5 federal court.

6 To that end, what we need to do now is
7 move forward. I will take any other questions or
8 comments relative to Representative -- Supervisor
9 Wilcox' comments on behalf of the Coalition, and then I
10 think what we need to do at that point is to take a
11 break and then think about the kinds of steps that we
12 need to take to move forward to reach a decision as to

13 which map we will submit with the solutions that we
14 believe are best for this interim period.

15 So to that end, Mr. Johnson, I know you
16 want to get in. Mr. Hall has been waiting -- let me get
17 Mr. Hall's comments and I'll call on you.

18 COMMISSIONER HALL: Thank you,
19 Mr. Chairman.

20 Supervisor Wilcox, thank you for your
21 input. And we appreciate the input you've brought to us
22 about this process. There's no question you've been
23 involved throughout the process. It's also indisputable
24 the information we've received throughout the process is
25 inconsistent and somewhat conflicting.

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1 With respect to testimony we heard from
2 Mr. Kizer two days ago, he was working with a number of
3 57 percent. Now I'm hearing from you today 53, 54. The
4 instruction we provided to our consultants was wouldn't
5 it be nice if Department of Justice gave us the target
6 so we could hit it, but we don't know what it is because
7 of a variety of variables that affect electability of a
8 candidate.

9 So we know by reason of our current
10 configuration Department of Justice has precleared
11 districts in the range of 59 percent; therefore, in an
12 effort to insure that we, as a Commission, represent the
13 Hispanic community to the best extent possible and

14 insure and to provide appropriate opportunity for the
15 people whom you represent to elect a candidate of their
16 choice, that is our goal.

17 So with that background, Mr. Johnson, who
18 I've come to really respect for his expertise, has
19 essentially said, with the number of Hispanics in the
20 Maricopa County area, just speaking of that area, that
21 essentially you either have to take people from 13 and
22 make 14 and 15 more representative of the communities in
23 that area, or you take people from 15, you make 13 and
24 14. So essentially those are the two plans. What we're
25 asking for is additional input relative to that. But

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1 what I hear you saying is there are other ways to do it.

2 Really the only other ways to do it is
3 taking percentages to 53 and 54. You know, I'm sure at
4 some point we will have input relative to that matter.
5 But I'm concerned that those percentages are too low.
6 And as the Coalition's percentages have continued to
7 move downward throughout this process from Coalition 1
8 to Coalition 2 to Coalition 3, to Coalition 3 revised,
9 it's disconcerting. And obviously DOJ did not feel the
10 numbers were representative, because they were lower
11 than our numbers.

12 I guess what we're trying to do is in the
13 best effort possible is, bearing the burden we have,
14 submit maps pursuant to Mr. Wake's comments that we have
15 the burden and responsibility. We're asking for

16 whatever burden we have. We have to do it tonight.

17 I'm willing, Mr. Chairman, to move the
18 date because of a variety of factors, as I see
19 Mrs. Osborne out there in the audience on the verge of
20 fainting, every day that we potentially delay this
21 process, I think that we run the risk of
22 disenfranchising voters, especially voters that are
23 overseas, especially in light of the fact that we are in
24 a period of war and there are military voters. And I'm
25 very concerned about the ability for every single voter

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1 to be able to make their voice heard in the forthcoming
2 election. Therefore, that's why this exigency exists.

3 So I, like Mr. Huntwork on this
4 Commission, would love to have any and all input. I
5 think we've made that very clear from the inception.
6 That input needs to occur this evening, folks. That's
7 the harsh reality. For Mr. Johnson, at this point,
8 sleep is a mere luxury.

9 All night our staff will work in an effort
10 to put that information together for the court.

11 And so -- I guess after that little soap
12 box, Supervisor Wilcox, I'd welcome your response or
13 input, I'd welcome a response to my summary of where we
14 are and where we are going.

15 The only final input I'd make with respect
16 to District 23, there are a variety solutions discussed,

17 and many of which have been inputted, and many of which
18 were suggested by DOJ, or inferred as suggestion by DOJ
19 in their letter, and certainly that is a fix.

20 What I hear you saying with respect to
21 Casa Grande, the wishes of an incumbent Senator take
22 precedence over the wishes of the complete City of Casa
23 Grande. Is that an accurate statement?

24 SUPERVISOR WILCOX: No, it's not.

25 Peter Rios is representing the Coalition,

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1 just as I, Mary Rose Wilcox, am representing the
2 Coalition, not a Senator. 23, you are boxing yourself
3 in using 59 percent.

4 I'll ask Mr. Kizer to come up and state
5 figures to show 59 percent is a figure you do not have
6 to adhere to. And by doing that, you are packing us and
7 just giving us not an ability to elect per our
8 population Hispanic elected officials.

9 Aaron, would you come up and say a few
10 words.

11 MR. KIZER: It's very difficult, as we've
12 all seen, to know what DOJ actually meant, because it's
13 very -- they are all over the map, what they are saying
14 is retrogression, what isn't. But they did approve 23,
15 or I should say, they did say 23 needs to be addressed
16 for the ability to elect candidates of the minority
17 voters' choice, even though at a level of 30 percent
18 voting age, Hispanic age population, they're not

19 requiring 59 percent there. Also, they have implicitly
20 approved 27, which is lower than 59 percent Hispanic
21 voting age population.

22 DOJ is not saying 59 percent is the
23 Hispanic VAP standard. But you guys have chosen to do
24 that. It makes no point for us to show you any maps if
25 you are going to hold to that standard, because you will

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1 never get to where we're headed at 59 percent. And what
2 59 percent causes us, in Supervisor Wilcox' comments, an
3 ability to elect Hispanics in Maricopa County in three
4 districts instead of four.

5 As long as you stay at a 59 percent
6 standard, no input from us will ever get you to that
7 stage.

8 COMMISSIONER HALL: So what is the
9 standard, Mr. Kizer?

10 MR. KIZER: We're looking at our maps at
11 what will be a 53 or 55 percent standard.

12 COMMISSIONER HALL: Instead of 57.

13 MR. KIZER: I didn't say that. Steve
14 Gallardo said 14 was 57.

15 COMMISSIONER HALL: Only one.

16 MR. KIZER: We'll have to use 53 for
17 electing other districts.

18 This is an interim map, not one sent to
19 DOJ. They may look at the DOJ letter in reviewing the

20 map.

21 If the consensus on 53 to 54 percent to
22 save that ability for electability of candidates for the
23 district, I don't think the court will have a problem
24 with it. You are setting an unreasonably high standard,
25 for I don't know what reason. It won't go back to DOJ.

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1 Really, the issue when you address the final map --

2 COMMISSIONER HALL: Why not address it
3 now?

4 MR. KIZER: Because of the ability to
5 elect Hispanic standards.

6 COMMISSIONER HALL: If required in 2004,
7 what is different in 2002?

8 MR. KIZER: One of the things, if we state
9 a 53, 54 percent standard in Maricopa County, the next
10 thing is to have actual test of how many Hispanic
11 candidates can be elected and actual test of
12 competitiveness of the districts. And, you know, we'll
13 see where it comes down. And it will be very
14 interesting in terms of what happens in January in the
15 state court proceeding and also what DOJ does in terms
16 of its preclearance, have concrete election results for
17 everybody to test maps again, the best test of maps.

18 CHAIRMAN LYNN: One quick question from
19 Mr. Huntwork.

20 COMMISSIONER HUNTWORK: Mr. Kizer, I don't
21 know how you feel about it, but I feel we have tried to

22 work in partnership with you throughout this process to
23 try to figure out what the standard is. We got our maps
24 rejected by the Justice Department because we didn't go
25 far enough. That's why we're here trying to deal with

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1 this problem. One of the districts that was rejected by
2 the Justice Department was District 29 in Tucson which
3 had a -- I believe, if I've got this right, had over 50
4 percent voting age population, I believe 55.40 percent
5 voting age population. And I believe it was rejected by
6 the Justice Department. So we have to look at that
7 fact. That's a district that we couldn't find
8 additional Hispanic voters to bring up to the 59 percent
9 level in Tucson.

10 But now we have districts in Phoenix that
11 we can bring up.

12 You are actually proposing that we fix the
13 problem -- if I understand you correctly, we have a
14 district in Tucson that was reflected at 55.45 percent,
15 and you are proposing that we fix it with districts in
16 Phoenix that have less than 55.45 percent. That is the
17 problem we have to deal with. We all have to deal with
18 that together, you and we have to deal with it together.

19 To the extent that you could stand before
20 us and say: Commissioners, we know because of precisely
21 where these lines are drawn that we could elect
22 Hispanics in a district that has less than that in these

23 particular areas, that would be valuable input. To the
24 extent that you could make that same case to the court
25 with respect to District 29 and get it rehabilitated so

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1 we don't have to screw around -- sorry -- change any of
2 these lines, that would be helpful and would be
3 appreciated. But the fact that we all have to deal with
4 this, here is District 29 rejected at 55.45 percent.
5 We're here on three days' notice, very little sleep for
6 our consultant, to try to solve that problem.

7 Anyway, that's the trouble.

8 MR. KIZER: Mr. Chairman, Commissioner
9 Huntwork, I mean, as we discussed, it's so difficult to
10 fathom the logic behind the DOJ letter, because they
11 approved 27, not nearly at the level of 29. Why? I
12 mean it makes no sense. But if 27 is approved, then why
13 can that be kind of the benchmark we're using in other
14 districts? Why do you have to go with the highest of
15 59, or 60, in 16.

16 You know, I just think that -- you know,
17 there is some flexibility here, because we're not going
18 back to Justice. It's a two- or three-court panel.

19 You know, the court required us to
20 exchange documents, maps tomorrow at 9:00, which we're
21 prepared to do. And, you know, whether you want to
22 allow some time after 9:00 o'clock tomorrow to do your
23 final approval of whatever you decide to do, that's
24 strictly your choice.

25

You know, if we have something later this

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1 evening, we'll try to get it to you before that. I
2 can't promise. Our people, our volunteers have been up
3 to 2:00 a.m. drafting as well, up at 2:00 a.m., meeting
4 at 7:00 a.m. today. We're working around the clock,
5 also.

6 The problem is although we don't have to
7 attend public meetings, we are a Coalition, which is --
8 I hate to say it's like herding cattle, in deference to
9 Mr. Hartdegen, it sometimes is hard to round everybody
10 up, get them into town. Make a squabble over what to
11 do. Our logistic problems affect not only technology,
12 it's a lack of manpower. Import technology, import
13 consensus, meet a consensus.

14 CHAIRMAN LYNN: Mr. Kizer, I appreciate
15 that all. That we all keep a sense of perspective and
16 humor is sometimes difficult, sometimes very strained.
17 We're all trying to do the right thing. I understand
18 that.

19 Our job, from the beginning, with respect
20 to communities of interest in the State of Arizona,
21 including the Hispanic community, is to make sure we
22 draw districts in which members of that community, as
23 well as other communities, have the ability to elect
24 representation of their choosing. No matter what the
25 Coalition and/or the Commission might come up with as a

1 solution, in terms of meeting each other halfway,
2 arriving at numbers, whatever that might be, if that
3 solution does not afford the community the opportunity
4 to elect representation of their choosing, we have
5 failed. We as a Commission cannot fail on that point.
6 Our responsibility is to make sure that that is the
7 case. That is the subject of and the result of the
8 Department of Justice review.

9 So, to that point, Mr. Johnson had a point
10 to be made. And what I would like to do, and I guess
11 Mr. Elder wishes to be heard as well, we do need to take
12 a break.

13 I would ask that Mr. Johnson and
14 Mr. Elder, to the extent that they can, keep their
15 remarks brief. We do need to take a break and do need
16 to move forward. I also think that some of the
17 discussion that we've had might better be had among the
18 Commission, because it impacts the current litigation.
19 It has ramifications on which we need legal advice and
20 should do so in an executive session.

21 Mr. Johnson.

22 MR. JOHNSON: Mr. Chairman, I actually
23 have just a very brief question.

24 Earlier, Supervisor Wilcox, you mentioned
25 that the Coalition agreed with the Commission's position

1 on Tucson. The problem is my plan to the Commission
2 Tuesday on the position with Tucson isn't entirely
3 clear. I am interested which one you are agreeing with.
4 Yesterday I presented a change in Tucson that actually,
5 as looking at the map, is still in the map. The
6 instruction of the Commission was to not do any more
7 work down there. The Commission hasn't made a final
8 decision to do it or not do it. I wanted to be sure
9 which to do.

10 SUPERVISOR WILCOX: Don't change 29 or 27.

11 CHAIRMAN LYNN: Mr. Elder.

12 COMMISSIONER ELDER: Ms. Wilcox,
13 Mr. Kizer, did I hear you correctly, the two A plan you
14 couldn't work with but the original adopted plan you
15 were making or proposing adjustments to, that that would
16 bring it into the realm of possibility for from the
17 Coalition standpoint? And, if so, is that something
18 that you could allow us to bring into the process that
19 we, maybe -- maybe we could look at the adopted plan and
20 look at the adjustments to that rather than the
21 wholesale change we've got there?

22 SUPERVISOR WILCOX: Yes. We will try to
23 do that. If you give Aaron and I time, we'll call a few
24 of our people, see how much of a draft we can get off
25 our computer, and try to get it to you today. That's

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1 what we're working on, you are correct.

2 CHAIRMAN LYNN: You are confirming that
3 you are -- your starting point is the adopted
4 Legislative plan?

5 SUPERVISOR WILCOX: You know, Mr. Lynn,
6 it's hard to say that. We took the Coalition 2 map, the
7 map you submitted to DOJ, DOJ's convoluted
8 recommendations, and are trying to adjust it. It looks
9 more like the map submitted to DOJ than anything else.

10 MR. KIZER: Chairman Lynn, if --

11 CHAIRMAN LYNN: Mr. Kizer.

12 MR. KIZER: One of the things, talk about
13 a back-handed circulated position, it's exciting, four
14 maps, Maricopa County, Central Phoenix, there are four
15 districts where there are viable Hispanic candidates we
16 believe can be elected out there and are running. What
17 we're saying to you is we don't want to lose one of
18 those districts. We will --

19 I don't know how long are you meeting
20 today. Do you know what the schedule is?

21 CHAIRMAN LYNN: At this point, we're not
22 sure, but -- the day ends whenever we finish. So -- our
23 commitment is to continue doing this as long as, number
24 one, it does not jeopardize our meeting deadlines and/or
25 our ability to make our case with the court and, number

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1 to, as long as we are receiving information that is
2 useful in the process. Those are the conditions. And
3 so we will accommodate that as best we can. We're
4 simply asking for as much expedition as your process
5 will allow.

6 MR. KIZER: Let me suggest this,
7 Mr. Chairman. It's 11:15. You have some other business
8 to finish. I assume you'll probably take a lunch break.
9 Can we report to you back after lunch?

10 CHAIRMAN LYNN: I've said from the
11 beginning, I know the members of the Coalition were not
12 here at the very beginning of the meeting, I've said it
13 publicly: We'll take Coalition input as often as it is
14 available throughout the day. So that is a standing
15 offer which was received by the Commission without
16 objection. So you are free to come back whenever there
17 is something that would be of benefit to our
18 deliberations.

19 MR. KIZER: Let us leave then and consult
20 with our groups and map drafters and see what we can
21 come back with.

22 COMMISSIONER ELDER: Even pieces.

23 CHAIRMAN LYNN: And to that end, I would
24 like to ask two things: If possible, I would hope that
25 you could at least leave a representative of the

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2 along any of the possibilities that we are discussing
3 that is known to you and understood by you. And I would
4 just -- I simply ask that be done, if you can.

5 MR. KIZER: Steve is the volunteer.

6 CHAIRMAN LYNN: Very good choice.

7 COMMISSIONER ELDER: Not Steve.

8 MR. GALLARDO: Good luck.

9 CHAIRMAN LYNN: Second thing I ask, we're
10 past time for a break. What I'd like to do is entertain
11 a motion to, at this point, pursuant to A. R. S.
12 38-431.03(A)(3) and/or A. R. S. 38-431.03(A)(4), I would
13 entertain a motion for an Executive Session following a
14 15-minute break.

15 COMMISSIONER MINKOFF: So moved.

16 CHAIRMAN LYNN: Is there a second?

17 COMMISSIONER ELDER: Second.

18 CHAIRMAN LYNN: Discussion on the motion?

19 MR. HARTDEGEN: Will you come back for
20 public comment?

21 CHAIRMAN LYNN: We will. We need to split
22 it up.

23 We'll take it after Executive Session.

24 MR. HARTDEGEN: Two minutes now, 15 after
25 Executive Session.

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1 COMMISSIONER HALL: That's a bargain.

2 CHAIRMAN LYNN: May I ask the maker and

3 second to withdraw their motion for Executive Session?

4 COMMISSIONER ELDER: Withdrawn.

5 CHAIRMAN LYNN: Any time we can get

6 Mr. Hartdegen down to two minutes instead of 15, we
7 should take it.

8 COMMISSIONER HALL: Get started.

9 MR. HARTDEGEN: Thank you.

10 I'm Jim Hartdegen, represent Democrats,
11 Republicans, people that don't vote, all others in
12 Western Pinal County, some wanted by the FBI. We don't
13 ask too many questions.

14 I want to jog your memory. Proposition
15 106, we were the poster child for 106, Casa Grande.
16 Probably if they wouldn't have used Casa Grande, 106
17 wouldn't have passed. Casa Grande was the poster child,
18 and it should have passed.

19 To jog your memory, the President of
20 Senate was Senator Rios for the last reapportionment.
21 The -- that is just for information. And, two, what
22 would it be like, what would this process be like for
23 you guys if 89 other legislators were sitting in this
24 room asking for their districts to be redrawn the way
25 they would like it to be drawn?

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1 Remember, the Chairman the other day asked
2 Mr. Rios if he was here representing himself or the
3 Coalition. And Mr. Rios says, "Both." I think you can
4 go back into your records and look at that.

5 The trouble is it's very hard to
6 distinguish which hat he was wearing when he suggested
7 Casa Grande be split.

8 Thank you.

9 Any questions?

10 CHAIRMAN LYNN: Thank you, Mr. Hartdegen.
11 We appreciate both your input and brevity.

12 COMMISSIONER ELDER: Second.

13 CHAIRMAN LYNN: Remake the motion as
14 previously stated?

15 COMMISSIONER MINKOFF: Consider it remade.

16 CHAIRMAN LYNN: And second?

17 COMMISSIONER ELDER: Second.

18 CHAIRMAN LYNN: Discussion on the motion?

19 All in favor of the motion, signify by

20 saying "aye."

21 COMMISSIONER HALL: "Aye."

22 COMMISSIONER MINKOFF: "Aye."

23 COMMISSIONER HUNTWORK: "Aye."

24 COMMISSIONER ELDER: "Aye."

25 CHAIRMAN LYNN: Chair votes "aye."

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1 We'll take a 15-minute break and reconvene
2 in Executive Session.

3 Oh. Mr. Johnson has asked me -- I think,
4 ladies and gentlemen, for your convenience as much as
5 anything else, what would be most expeditious is for us

6 to do our Executive Session, which I'm confident will go
7 up to, if not into the noon hour. We will then take a
8 lunch break and resume -- let's say 1:30, to be safe.
9 That way you can plan your rest of the morning and get
10 lunch. We'll be back in public session at 1:30.

11 (Recess taken from 11:14 to 11:40 a.m.)

12 (Whereupon, the Commission recessed Open
13 Public Session at 11:14 a.m. and convened in Executive
14 Session from 11:40 a.m. until 12:38 p.m. at which time
15 the noon recess was taken and Open Public Session
16 resumed at 2:09 p.m.)

17 CHAIRMAN LYNN: The Commission will come
18 to order.

19 For the record, all five members are
20 present along with staff, consultant, and IRC staff.
21 The members of the Minority Coalition are here.

22 It is my understanding that very shortly
23 they will be able to provide us with additional
24 information as to the progress of their mapping process.
25 We do not wish to hear that information outside the

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1 oversight of the Special Master of the Court. My
2 understanding is he's been notified of that and he's on
3 his way. We'll await his arrival for him to hear and
4 see the presentation from the Minority Coalition.

5 In the meantime, there are two items I'd
6 like to, without objection, take. First is I have a
7 speaker slip from someone who wishes to address the

8 Commission. I'd like to take that person first. I'd
9 then like to hear from Mr. Johnson relative to work he's
10 done since this morning's session which he can report on
11 to us. At that point the Special Master should be here
12 and we should be ready for another presentation.

13 Without objection?

14 Then we'll proceed in that fashion.

15 I have a speaker slip from Andrea Gonzales
16 representing the City of Casa Grande. If Ms. Gonzales
17 would approach the podium.

18 MS. GONZALES: Good morning, Mr. Chairman,
19 Members of the Commission. I'm Andrea Gonzales. I'm
20 here representing the City of Casa Grande.

21 I would like to address the opinion issued
22 by the DOJ which, as we know, charges the IRC and
23 supporters of District 23. The opinion issued from the
24 DOJ, with respect to District 23, specifically charges
25 the IRC, and indirectly supporters of District 23, have

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1 intending to create a retrogressive effect on the
2 ability of Hispanic voters to elect the candidate of
3 their choice. It has been suggested that a potential
4 remedy to this problem would be to include the towns of
5 Oracle and San Manuel in proposed District 23 and
6 placing the top portion of Casa Grande in Maricopa
7 County.

8 In determining intent or purpose of

9 discrimination, the Court has relied on a variety of
10 factors, but the list is not exhaustive. Several of the
11 factors are listed in Village of Arlington Heights, et
12 al. vs. Metropolitan Housing Development Corp. In
13 Arlington, the Court declared that whether invidious
14 discriminatory purpose was a motivating factor,
15 discriminatory purpose was a motivating factor demands a
16 sensitive inquiry into such circumstantial and direct
17 evidence of intent as may be possible. Factors used by
18 the court, in Arlington, are the impact of the official
19 action, whether it bears more heavily on one race than
20 another; a clear pattern, unexplainable on grounds other
21 than race; historical background of the decision,
22 particularly if it reveals a series of official actions
23 taken for invidious purposes; Legislative or
24 administrative history may be highly relevant,
25 especially where there are contemporary statements by

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1 members of the decision making body, minutes of its
2 meetings, or reports.

3 In extraordinary circumstance, members may
4 be called concerning the purpose of the official action,
5 although even then such testimony frequently will be
6 barred by privilege.

7 Under these factors, intent to create a
8 retrogressive effect is lacking and, moreover,
9 unsupported by the record.

10 According to the opinion released by the
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11 DOJ, proposed District 23, the towns of Oracle and San
12 Manuel, which have a large Hispanic population, were
13 eliminated from the district, while Casa Grande and
14 Apache Junction, majority white populations, were
15 included. Oracle and San Manuel were included in the
16 original plan proposed to the IRC, but it was later
17 argued those two towns had more in common with the
18 Tucson area, as opposed to Pinal County. Similarly,
19 Apache Junction was included for population purposes,
20 not because it was a majority white population.

21 The impact of the official action taken by
22 IRC results in less than five percent reduction in
23 Hispanic voting strength. Since the reduction, at this
24 point in time, merely results in less than five percent
25 difference, it is difficult to argue the burden weighs

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1 more heavily on one race than another.

2 Along the same lines, it is unsupported
3 that a clear pattern unexplainable on grounds other than
4 race led the IRC to adopt the proposed District 23.
5 Under Proposition 106, race and communities of interest
6 were to receive equal treatment during the redistricting
7 process. While race is specifically covered by the
8 Voting Rights Act, communities of interest, as outlined
9 in Proposition 106, were to be given equal weight, to
10 the extent the VRA would not be violated.

11 The IRC was created for the express

12 purpose of taking the redistricting power out of the
13 hands of the local legislators and to put it into the
14 hands of an independent body in an effort to avoid
15 legislators focusing on their own districts or insure
16 their continued presence in office. Thus, there is no
17 history of the IRC attempting to discriminate and there
18 are several other considerations that were relevant to
19 the decision-making body, completely unrelated to race,
20 such as creating a rural district, keeping the City of
21 Casa Grande together, and the farming and mining
22 interests.

23 The minutes from the IRC hearing
24 demonstrate, at least to the best of my knowledge, that
25 while race was considered during the discussions of

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1 proposed District 23, there were many other
2 considerations raised by both the Commissioners and the
3 public.

4 As originally proposed by the City of Casa
5 Grande, we included the towns of San Manuel and Oracle,
6 and it was in fact a majority-minority district. There
7 was testimony offered later, however, that said Oracle
8 and San Manuel have more in common with Tucson and would
9 rather be in that district or included near that
10 boundary. Adjustments were made, populations were
11 tweaked. We had more testimony that said please include
12 four urban tribes, keep us together. Adjustments were
13 made and populations were tweaked. The reason Apache

14 Junction was not included was not because of majority
15 population, but because it has population, a very large
16 one. That's important to meet the 173,000 -- the
17 173,000 people. There was also testimony from the
18 citizens of Casa Grande that talked about the political
19 process that happened 10 years ago in which it was split
20 horrifically in Pinal County in a horrific process.
21 It's my understanding today and the last few days there
22 have been comments and suggestions to once again split
23 Casa Grande in order to create a majority-minority
24 district. Well, I'm now here to discourage creating a
25 minority-minority district. I'm here to explain the

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1 reasons the plan as proposed now was cut up the way it
2 was, which was not to create that retrogressive effect.

3 In sum, intent to create a retrogressive
4 effect on the ability of Hispanic voters to elect
5 representatives of their choice is not supported by
6 actions taken by the IRC, nor is it supported by
7 testimony offered by various citizens in support of the
8 plan, or by comments and considerations offered by
9 individual IRC members during the drafting process.

10 CHAIRMAN LYNN: Thank you, Ms. Gonzales.

11 Mr. Johnson, if you could give us an
12 update of your activities since we last saw you this
13 morning.

14 MR. JOHNSON: Mr. Chairman and Members of

15 the Commission, this morning we had a discussion about
16 various plans and what the options were in front of the
17 Commission. And based on the instructions from
18 yesterday, I had not done any work on Tucson but I had
19 left the changes in from yesterday's Tucson scenarios.
20 I just wanted to provide some additional clarification.
21 And before the break I made the changes that were in the
22 DOJ 2A map, the one we were discussing. I reversed the
23 changes in Tucson. Those are the only changes in the
24 entire map. I wanted you to have that information.

25 Related to that, someone made a suggestion

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1 in the map, I realized, as I caught a point in the
2 discussion. Spread sheets I gave you this morning were
3 before the changes on districts, so the percentages I
4 and others had mentioned in District 29 were with the
5 change. So the actual percentage in 29 as objected to
6 by the Department of Justice is 45 percent Hispanic
7 voting age. I wanted to clarify that one point. I'm
8 not --

9 COMMISSIONER HALL: VAP?

10 MR. JOHNSON: Yes, VAP is 45 percent.

11 COMMISSIONER MINKOFF: That has the
12 handout?

13 MR. JOHNSON: Yes, update the handout.

14 Two other points. As mentioned early in
15 the day, some people hadn't heard, changes made in Pinal
16 were all suggestions by the Coalition speaker Senator

17 Rios and other speakers that appeared that day. The
18 speaker later in the day was correct, we did not
19 implement all the changes, in particular the Casa Grande
20 one. Everything we had done was changes he had
21 mentioned or suggested to us. I just wanted to clarify
22 that. And just for the record, the super high tech whiz
23 we'll agree is the IBM laptop you have before you, and
24 it's two years old. If they're using software older
25 than that, I really do feel sorry for them.

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1 I can handle questions.

2 COMMISSIONER ELDER: Mr. Johnson, when you
3 twisted back, or something, where do we stand on 29, as
4 with the plan or modifications you recommended?

5 MR. JOHNSON: I'm not saying this is the
6 plan, the Commission numbers in front of it. Now you
7 have 2A and, as I labeled, 2A with no changes to
8 District 29. So you'll have both spread sheets in front
9 of you. I'm open to your instruction on which one you
10 want.

11 CHAIRMAN LYNN: Thank you, Mr. Johnson.
12 Questions or comments for Mr. Johnson at
13 this moment?

14 Pass those out if you would, please, and
15 we'll make sure relevant parties in the audience also
16 receive copies.

17 COMMISSIONER ELDER: Replace these or --

18 COMMISSIONER MINKOFF: Well, sort of. In
19 addition.

20 MR. JOHNSON: A third.

21 COMMISSIONER ELDER: Okay.

22 CHAIRMAN LYNN: Is there any other
23 business we could take care of between this point and
24 the arrival of the Special Master who we anticipate will
25 be here within 10 minutes or so?

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1 COMMISSIONER HALL: Mr. Chairman?

2 CHAIRMAN LYNN: Mr. Hall.

3 COMMISSIONER HALL: I make a motion we go
4 into Executive Session.

5 CHAIRMAN LYNN: In the interests of time,
6 let me ask counsel. A motion has been made for
7 Executive Session. It seems to me that to be
8 expeditious about our actions this afternoon,
9 anticipating we may need additional Executive Session
10 down the road, it might be better to wait until we hear
11 the presentation until we have an exec.

12 MR. RIVERA: That's my suggestion.

13 COMMISSIONER HALL: I withdraw.

14 CHAIRMAN LYNN: Thank you.

15 Mr. Huntwork.

16 COMMISSIONER HUNTWORK: Mr. Chairman, we
17 haven't taken a look back at District 23 in quite some
18 time. And I would just like to refresh my recollection
19 on just exactly where we do stand in 23.

20 CHAIRMAN LYNN: Mr. Johnson, could you
21 pull up 23 as we are --

22 Are you interested in the original
23 district or one we're working on?

24 COMMISSIONER HUNTWORK: Test 2A new,
25 District 23.

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1 CHAIRMAN LYNN: Test 2A new, District 23.

2 CHAIRMAN LYNN: Mr. Huntwork, if you have
3 comments or questions when you pull it up.

4 COMMISSIONER MINKOFF: Jim, your mi ke.

5 COMMISSIONER HUNTWORK: Closer?

6 What I want to focus on is the question I
7 have about the proposed Casa Grande split. I want to
8 try to understand what would happen if we did consider
9 such an action, how it would ripple through the map.
10 The main concern about it is, on the face of it, it
11 would inject in a new large anglo population into what I
12 believe is District 25.

13 Doug, is that correct, the district
14 immediately adjacent, district -- maybe pan out a little
15 more.

16 Now that district -- that is one of the
17 districts, is it not, that was approved by DOJ, and it
18 was counted as one of our majority-minority districts;
19 is that correct? I believe that is correct.

20 Jose, is that correct?

21 MR. RIVERA: Yeah. Yes, it is.

22 COMMISSIONER HUNTWORK: Okay.

23 Furthermore, I think that it is one that
24 is fairly marginal, that is it is one that does not have
25 very strong demographics to begin with. It is one that

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1 we -- it's one that we did our best to strengthen. I
2 remember we made some adjustments to bring it up even
3 into the southwest valley to pick up some minority
4 population there just so that we could strengthen those
5 numbers. So it's my recollection it is very sensitive.

6 I think that the -- depending on how
7 you -- what the former district is that you relate that
8 to, the benchmark for Hispanic voting age population
9 was something like 40 percent, 41, 42 percent, or
10 something like that.

11 MR. RIVERA: That's correct, Commissioner
12 Huntwork.

13 COMMISSIONER HUNTWORK: And I think that
14 the Hispanic voting age population now, according to the
15 spreadsheet, is 39.16 percent. So we are already
16 slightly below the benchmark; but DOJ, I think,
17 apparently, concluded that we had come as close as we
18 could. But what it appears to me is if we were to
19 inject additional anglo population into that district,
20 we would lose that rating.

21 It just seems as if there's very little
22 doubt to me, based on these numbers I'm looking at. And

23 we would then be doing the same thing as between 27 and
24 29. And that's just robbing Peter to pay Paul.

25 Is that -- would anyone care to comment?

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1 Counsel, would you care to comment on that? Have I
2 stated that correctly?

3 MR. RIVERA: In terms of comments you made
4 and numbers you described, you are correct, Commissioner
5 Huntwork.

6 COMMISSIONER HUNTWORK: Okay.

7 CHAIRMAN LYNN: Other comments or
8 questions regarding the DOJ 2A new representation of
9 District 23.

10 COMMISSIONER HUNTWORK: One other
11 question.

12 CHAIRMAN LYNN: Certainly, Mr. Huntwork.

13 COMMISSIONER HUNTWORK: I want to
14 understand what happened to 26 when we come back with
15 Oracle, San Manuel, took those areas out, what we -- did
16 we put anything in or simply leave the population in
17 balance in that district.

18 MR. JOHNSON: Commissioner, we did not put
19 anything back in to balance it out. It does leave
20 District 26 at 4.09 percent underpopulated. Again, the
21 tradeoff was the big deviations in far as other
22 districts.

23 CHAIRMAN LYNN: Anything further on other

24 portions of the map while Mr. Johnson is here, other
25 portions of the map that you didn't get the answer?

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1 COMMISSIONER HALL: Didn't make any
2 changes in Maricopa County for your new 2A or that is
3 what we're waiting to --

4 MR. JOHNSON: The spread sheet I just
5 handed out?

6 COMMISSIONER HALL: Right.

7 MR. JOHNSON: No changes anywhere except
8 27, 28, and 29 in the Tucson, central Tucson area. And
9 the only changes there were to move them back to the IRC
10 adopted lines.

11 CHAIRMAN LYNN: Ms. Minkoff.

12 COMMISSIONER MINKOFF: Doug, we put in
13 Oracle and San Manuel and we took out a portion of
14 Apache Johnson; is that correct?

15 MR. JOHNSON: Yes.

16 COMMISSIONER MINKOFF: How much of Apache
17 Junction did we move into, what is that, District 19?

18 MR. JOHNSON: Yes, it is into District 19.
19 It actually -- I can pull up the numbers --

20 COMMISSIONER MINKOFF: Just approximately.

21 MR. JOHNSON: Both the size of Oracle, San
22 Manuel, about 6,000, off the top of my head. And it's
23 also balancing out the population from Avondale that we
24 added into the district. So it is larger than the
25 population of Oracle.

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1 COMMISSIONER MINKOFF: That's essentially
2 why District 19 is overpopulated by about 7,700?

3 MR. JOHNSON: Both District 19 and
4 District 22 deviations are new, and they are actually --
5 had the ripple off population into 22, also. 19 was
6 eight percent or so overpopulated. There we actually
7 had a jagged edge between 92 and 22 that was now smooth.

8 CHAIRMAN LYNN: As we're moving forward,
9 let me ask a technical question of the Coalition. When
10 the Special Master arrives, is it the case that whatever
11 mechanism you've transported to show your mapping would
12 be a matter of using Mr. Johnson's laptop with your disk
13 or is there some other setup that you require prior to
14 making your presentation?

15 SUPERVISOR WILCOX: That would be it.

16 CHAIRMAN LYNN: I wanted to take that into
17 account timewise. As you might notice, we're filling a
18 void until the Special Master arrives. I want to make
19 sure we're ready when he gets here.

20 COMMISSIONER HALL: In Maricopa County,
21 Doug, I'm working off of DOJ 2A, for the sake of
22 discussion, if you were to reduce the percentages in 14
23 and 15 by a point, or two, or three, or something, maybe
24 you played with this, that's why I'm asking, and if you
25 don't know, that's an appropriate answer, what you

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1 thought would be the net impact on 13, is it direct
2 translation if you take two from each, it's four in 13?

3 MR. JOHNSON: Generally, yes. The only
4 variable in there is what goes into 12, the dark brown
5 district to the west versus what goes into 13, and trade
6 those off.

7 COMMISSIONER HALL: In theory you do lose
8 some.

9 MR. JOHNSON: With redistricting, it's all
10 zero sum. Goes from one place to the other.

11 COMMISSIONER HALL: Right.

12 MR. JOHNSON: If the goal was to only get
13 53 or 55 percent, the districts could actually change
14 fairly significantly. It wouldn't just be a trimming
15 around the edges or smoothing of lines, actually go and
16 eliminate some of extensions that are in there.

17 The way I looked at it, these districts
18 are 59 percent. The IRC's adopted districts, 13 and 14
19 were 50 and 51 percent. So somewhere between those two,
20 closer to the adopted lines than to these lines, would
21 be 53 to 55 percent.

22 CHAIRMAN LYNN: Mr. Elder?

23 COMMISSIONER ELDER: I suppose that was
24 just almost my question, that by going to a 56, 57, if
25 that's where we would end up, which plan best fits

1 those, either to take the adopted plan and modify or
2 take your plan and cut back. You answered, I think,
3 that it would probably be the adopted plan and add two
4 to get the numbers up. Is that what I understood.

5 MR. JOHNSON: As a rule of thumb, I would
6 say the adopted plan is your 50 to 51 percent; these are
7 59. If you go along that interval, you'll get closer to
8 this or closer to the adopted plan. 53 is very close to
9 the adopted plan. 57 is very close to this. For 2, I
10 should say, to the 2B option, also, the flip side.

11 CHAIRMAN LYNN: Any other comments or
12 questions?

13 As a practical matter, rather than have
14 the tape recording have a significant amount of dead air
15 in it, having it look like an 18-minute gap at some
16 point, why don't we recess. But I would ask everyone to
17 stay as close to this room as possible so as to table
18 and reconvene immediately with the arrival of the
19 Special Master.

20 Without objection, we'll recess to the
21 call of the Chair as soon as Professor Cain arrives.

22 Stand in recess.

23 (Recess taken.)

24 CHAIRMAN LYNN: The Commission will come
25 to order.

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1 All five Commissioners are present. We've
2 been joined by Professor Cain, Special Master. IRC
3 staff as well as attorneys are present. And we're at
4 the point in the afternoon where I would like to bring
5 to the podium representatives of the Minority Coalition.
6 They have provided us with an electronic version of
7 their mapping to date.

8 And Supervisor Wilcox, if you would
9 proceed, please, let us know where you are in that
10 regard.

11 SUPERVISOR WILCOX: Thank you, Chairman
12 Lynn.

13 We're going to make a presentation on the
14 map still in draft form which we think is close to being
15 finalized. We'd like to state the foundation of our map
16 is the IRC map submitted to DOJ. We took that map and
17 based on DOJ's comments we adjusted it to try to fulfill
18 what we interpreted their not mandate but suggestions.

19 Let me say we tried make as few changes as
20 possible to keep our ultimate goal in mind to fulfill
21 the opportunity for Hispanics to have as many choices as
22 we can to elect citizens from our areas. And let me
23 also say that as we look at Maricopa, and if you could
24 bring up Maricopa, particularly districts 13, 14, 15,
25 and 16, we went back to where we started.

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1 When we first presented to the Commission,
2 we overlaid areas of commonalities. I think you all
3 remember the big maps we brought in. Our areas of
4 commonalty were demographic: looked at housing stock,
5 median incomes, and everything that we had gotten
6 instructed that DOJ would look at in areas of
7 commonalities. And as we looked at that more and more,
8 we tried to draw lines along that from Coalition 1,
9 Coalition 2.

10 In this map, what we've done is taken
11 areas of commonalty once again and tried to adjust our
12 districts. Districts 13, 14, and 16 remain dominantly
13 minority-majority districts. And we've passed our
14 statistics. Districts 13 is at 53.25. And in District
15 13 we kept Tolleson intact. We did give up the north
16 part of Avondale to assure that District 23 could have
17 more Hispanics, because that was one of districts DOJ
18 was looking at. We did keep Maryvale intact. Kept
19 communities of interest, particularly farming
20 communities of Tolleson intact, some of the smaller
21 communities. That came out to 53.25.

22 In District 14, we brought the northern
23 boundary down and have a much better demographic
24 representation of Hispanics.

25 We felt strongly that the Chris-Town area,

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1 which you see coming east of I-17 with a strong -- okay.
2 Sorry about that. Let me see if I can use that -- that

3 this area has strong Hispanic demographics; but we felt
4 that the area south of this Chris-Town area basically
5 did not have strong Hispanic demographics. So we cut
6 the line at I-17.

7 We also went into and -- where you see
8 this L, we went in and picked up strong Hispanic
9 precincts in this area that traditionally had a lot of
10 ties, school district ties.

11 We have the -- a lot of people who live
12 here who have relatives that migrated to the west side
13 in District 14.

14 We thought we had a lot of the same
15 housing stock, a lot of the same issues we use for areas
16 of commonalities.

17 We did listen to what the Commission said
18 about trying to keep the African American community
19 percentage up in 16. So along this line we included
20 Dunbar and down into 16 to make sure the African
21 American figures did not lesson.

22 14, we have a very strong Hispanic
23 district of 56.45.

24 District 15 we had to dilute Hispanic
25 influence, still have a district with 40 percent.

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1 We know we differ with you on some of the
2 bench marks.

3 CHAIRMAN LYNN: 40 percent?

4 SUPERVISOR WILCOX: 40 percent. We felt
5 15, particularly with growth, the growth migration of
6 the Hispanic community, in 15, the Hispanic have a
7 potential to elect and grow Hispanic.

8 16, 53.39 and also left the African
9 American percentage in District 16 pretty much intact
10 with DOJ guidelines, we feel, and over the areas of
11 commonality, they clearly keep the commonalities of the
12 Hispanic communities intact with the exception of 15
13 being diluted.

14 We feel strongly it did not affect very
15 many changes in other areas. We basically used our own
16 areas to develop strong Hispanic precincts. By diluting
17 15, we're able to develop three over 53 percent areas.
18 Even 15 is a 40, a strong area in the Coalition's eyes.

19 We'll overlay the current IRC lines so you
20 can see how we used that as a basis.

21 See what we did? In order to achieve 14,
22 a stronger district, bring it south.

23 13 remained pretty much intact. This area
24 here is relatively empty land, farm land, didn't feel
25 going into it would change population, but we could pick

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1 up communities of interest and keep them in District 13.

2 16 we brought up slightly, but we again
3 have the African American community.

4 So if you have questions on this before we
5 proceed to Tucson and 23.

6 CHAIRMAN LYNN: Want to wait, Ms. Minkoff,
7 for the full presentation.

8 COMMISSIONER MINKOFF: My question was I
9 want to see the old districts.

10 SUPERVISOR WILCOX: What we did, as did
11 the IRC, many communities of district, we kept the
12 historic neighborhood intact, Coronado neighborhood,
13 Encanto, Willow neighborhood, the historic neighborhoods
14 relatively intact. That was one of your requests, and
15 we did that.

16 CHAIRMAN LYNN: Supervisor Wilcox, so we
17 can see the full pictures in Pinal County and Tucson, if
18 you'd visit other areas, so we see the full picture.

19 SUPERVISOR WILCOX: Go to Tucson. Overlay
20 it in Tucson.

21 In Tucson, with relatively little changes,
22 the only change we made is up in this area. And we
23 really kept intact the IRC's work. We did make a slight
24 modification in the Flowing Wells area -- I'm sorry,
25 that's the Flowing Wells area. That was the only

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1 change.

2 And we do have smaller hand-outs I can
3 leave with you. We only have one color copier. I could
4 only get one of them. It outlines the Flowing Wells
5 area.

6 CHAIRMAN LYNN: Mr. Johnson, would you

7 simply overlay?

8 MR. JOHNSON: The black lines are the
9 IRC's adopted plan.

10 CHAIRMAN LYNN: Zero in on the area that
11 might have changed.

12 SUPERVISOR WILCOX: I'd ask Michael
13 Mandell, legal counsel and voluntary map changer, to
14 explain and also go into District 23.

15 MR. MANDELL: Thank you, Mr. Chairman.
16 Michael Mandell, for the record, with the law firm of
17 Brown and Bain representing the Minority Coalition.

18 What we did, when we took out parts of 26,
19 took out Oracle and San Manuel and put them into 23,
20 what we did with corresponding population to try
21 alleviate some of the deviation, the part here in
22 Flowing Wells, in this district here, the Census tract
23 for Flowing Wells, or CDP outline comes down in this
24 part right here, I think that was Flowing Wells, and
25 corresponding population of about 3,000 people.

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1 So in exchanging from 28, which was over
2 3,000 people, to 26, which was under, once you took out
3 San Manuel and Oracle, it brought the deviation for
4 population to much closer to the ideal. So that was the
5 real reason for the change. Otherwise in the rest of
6 the Tucson area, we completely left the districts as
7 they were under the adopted IRC plan.

8 If you zoom back up to Maricopa County,

9 unless somebody has a question.

10 CHAIRMAN LYNN: Why don't you go ahead,
11 Mr. Mandell, then we'll come back to the entire map.

12 MR. MANDELL: The next issue, as you'll
13 see here, in doing the same general thing Doug was
14 attempting to do earlier with Apache Junction, 19 was a
15 little low on population. 22 was about ideal. But what
16 we did, we went ahead, took Gold Canyon Ranch out of
17 District 23, which is a very affluent, white, retirement
18 area and one much like the City of Mesa, a lot more
19 retirement area in there. So putting those folks
20 together and coming up a little bit to Apache Junction
21 here and picking up additional population, as the map
22 continues, because then it's a work in progress and is
23 not yet finished, by balancing the population probably
24 between 22 and 19 in there.

25 CHAIRMAN LYNN: Could we look at the

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1 western end of that district as it comes back into
2 Maricopa County.

3 MR. MANDELL: The part here, Avondale,
4 missed a block here, Avondale here. We received,
5 Mr. Johnson sent out a copy of the DOJ 2A plan that you
6 all discussed yesterday, so we incorporated that in and
7 brought in, from those lines, that part of 13. But
8 there is in Avondale 1, a precinct there, and Avondale
9 2, both high Hispanic districts, and we didn't think we

10 needed them to come into 13 -- or into 23 all that much
11 and pare Avondale. Left Avondale 1 in with Tolleson 13
12 District to insure that those folks stayed with their
13 general community.

14 As Supervisor Wilcox stated, this is a
15 work in progress, and we've not balanced the populations
16 completely. I think our -- I don't know if we put
17 deviation on here. We did. They are still within
18 generally accepted ranges based on what they are. I
19 think they're actually lower than the deviations --
20 actually that is not true.

21 MR. MILLS: 9.17.

22 MR. MANDELL: 9.17. We'll try to bring
23 that down.

24 SUPERVISOR WILCOX: We had a meeting at
25 7:30 with the Coalition. As Michael said, we're still

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1 tweaking areas with some concerns.

2 In general, the Coalition stood favorably,
3 particularly because we did not dilute minority
4 representation in the four areas in Maricopa County.

5 MR. MANDELL: I wanted to show Casa
6 Grande, because Casa Grande is in the audience. Casa
7 Grande is completely whole.

8 CHAIRMAN LYNN: Thank you.

9 Ms. Minkoff.

10 COMMISSIONER MINKOFF: I understand this
11 is a work in progress.

12 Doug, keep that orientation up. That's
13 exactly what I want to talk about.

14 In terms of population deviations, there's
15 a couple of them that really stand out. One is District
16 22, which is overpopulated. And you've already stated
17 you want to look at some adjustment between 19 and 22.
18 And 19 is slightly underpopulated. Depending on what
19 those adjustments are, that's something that might work.

20 The one significantly underpopulated
21 district is District 16. And that's the other one that
22 just kind of leaps out at me. And I wondered if you are
23 looking at any ways of dealing with that.

24 MR. MANDELL: Mr. Chairman, Commissioner
25 Minkoff, I think what we're probably likely to do is go

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1 into 15 a little bit, at least on the southern portion,
2 to bring that part into 16, possibly trying to avoid
3 disturbing the Historic Districts.

4 COMMISSIONER MINKOFF: You think moving
5 population from 15 into 16 would not significantly
6 affect the other things that you've done in terms of
7 demography?

8 SUPERVISOR WILCOX: It would be this area
9 of 15, this area right here, that is the least.
10 Unfortunately, we're trying to comply with Maricopa
11 County and not hurt precincts, not split any precincts.
12 Because if we did, Helen Purcell would be very angry.

13 MS. PURCELL: Right.
14 SUPERVISOR WILCOX: In doing so, precincts
15 are too big. If we had to split a precinct, that may be
16 the way to do it. If trying to do that, that's why
17 we're not complete yet.
18 COMMISSIONER MINKOFF: Thank you.
19 CHAIRMAN LYNN: Mr. Hall.
20 COMMISSIONER HALL: How many districts,
21 total, were affected by these changes?
22 MR. MANDELL: Specifically, probably a
23 little bit of 12, a lot of 13, 16, 15, 14, 10, a little
24 bit of 11, obviously 26 in Tucson --
25 COMMISSIONER HALL: Just Maricopa.

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1 MR. MANDELL: 22, 19, a little piece of
2 21. I'm not sure what that is.
3 COMMISSIONER HALL: 10 districts total in
4 Maricopa.
5 MR. MANDELL: Part of the problem is to
6 keep deviations low moving significant amounts of people
7 creates problems around the county.
8 COMMISSIONER HALL: So, for example,
9 District 14 that you moved south, do you know what that
10 that change did to 10? 10 was one of our competitive
11 districts. And I'm curious if we have any idea of what
12 the ramifications of what that change would have been to
13 that district.
14 MR. MANDELL: I have on the computer back

15 where I'm doing the work, we have that data. We did not
16 bring that with us, unfortunately.

17 Part of what we're doing, too, given that
18 we're the plaintiffs in the suit on competitiveness, we
19 definitely have taken competitiveness into account and
20 registration when we've made changes and attempted to do
21 that to try to insure all districts that were
22 competitive on the map remained so.

23 SUPERVISOR WILCOX: Mr. Hall, if I can do
24 so, IRC competitive numbers and our numbers stayed about
25 the same. We didn't deviate very much.

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1 COMMISSIONER HALL: Utilizing your
2 previous 10 percent spread or utilizing what we were
3 using?

4 SUPERVISOR WILCOX: What you were using, I
5 believe.

6 COMMISSIONER HALL: Let me ask what you
7 were using? Our marching orders are DOJ. Asking about
8 District 13 and 14 from their letter, they indicated
9 respectively 13 and 14 which had 51.2 and 50.6 percent
10 were unacceptable. And I'm seeing here your 13 is 53.2,
11 essentially only two percent higher than the existing
12 adopted Legislative IRC maps. My question is, and for
13 whomever would like to answer, is, in your opinion, do
14 you think when it was objected to by DOJ at 51.2
15 percent, when the bench mark is 65 percent, in your

16 opinion you think they are going to then accept two
17 percent higher?

18 SUPERVISOR WILCOX: Sir, DOJ will not get
19 this. This is an interim map to go to the judges. So
20 this will not be for DOJ.

21 COMMISSIONER HALL: I understand that.
22 But the order, and please, if I am out of line here, but
23 the order that we have from the three-court panel is to
24 fix DOJ's objections. Of course, that is not their
25 exact phraseology, but they are judging the product that

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1 we produce based on the fact that we're responding to
2 objections given by DOJ, if I --

3 SUPERVISOR WILCOX: The way we look at it,
4 we believe the bench mark is 53 to 55 percent. We think
5 if this is adopted as an interim, the elections will
6 clearly show the ability for Hispanics to be elected is
7 strong. This is an interim map DOJ will not review.

8 CHAIRMAN LYNN: Ms. Hauser.

9 MS. HAUSER: Mr. Chairman, Ms. Wilcox,
10 what -- what specific evidence of effectiveness do you
11 have to support the numbers that you are proposing?

12 SUPERVISOR WILCOX: Ms. Hauser, knowledge
13 of the community. We are very knowledgeable about
14 school boards, composition of school board members, very
15 knowledgeable of migration of the Hispanic community,
16 where Hispanics are moving into. A lot is commonality
17 presented, too, that's the knowledge and resources we

18 used.

19 MS. HAUSER: Mr. Chairman, follow-up.

20 CHAIRMAN LYNN: Yes.

21 MS. HAUSER: I guess the concern might be
22 that given the numbers that were in the IRC's adopted
23 map, which are not that much different than these, and
24 we also felt that we had evidence of effectiveness, the
25 sort of anecdotal evidence of effectiveness that you are

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1 discussing, and DOJ didn't seem to feel that that
2 supported effectiveness in those districts, so I guess
3 my question is: Why do we think that this would be
4 different, number one; and number two, is there anything
5 else that you have to go with the anecdotal evidence
6 that you are mentioning?

7 SUPERVISOR WILCOX: I think I stated areas
8 of commonalities is one of the factors we look at; our
9 growth; migration factors.

10 This map will not be presented to DOJ, the
11 interim map. We'll see what the interim map produces in
12 the elections in the Fall. With Hispanic
13 representation, DOJ will look at that. This map in the
14 interim, if our premise proves right, we'll show we can
15 elect Hispanic representatives.

16 One of the things to look at, look to
17 MALDEF, DOJ looks at experience of the community,
18 patterns of the community, increasing school board

19 members. 13, 14 Hispanic, most school board members are
20 electing in greater margins; Cartwright District, two
21 school board members, before none; Isaac, a predominance
22 of school board members; Phoenix Union high school,
23 covers a large number of members, 13, 14 represented by
24 this board, Hispanic community leaders. Experience,
25 knowledge of the community, and also the fact we are

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1 electing Hispanics in those areas.

2 CHAIRMAN LYNN: Ms. Hauser.

3 MS. HAUSER: Ms. Wilcox, the final
4 question I'd have on this point is if, for example, and
5 you've referenced this as an interim plan only, an
6 interim plan still has to -- I mean, the Commission has
7 to in good faith meet the DOJ objections. If for
8 whatever reason the interim plan was submitted for
9 preclearance to Department of Justice, is it the
10 Coalition's belief that these districts can be
11 precleared?

12 SUPERVISOR WILCOX: Yes, it is.

13 MS. HAUSER: For reasons you've just
14 stated?

15 SUPERVISOR WILCOX: Yes.

16 CHAIRMAN LYNN: Mr. Huntwork.

17 COMMISSIONER HUNTWORK: Mr. Chairman, I
18 would like to just take a moment to thank the Coalition
19 for coming here and sharing this, these ideas with us.
20 I think they are very helpful.

21 There are things that immediately catch my
22 attention at various places in the map. I would like to
23 work with the Coalition to see if we can come to come to
24 an understanding of how this could proceed from this
25 point forward.

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1 I do have -- I have a basic and special
2 concern. The concern I have is that the reason I like
3 this, I just have this uncomfortable feeling, despite
4 that it changes more districts, it's more like what we
5 proposed in the first place.

6 SUPERVISOR WILCOX: Yes.

7 COMMISSIONER HUNTWORK: And the reason we
8 were changing more was not because we wanted to change
9 from our original determinations but because of the
10 concern we had to do so in order to comply with the DOJ
11 guidelines. So that is if we did go forward, I just,
12 with focusing on these ideas, that still would remain
13 the common concern that we would both share, I guess, is
14 that there's a possibility that we'd come to agreement
15 but that the Court might disagree and ultimately
16 Department of Justice might disagree that we had really
17 addressed their concerns. So I just wanted to offer
18 that perspective as we mull this over.

19 SUPERVISOR WILCOX: Can I mention
20 something to that?

21 CHAIRMAN LYNN: Supervisor Wilcox.

22 SUPERVISOR WILCOX: That's why this
23 morning, I'm sorry if I presented in a manner that might
24 have misrepresented it, that's why I talked about
25 candidates we had running in areas. Clearly in areas we

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1 have Hispanic candidates, they have the potential of
2 winning. It's not that we're endorsing. It's proof of
3 the excitement of having areas that can have choices of
4 Hispanic candidates. I think that goes a long way
5 toward showing if we adopt this on the interim, your map
6 with our changes incorporated in go hand in hand; and
7 then the elections can prove, hopefully be proof for DOJ
8 this can achieve success to meet the voter rights
9 requirements.

10 CHAIRMAN LYNN: Mr. Hall.

11 COMMISSIONER HALL: Well, just to
12 reiterate real quick what Jim said, we agree. That's
13 why we submitted the map, the map that was submitted to
14 DOJ; that we felt it sufficiently provided maximum
15 opportunity for candidates in the area. Frankly, I'm
16 excited about some of the candidates running, too. If I
17 lived in them, I'd vote for some of them. But DOJ
18 doesn't. Therefore, the court doesn't, as I understand
19 it. So what -- what I'm struggling with, this is really
20 a restatement of what Mr. Huntwork just said, is I need
21 some empirical evidence that two percent in 13 from what
22 we submitted and they said no on, and reference to a 65
23 percent bench mark, which is 15 percent higher than what

24 we said, that only two percent is going to somehow make
25 them happy. And I welcome anyone to answer that

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1 question.

2 I'm not -- I just don't know that simply
3 the fact that you guys agree now is sufficient to
4 convince the powers that be that one that agreement is
5 sufficient representation of all parties involved and,
6 two, it's satisfactory then from an empirical
7 standpoint. That's my concern.

8 CHAIRMAN LYNN: Mr. Kizer.

9 MR. KIZER: Mr. Chairman, if I can address
10 that issue.

11 We recognize this isn't a final map. We
12 recognize there are things in there you will not like
13 and will have to change, things we will not like, such
14 as the Casa Grande resolution. So this is not a final
15 product. It has to be refined. But our belief is this,
16 that if we can come to a consensus on a common map, we
17 can take that back to the court, probably as early as
18 Friday, and get a thumbs up or thumbs down from the
19 three-judge panel, empirical data, to tell us whether we
20 have a lawsuit to try on Wednesday or not, whether we
21 have resolved the map question for the interim, only,
22 and the Court buys off, which, generally, they tend to
23 do. Of course the Special Master would have a lot of
24 input whether he thinks we've gone far enough -- DOJ has

25 not said these maps will not elect Hispanic candidates

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1 of choice for minority populations, or minority
2 candidates of choice. What they said is we failed to
3 meet the burden of proving minorities can be elected
4 under this process. It's a totally different finding
5 than what they said in District 23.

6 What we've done is increased a couple
7 percentage points. We're coming in hand in hand to the
8 court saying we believe this is, as a practical matter,
9 enough for the interim. It's enough --

10 You know, I'm going to start sounding like
11 Lisa Hauser pretty soon. How much more can you do in
12 the short time before the election in order to give
13 guidance to the county recorders to draw their lines?
14 We don't have the time to come back and do a perfect
15 map.

16 The case law is substantial that when
17 dealing with an interim plan, the court can adopt a map
18 that may have very consequential constitutional
19 problems. It does not have to adopt a perfect map on
20 the interim. There may be red flags in the map. The
21 court has the power to adopt it because everybody knows
22 that whatever is the final gets precleared. So there is
23 more leeway in dealing with the interim plan than what
24 will ultimately have to go to Justice. As long as we're
25 dealing with good faith and dealing with issues and

1 going hand to hand to the court saying we think this is
2 a doable plan, and with the time left, that's all we can
3 do, it's better than going to litigation next week. I
4 think there's a good chance of getting this adopted.
5 It's a good thing the actual proof of the pudding is a
6 test, actual election to test it under, then see what
7 are the actual results.

8 CHAIRMAN LYNN: Ms. Minkoff.

9 COMMISSIONER MINKOFF: Thank you,
10 Mr. Chairman.

11 A couple of comments. First of all, in
12 terms of the minority voting age percentage, primarily
13 in Districts 13 and 14, it seems to me, looking at our
14 original districts and looking at the districts as you
15 have drawn them up here, that 13, especially, has
16 undergone a significant change both because of the Pinal
17 County shift and because of trying to increase the
18 minority percentage. I looked at these as two districts
19 that both needed to be brought up, one at 50.5 and the
20 other one at a little over 51 percent. And I see we now
21 have districts of 53 plus and about 56 and a half. And
22 I'm wondering whether they need to be in the exact same
23 district. Is 13 only compared to 13 and 14 compared to
24 14 or are we once again looking at the totality of the
25 situation in the state in terms of minority districts?

1 And I suppose I'm asking that of Lisa and Jose.

2 CHAIRMAN LYNN: Ms. Hauser, Mr. Rivera?

3 MR. RIVERA: You are -- here is -- it's a
4 hard question to answer because you are always looking
5 at the totality of circumstances.

6 COMMISSIONER MINKOFF: I asked you.

7 MR. RIVERA: Here is the situation that
8 occurs. The more -- they asked for five specific areas
9 to look into. That's what they looked into. They said
10 fix three out of five areas. The court has given,
11 already stated they'll give deference to the
12 Commission, whatever plan comes out. Not touch anything
13 out of five plans, start going beyond this, run the
14 risk. With a little bit of change, the more massive
15 changes you make outside of five districts, the more it
16 doesn't meet Department of Justice guidelines, the more
17 the court can may make changes in it.

18 COMMISSIONER MINKOFF: That's not the
19 question I'm asking, Jose.

20 What I'm asking, just looking at Districts
21 13, 14, which are two of the districts they highlighted.

22 MR. RIVERA: Right.

23 COMMISSIONER MINKOFF: That one of them
24 was 51 percent and change, the other was 50 percent and
25 change. And rather than saying you only brought the 51

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1 percent up to 53 and you brought the 50 up to 56, would
2 they look at those two districts kind of in tandem, you
3 know, looking at the state as a whole, and say: Well,
4 instead of the 50 and 51 percent district you've now got
5 a 53 and 56 percent district or would they say you did
6 it in that one and failed in the other?

7 MR. RIVERA: Right.

8 MS. HAUSER: Second.

9 MR. RIVERA: Part B.

10 COMMISSIONER MINKOFF: Or for some
11 permutation of this plan to fly, you believe District 13
12 needs to have a higher minority concentration?

13 MR. RIVERA: This needs to be something we
14 discuss --

15 MS. HAUSER: Later.

16 MR. RIVERA: -- under legal counsel
17 advice.

18 COMMISSIONER MINKOFF: Fine.

19 My other comment is in looking at this
20 plan, it's somewhat similar to the comments Commissioner
21 Huntwork made. It's an aesthetically more appealing
22 plan. Even though more districts are changed, the
23 changes are not as dramatic and the districts look more
24 compact. They seem to make more sense in terms of I
25 live here and other people in my district live here than

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1 way over there. I think there are some things in the
2 plan very much worth considering and working with.

3 My question to the representatives of the
4 Coalition is if this is a work in progress, when do you
5 believe that you would have a map that you felt: This
6 is what we recommend?

7 SUPERVISOR WILCOX: We have to be ready to
8 present to the courts for exchange tomorrow. We are
9 working on it. But we do feel that with minor tweaking,
10 this is what we're going to come up with. I don't know
11 if that answers you.

12 MR. KIZER: The other option, of course,
13 you offered Doug. We have Michael. They together could
14 knock out finals to this. It's just some tweaking that
15 needs to be done.

16 In terms of going to a final, there's a
17 couple different ways of getting there.

18 CHAIRMAN LYNN: You mentioned earlier,
19 excuse me, Ms. Minkoff, to get to the point, I don't
20 want to mischaracterize it, I want to ask a question, in
21 terms of general directions to address the concerns of
22 the court, as expressed in the DOJ letter, what we see
23 is that direction. Any additional changes you may be
24 working on might be in the nature of, for example,
25 population balance for the sake of deviation but not

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1 necessarily for the sake of increasing or decreasing

2 percentages beyond those that have been achieved by the
3 lines you are showing? That's not a trap question,
4 truly a version of later mapping for one purpose and
5 mapping in future for another purpose. I want that to
6 be clear. If you could address that, please.

7 MR. KIZER: I believe that's a true
8 statement. We are -- now changes would be for
9 deviation, any of those technical reasons, precinct
10 splits, et cetera, rather than moving percentages of
11 Hispanic population around.

12 CHAIRMAN LYNN: Ms. Minkoff.

13 COMMISSIONER MINKOFF: I wanted to
14 continue.

15 Mr. Kizer, I don't want to mischaracterize
16 what you said either. Seemed to me you were advocating
17 the possibility of coming to some common agreement and
18 being able to go to the court and say the Commission is
19 presenting this map, the Coalition is comfortable with
20 this map, so we are presenting it to you together and
21 believing it best meets the needs for an interim map for
22 the coming election. When I asked you earlier what was
23 your time frame for tweaking the map, you said it would
24 be ready to take to the court tomorrow. That doesn't
25 achieve what you had suggested in terms of the

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1 Commission and the Coalition both feeling comfortable
2 with the same map.

3 I guess what I'm asking you: If we want

4 to move in that direction, what would you foresee as a
5 timetable that would allow that to happen?

6 MR. KIZER: Well, it really is up to you
7 folks in how you want to proceed. I'm assuming now
8 since we did present a map today our agreement with Jose
9 is back on, we're submitting tomorrow at noon.

10 MR. RIVERA: In fact, I'm such a nice guy,
11 that Mr. Mandell and I just talked about it, we may give
12 you to Friday morning.

13 MR. KIZER: Both parties need to do, to
14 protect themselves, you need to have -- in my opinion,
15 one possible way of proceeding is develop a map, IRC
16 develop a map. The Coalition can support. If for some
17 reason it's rejected by the court, I assume you'll go
18 back to your 2A, we'll go back to our map, litigate
19 which map is better. Ideally we'll get a reading from
20 the court Friday if they'll accept a jointly agreed-upon
21 map. Developing the maps, need a reading from the court
22 tomorrow or Friday whether they'll accept a jointly
23 acceptable map.

24 CHAIRMAN LYNN: Mr. Huntwork.

25 COMMISSIONER HUNTWORK: Mr. Chairman,

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1 Mr. Kizer is taking the words right out of my mouth. A
2 lot of what he is saying is very wise.

3 What I think we need to do right now is to
4 terminate this discussion and get some input from our

5 legal counsel as to what we can and can't do before
6 we -- before we start doing it, you know. I think that
7 is where we are.

8 So I don't want to cut off anybody else
9 that wants to ask a question. I would like to make a
10 motion we go into Executive Session for purpose of
11 receiving advice from legal counsel about potential
12 settlement of litigation, whatever category of statute
13 that falls under.

14 CHAIRMAN LYNN: Mr. Huntwork, with your
15 permission, I'd ask you delay your motion momentarily.
16 I want to ask a question. I agree. In response, I
17 believe two other Members of the Commission have general
18 questions about it, it may aid the discussion going
19 forward, get answers going forward. Mr. Hall and Elder
20 have questions going forward. I'll give them the
21 opportunity going forward before we move forward.

22 Mr. Hall.

23 COMMISSIONER HALL: Just to make sure I
24 understand, you are suggesting that if we're able to, if
25 the Coalition and Commission are able to come to an

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1 agreement as to appropriate lines for the adjustments to
2 answer DOJ's concerns, and then the court, on an interim
3 basis, agrees and approves those, then your
4 recommendation is then the Commission comes back and
5 changes and bumps the percentages up for the 2004
6 elections?

7 MR. KIZER: Obviously the Commission is
8 going to have to look at a map to submit to DOJ.
9 Hopefully the election results will be a factor to be
10 considered in what those changes need to be. And if we
11 can agree on the interim map, what we'd like to do is,
12 again, continue, just like with the other members of the
13 public, meeting with the Commission after the September
14 elections and maybe try to work out a map for the
15 submission to Justice or to the District Court of
16 Columbia.

17 COMMISSIONER HALL: In your opinion, what
18 I heard Supervisor Wilcox say, your local experience,
19 knowledge with respect to elections is valuable. What I
20 heard you say, Aaron, was we hadn't met our burden of
21 proof with respect to the map submitted to DOJ.

22 My question is, in your opinion, if the
23 Coalition unanimously and in writing were to support a
24 submission similar, or similar to what you proposed, or
25 similar to, similar numbers, you think that DOJ would

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1 look differently at those numbers in light of the fact
2 that the Hispanic Coalition supports the map?

3 MR. KIZER: You are talking about this
4 map, the draft map --

5 COMMISSIONER HALL: It's pretty similar to
6 what went, really.

7 MR. KIZER: It is hard to say. One of the

8 big unknowns in this equation is what is going to happen
9 on the Navajo reservation. In my mind, whether three
10 Native Americans can continue to be elected in that
11 district is a big unanswered question. If, for some
12 reason, an anglo is elected and then the voting studies,
13 voting pattern studies show it was because of a white
14 single shot candidate and Native Americans didn't
15 support that candidate, polarized voting can be shown, I
16 believe the Navajos would be back to Justice or back to
17 litigation. If that happens, there will have to be
18 significant changes to the statewide map. You see, how
19 the population, the Native American population in that
20 district will be increased, because that will do county,
21 White Mountain, San Carlos Reservations. Only after the
22 election can we tell how much changes need to be made
23 before we can have the evidence to go back in to Justice
24 to say you don't have to go to 59 percent, you can get
25 away with this, or have to go higher. Because the tail

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1 that may wag that dog is going to be the San Carlos and
2 Navajo Nation, in my opinion.

3 CHAIRMAN LYNN: Mr. Elder.

4 COMMISSIONER ELDER: Mr. Chairman,
5 Mr. Kizer, a mindset on schedule. If we go into
6 executive schedule, ask counsel what our range of
7 activity may be, and then we come back out and start
8 working on our plans, either that or adjourn until like
9 7:00 this evening, I guess my question is by 7:00 this

10 evening is there any chance you'd have more of your
11 ideas solidified?

12 MR. KIZER: In terms of our ideas, what we
13 have to finish, Michael Mandell can tell Doug what we
14 have to do. I don't think it's that significant. The
15 real issue -- of course, you need to have time to study
16 the map and put your input into it, too.

17 Really what I see happening, what needs to
18 be done, Doug needs to work on this, take your
19 suggestions, changes to this, and tell him verbally what
20 we see as unfinished work, work with him, if you so
21 direct, but it's really a question. You get to a map
22 you are comfortable with.

23 COMMISSIONER ELDER: I guess I'm still
24 trying to see if we can meet either the 9:00 o'clock or
25 12:00 o'clock, depending on what the court does with the

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1 joint appeal, if that's the way you term it, to go into
2 Friday. I don't know if that benefits the process all
3 that much, at least until noon time tomorrow so that you
4 can take and compare and put together the data to be
5 able to support the position.

6 CHAIRMAN LYNN: I think it's incumbent
7 upon both parties to continue to work throughout today,
8 this evening, and tonight to do as much work as possible
9 because of scheduling. We cannot go up to the last
10 minute and have a presentation ready for the court that

11 is a full and complete presentation fully supported by
12 both sides. I'm sure that goes as much for the
13 Coalition as us.

14 I suggest the following: Going back for a
15 moment to Mr. Huntwork's suggestion, first, I think what
16 we ought to do, at this specific juncture, because we
17 now have, in my opinion, at least, fairly clear
18 direction as to how the Coalition intends to proceed to
19 finish it's mapping process -- I hope that isn't an
20 overstatement of what Mr. Kizer --

21 MR. KIZER: That's correct.

22 CHAIRMAN LYNN: -- Supervisor Wilcox is
23 telling us.

24 What I ask is this, first: We direct
25 Mr. Johnson to analyze this map vis-a-vis two maps,

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1 first the one, our submitted map, to make us aware of
2 things that are different, one from another, and the
3 impact of those differences, and, secondly, to analyze
4 this map vis-a-vis DOJ 2A new.

5 COMMISSIONER MINKOFF: Without 29?

6 CHAIRMAN LYNN: With 29. There is a
7 change in 29 down south I want analyzed.

8 MR. KIZER: I don't think there's a change
9 in 29.

10 CHAIRMAN LYNN: Sorry, change in Pima
11 County. 23, 26 change. And I would like that to occur
12 simultaneously, that is begin that work while we then

13 talk in Executive Session with counsel so that we can
14 get that report back as quickly as possible, and then
15 continue to talk through potential changes we wish to
16 make either to our map or to the existing map to try to
17 reach the goal that has been expressed, which is a map
18 that can be jointly supported.

19 Mr. Huntwork.

20 COMMISSIONER HUNTWORK: Mr. Chairman,
21 there's one other thing I would like to ask about on
22 this map I didn't see before.

23 CHAIRMAN LYNN: Please do.

24 COMMISSIONER HUNTWORK: Down in the bottom
25 right corner there, District 21, we have District 23

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1 coming up, if I understand that correctly, into a little
2 square. We seem to have 21 going way up into 22 in
3 response to that. I'm cure to us know, what is in that
4 little square that we would move from 21 to 23 that is
5 significant down there?

6 MR. KIZER: I think that was done for
7 population balance, but you have to look at it.

8 COMMISSIONER MINKOFF: They added a lot of
9 population to 22 from 23, so they had to give up some
10 from 22 to put into 21.

11 COMMISSIONER HUNTWORK: We did the same
12 thing between 22 and 19?

13 CHAIRMAN LYNN: Right.

14 COMMISSIONER HALL: We made a big loop de
15 loop in there.

16 SUPERVISOR WILCOX: A technical change for
17 us to try to get population.

18 MR. KIZER: That's not an important point
19 for us.

20 COMMISSIONER HUNTWORK: Understood. Thank
21 you.

22 CHAIRMAN LYNN: Ms. Minkoff.

23 COMMISSIONER MINKOFF: Let me ask a
24 question. I didn't notice the jog, either. It looks to
25 me like the jog goes across a county line between 23 and

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1 I guess that's 21?

2 MR. JOHNSON: Commissioner Minkoff, if I
3 may, obviously not knowing the motivation, that's
4 actually part of Queen Creek. It is crossing a county
5 line there, but it's the city crossing the county line
6 there.

7 COMMISSIONER MINKOFF: Well, Queen Creek,
8 isn't that in District 21? Looks like it is.

9 COMMISSIONER HALL: Move back to the
10 center there or pan out. Move it over, big boy. I
11 can't see the whole thing.

12 MR. JOHNSON: Which way?

13 COMMISSIONER HALL: There you go.

14 COMMISSIONER MINKOFF: I'm trying to
15 figure out if the reason for the jog that goes across

16 the county line is a city implication, population
17 problems? What is the reason for it that makes you want
18 to cross the county line?

19 MR. KIZER: My guess is probably an
20 oversight. Ask Michael.

21 MR. MANDELL: Which?

22 MR. KIZER: That.

23 COMMISSIONER MINKOFF: Yeah.

24 MR. MANDELL: Chairman Lynn, Commissioner
25 Minkoff, I think that was a mistake.

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1 COMMISSIONER MINKOFF: Okay. You would be
2 comfortable --

3 CHAIRMAN LYNN: Any other mistakes you'd
4 like to point out before --

5 MR. MANDELL: If you want to get me
6 started --

7 No.

8 CHAIRMAN LYNN: Thank you.

9 The Chair would entertain --

10 MR. WAKE: Mr. Chairman, would we be
11 allowed a brief comment on that?

12 CHAIRMAN LYNN: Not at this time,
13 Mr. Wake. I appreciate -- well, let's do this. I'm
14 still looking for a motion, but in the interests of full
15 and open discussion of the issue, "brief" being the
16 operable word, Mr. Wake, you have the floor.

17 MR. WAKE: Check point, Neil Wake for
18 Arizonans for Fair and Legal Redistricting.

19 A few bullet points. Your Honor, when we
20 came in and asked for a computer file so we could
21 analyze this, we were refused that.

22 Secondly, I thought I heard a comment
23 about interim preclearance from the Justice Department.
24 Maybe I heard that wrong, but I just want to point out
25 there's no such thing. Okay.

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1 And I thought I heard a comment about
2 making an agreement that this would be submitted to the
3 court and not submitted for preclearance for Justice as
4 the map of the Commission. If that were to be done, and
5 your lawyers can advise you of this, the case of Lopez
6 vs. Monterey does not allow a court in an interim
7 emergency relief situation to adopt a government
8 originated plan that is not submitted for preclearance.
9 That would then be a default situation in which the
10 court draws its own map. By the way, when that map's
11 done, maximum deviation permitted is one percent.

12 And finally, these are only the briefest
13 of comments, we see now deviation approaching 10
14 percent, for what, to create another minority influence
15 district not required and even not permitted under the
16 Voting Rights Act.

17 So, Mr. Chairman, we submit there are
18 serious constitutional defects with a plan of this

19 nature. This is only what we can see at the surface
20 without the data.

21 Thank you.

22 CHAIRMAN LYNN: Thank you, Mr. Wake, both
23 for your comments and brevity. We appreciate it.

24 The Chair would entertain the motion I
25 asked for earlier that we direct Mr. Johnson to begin

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1 his analysis of the Minority Coalition's map to be able
2 to provide us with the information as quickly as
3 possible so as to move forward and that subsequent to
4 that motion we should proceed with an Executive Session
5 to meet with attorneys as to guidance as we move
6 forward.

7 Mr. Elder.

8 COMMISSIONER ELDER: I would like to ask
9 Mr. Johnson: How long would it be before you would be
10 in a position to post a possible or an evolutionary plan
11 on the website?

12 MR. JOHNSON: This plan, if we were to
13 agree to it, if just trying to post this on the web --
14 it all depends on the availability of personnel. The
15 technical process is very quick, 15, 20 minutes, if
16 people are available that do the posting. If you are
17 looking for me to input this and refine it a little,
18 that would be more time.

19 Is that what you are asking?

20 COMMISSIONER ELDER: I guess where I'm
21 going, I would like to be able to give you direction
22 after we have our executive meeting for modification, I
23 would like that plan posted as soon as possible, even if
24 you have not done all of the analysis, so that it's
25 available for review and comment by other parties so

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1 that we get all the input we possibly can into the
2 process. I don't want to wait and, you know, with
3 respect to Mr. Wake, if we wait until tomorrow morning
4 at 9:00, 12:00 o'clock, 2:00 o'clock, whatever deadline,
5 here's the plan, there's effectively no comment and no
6 review by other intervenors or other parties.

7 I guess I'm trying to figure out at what
8 point can we put -- it may be an interim plan, haven't
9 approved it yet, haven't gone through all the number
10 crunching yet, gives something electronically: We have
11 major objections here, there, next place; make sure we
12 look at those before you approve those for --

13 MR. JOHNSON: In light of that, at the
14 point at which the Commission gives instruction for me
15 to attend and build a similar map, incorporate the
16 thoughts concerns expressed by the Commission in the
17 past few days, I could have something for you to sit
18 down and look at and see if it's going the right way in
19 probably two to three hours. It would be minus
20 fine-tuning clean-up, but it could be certainly
21 something for you to work on.

22 COMMISSIONER ELDER: Is that something we
23 could still do this evening? If somebody wanted to stay
24 up all night, like I do, they could do it?

25 CHAIRMAN LYNN: I'm prepared to be here as

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1 long this evening as necessary to move this forward. If
2 we absolutely had to put a finishing touch on something
3 tomorrow, we have limited availability of schedule to do
4 much. But I'm prepared for as late in the evening as
5 might be required to move forward on the resolution.

6 CHAIRMAN LYNN: Mr. Hall.

7 COMMISSIONER HALL: Doug, isn't it safe to
8 say either we're going to try to take percentages to 58,
9 59 percent level, or we're not, similar to this
10 proposal? It's kind of a either you are in or out
11 decision with respect to map making? Is that a correct
12 assumption?

13 MR. JOHNSON: Yes. That's the driving
14 decision that faces the Commission, as evidenced by the
15 short time frame I can turn the plan around. Once we
16 decide on the two targets, I can turn it around.

17 COMMISSIONER HALL: To come up, agree two
18 districts increase in percentage, one decreases, one,
19 two percent decrease, one, two, or other, it's still the
20 same scenario.

21 I guess what I'm saying, Mr. Elder, with
22 respect to analysis of the plan, one, as Mr. Elder

23 indicated, what is analysis of District 10 and outlying
24 districts. On the face, we have a pretty clear idea
25 what the situation is on 13, 14, 15, 16. I want to

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1 confirm the Native American -- African American
2 percentages haven't been affected in 16. And then it
3 seems to me the question is pretty clear that, you know,
4 that the responsibility of the Commission is to
5 determine whether or not we have met the court's order
6 to satisfy the objections of DOJ.

7 I need to be convinced that the order says
8 you guys come to an agreement. I'm not so sure that's
9 what order said. I think order said satisfy objections
10 of DOJ. I'm willing to be convinced. I think it seems
11 to me any intimate detail of this is to tweak what we've
12 known for years -- four months with our submitted plan.
13 Really, it's a tweak except for what is on the edges.
14 So, I mean -- I say we go into Executive Session. Doug
15 will have a pretty preliminary analysis in what, an
16 hour, Doug? Am I pushing you too hard?

17 MR. JOHNSON: I can give you an
18 analysis --

19 COMMISSIONER HALL: Preliminary.

20 MR. JOHNSON: I can give you analysis in
21 20 minutes, better analysis in an hour. I'll give you
22 whatever I have when you are ready.

23 COMMISSIONER ELDER: Let me ask the
24 question, goes back maybe to Mr. Kizer, also.

25

Is it all right to go in and post this

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1 plan just presented to us, a submittal, just like we did
2 Coalition 1, Coalition 2, on the record?

3 CHAIRMAN LYNN: Submission to the
4 Commission, not part of the record. This -- it will --
5 can be posted as the nature of the record sum.

6 COMMISSIONER ELDER: It resolves, as an
7 open part of the process, not make it where gone to the
8 wall.

9 CHAIRMAN LYNN: Thank you.

10 Mr. Kizer.

11 MR. KIZER: We've not a problem with you
12 posting this map or an off-take of it.

13 To respond to Mr. Hall, if I may. The
14 court will not show you how to satisfy Department of
15 Justice concerns. That's not what we understand the
16 legal proceeding is. It says propose a remedy. Justice
17 will not get that remedy. It is only the court who gets
18 that. And the remedy is not to satisfy Justice, because
19 Justice will not pass on it. It's really a remedy for
20 interim relief from the court. It's a whole different
21 animal.

22 If going to DOJ for resubmission, it's a
23 whole different ball game, I think.

24 CHAIRMAN LYNN: To that point, Mr. Kizer,
25 because I want to be very precise on this, it's my

1 understanding of the court's order, which may be
2 different of yours, if it is, make sure we understand
3 the differences between our opinion, it's my
4 understanding of the court's order, even though the
5 court is substituting it's wisdom for Department of
6 Justice in deciding whether or not the solution has been
7 achieved, my clear understanding of the direction of the
8 court is to address DOJ's concerns which led to the
9 objection in the letter. And I don't mean to be
10 splitting hairs, but it makes a big difference as to
11 whether or not our burden under order from the Court is
12 to present a plan, agreed to or not, which, on the face
13 of it, appears to address the concerns of DOJ or whether
14 our burden is merely, and I use that term advisedly, to
15 come back with a plan on which parties can agree. Those
16 are two very different things, potentially. They could
17 be the same thing. But one, it seems to me, is a higher
18 burden than the other.

19 There are any number of plans on which
20 parties could agree, depending on the vagaries of those
21 plans. There are other solutions that are potentially
22 different from that agreement that reach the threshold
23 of the objections raised by the Department of Justice.

24 MR. KIZER: Well, a big factor I put into
25 the equation is the case law that talks about what is

1 the court's authority, what is the scope of its review
2 when dealing with an interim plan under exigent
3 circumstances.

4 The case law to me is very clear they can
5 adopt an interim plan that has serious constitutional
6 problems. They don't have to adopt a perfect plan. The
7 scope of their review in dealing with an interim plan is
8 not same analysis that DOJ will do, because they don't
9 have the expertise to do that. All they can do is look
10 at the areas in the letter that DOJ targeted and look at
11 what the proposed remedy is, but they will not do the
12 same DOJ analysis that DOJ will do, because they can't,
13 don't have the expertise to do it. They can say: Well,
14 you know, you've gone part of the way, haven't gone all
15 the way; you've gone enough because you have an election
16 coming up and have filings in two weeks, so we're going
17 to approve it. Standard of review is much, much
18 different than if we went to DOJ.

19 I think you need to consult with attorneys
20 in Executive Session to confirm that, but that makes it
21 a whole different ball game.

22 We're not going back to court with the
23 burden of proof if we went back to DOJ on a
24 resubmission. Interim relief, all parties hopefully
25 agree on the best fix we can come up with under the

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1 circumstances that avoids prolonged litigation, gets
2 answers to the county recorders as best we can,
3 satisfies the Hispanic Coalition's concerns, and gives a
4 chance to elect -- I'll tell the court exactly what I'm
5 telling you folks -- viable candidates for districts,
6 allows those folks to run, see if they can be elected.
7 The burden of proof is slightly different. You can see
8 as witnesses some of the very candidates mentioned today
9 coming in and saying: I can run in this district, but I
10 can't run -- if you turn in a separate map -- I can't
11 run in that district, can't run that 13, would never be
12 elected, can in this 13. That's what we see happening.

13 CHAIRMAN LYNN: Just out of curiosity, the
14 same list of candidates, might I assume those candidates
15 have begun petition passing as if they were running in
16 the districts of the adopted plan?

17 MR. KIZER: That is correct. All those --
18 everyone mentioned today, my understanding is, is
19 circulating petitions now in the IRC districts.

20 CHAIRMAN LYNN: And your comment about
21 them being viable candidates, does that -- is that
22 reflected in the adopted plan?

23 MR. KIZER: Oh, viability in the sense
24 that just by the very fact they are candidates in those
25 districts they believe they can be elected. That's the

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1 real test of a district, put a map out there and see who
2 runs. We're saying we have Hispanic candidates running
3 in each of four districts.

4 CHAIRMAN LYNN: Mr. Hall.

5 COMMISSIONER HALL: I don't want to
6 belabor the point. I just want to make sure I
7 understand. If the court didn't want us to really fix
8 DOJ's objection, wouldn't you agree they would have just
9 adopted our plan as an interim plan?

10 MR. KIZER: What the court told the IRC
11 and told the Hispanic Coalition: Prepare maps
12 indicating how you intend to address the DOJ problem.
13 That's all they told us. In my opinion, it's a beauty
14 contest Wednesday between two maps to see if they like
15 one or the other or have the Special Master do his own
16 thing to come up with a separate map. So that's all I
17 think they told us.

18 And the likelihood of them accepting a
19 jointly proposed map is very high, because we're dealing
20 here in good faith. We have different opinions as to
21 what it takes to elect Hispanic candidates, minority
22 candidates, under these various maps, but they are good
23 faith positions on both sides with rationale for both
24 positions we can present to the court.

25 The court likes to get cases settled,

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1 avoid controversy and trying cases. Assuming the

2 Special Master doesn't say it's a sweetheart deal that
3 shafts citizens of the state, they'll probably buy off
4 on it.

5 CHAIRMAN LYNN: To the extent that my
6 question and Mr. Hall's questions and our conversation
7 may differ in our interpretation, it's in the area of
8 whether the court is ordering us to address or resolve
9 the issues brought forward by the Department of Justice.
10 In the former, adjustments that may be made to the map
11 in various places address the concerns that DOJ raised
12 but may fall short of a full resolution, and that seems
13 to be the difference of opinion. Would you agree with
14 that, Mr. Kizer?

15 MR. KIZER: I disagree to this extent. No
16 one will ever know if the interim map satisfies DOJ
17 because DOJ will not pass on it.

18 CHAIRMAN LYNN: Unless it's submitted. It
19 won't be as an interim. Unless submitted subsequently.

20 MR. KIZER: That's why the court can't
21 really decide whether you satisfy DOJ.

22 I don't think that's the standard the
23 court will deal with next week. They will deal with how
24 the map satisfies various DOJ concerns and which map is
25 the best map for whatever factors they like. They'll

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1 not say DOJ tell us if this is your map, you approve
2 these changes or not. DOJ is not in this picture now.

3 CHAIRMAN LYNN: Ms. Hauser.

4 MS. HAUSER: Is this for the point I
5 mentioned before?

6 CHAIRMAN LYNN: Yes, it is.

7 MS. HAUSER: This is not a question for
8 Mr. Kizer, but I just wanted to mention that we have
9 consulted with the attorney present here for the
10 Coalition, and this is actually a question for the
11 Special Master coming from both of us. In the event it
12 is not appropriate to ask this question, please tell me.

13 The question is: Whether it is
14 appropriate for you to relay back to the judges the
15 circumstances of this particular situation and whether
16 or not the Court would be receptive to either a
17 telephonic conference or some kind of a scheduling
18 stipulation or request coming from the parties, at least
19 from the Coalition and the Commission, mutually. There
20 may be some other parties who object, but I'm just
21 curious as to whether or not that is something that you
22 could relay, based on your observations here, back to
23 the Court?

24 MR. CAIN: So if I understand it, you
25 would like to have some sort of meeting with them on

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1 this issue of -- that you just -- with the specific
2 issue being about what guideline --

3 MS. HAUSER: No.

4 MR. CAIN: What is it you want to meet

5 with them about?

6 MS. HAUSER: More scheduling, Mr. Cain.
7 It would be given the time, and since we seem to be
8 working well here together, now that the Coalition has
9 arrived with a draft, the concern is the scheduling for
10 tomorrow.

11 MR. CAIN: I see.

12 MS. HAUSER: Which is the exchange of
13 plans and also the 9:00 o'clock briefing that is due.
14 And I believe there is another stipulation in the works
15 with respect to a change of trial from Tuesday to
16 Wednesday which they certainly may have a problem with.
17 But in the event they wanted to leave it on Tuesday, at
18 least the conversation I've had with the Coalition
19 attorney, we, among ourselves, in order to give us the
20 time needed to get the maps finalized, and hoping,
21 perhaps, that we are not in conflict at the conclusion
22 of that proceeding, that perhaps we could present briefs
23 to the Court on Friday and waive responses at that time.
24 I think Mr. Wake will want to be heard on that as well
25 and I believe has a difference of opinion there, but the

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1 question is merely one of whether or not the Court would
2 entertain some kind of brief conference with us
3 telephonically with respect to scheduling.

4 MR. CAIN: I will certainly bring it up
5 with the office. I can't speak for them.

6 MS. HAUSER: I understand.

7 MR. CAIN: I really can't predict what
8 they would want to do. I would certainly be willing to
9 initiate some conversation between their offices and
10 here to see if that is possible.

11 MR. WAKE: Mr. Chairman, may I speak to
12 that?

13 CHAIRMAN LYNN: Indeed, Mr. Wake.

14 MR. WAKE: I believe the Special Master
15 has a hard enough job already. And I think it's
16 inappropriate to ask him to fulfill the function of the
17 attorneys. It is the attorneys' function to communicate
18 with the Court by motion or otherwise if they have a
19 request to make of the Court.

20 I will tell that you I will not join in
21 any request for extending this time. I will object
22 vehemently to any suggestion that the reply briefs be
23 waived. The Court made clear, I thought, in clear
24 terms, that the Court has needs to make a decision; that
25 it wishes to have the plans and the briefs, explain

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1 those plans by 9:00 o'clock tomorrow, and they wish to
2 have the replies from -- to those briefs by 5:00 o'clock
3 on Friday.

4 So I would respectfully not join in any
5 request that the Special Master exceed the
6 responsibilities that the Court has imposed on him.

7 If the attorneys wish to make a motion,

8 they may do so. I will be heard in opposition to what I
9 have heard described for the grounds I've stated as well
10 as others.

11 I guess the summary is, in the end, we
12 have to remember that where we sit now, the Court is the
13 ultimate protector of the public interest with respect
14 to time frames. And the Commission has the ultimate
15 responsibility under the law of our state, under our
16 Constitution, to make the policy choices which are
17 embedded in all of this. But if the Commission fails to
18 do so, then the Court will do so in a timely fashion.
19 The Court needs the time to identify.

20 So I would -- I'm sad to say so, but I
21 would have to object to any further delay on the Court's
22 time to process this case. And those are my comments.

23 Thank you, Mr. Chairman.

24 CHAIRMAN LYNN: Thank you, Mr. Wake.

25 Mr. Huntwork.

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1 COMMISSIONER HUNTWORK: Well, I have
2 questions for the lawyers, but I --

3 MR. RIVERA: Is it for Mr. Wake?

4 COMMISSIONER HUNTWORK: I would like to
5 ask my questions for our lawyers. We've been asking a
6 lot of questions to a lot of lawyers. I just -- I would
7 like to go into Executive Session and talk to our
8 lawyers. I think that's what we ought to do now.

9 CHAIRMAN LYNN: I'd like to renew my
10 request first for a motion to Mr. Johnson to allow him
11 to begin the analysis as previously suggested. And then
12 I would be delighted to take your motion for Executive
13 Session.

14 COMMISSIONER HUNTWORK: I move we send
15 Mr. Johnson on his way to perform analysis previously
16 suggested.

17 CHAIRMAN LYNN: Second?

18 COMMISSIONER ELDER: Second.

19 CHAIRMAN LYNN: Moved and seconded.

20 Call for the question.

21 (Vote taken. Motion carries unanimously.)

22 CHAIRMAN LYNN: I'd take a motion pursuant
23 to A. R. S. 38-431.03(A)(3) and 38-431.03(A)(4) for
24 Executive Session.

25 COMMISSIONER HUNTWORK: So moved.

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1 COMMISSIONER ELDER: Second.

2 CHAIRMAN LYNN: Motion is moved and
3 seconded.

4 Question is called.

5 All those in favor, say "aye."

6 (Vote taken.)

7 CHAIRMAN LYNN: Motion carried.

8 I have no idea how long Executive Session
9 will go. We'll let you know.

10 (Whereupon, the Commission recessed Open
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11 Public Session at 4:15 and convened Executive Session at
12 from 4:35 p.m. until 6:00 p.m. at which time Open Public
13 Session resumed at 6:13 p.m.)

14 CHAIRMAN LYNN: The Commission will come
15 to order in regular session.

16 Ladies and gentlemen, we don't have a lot
17 of volume, don't have a lot of volume. Just for
18 housekeeping purposes, for those in the audience, the
19 intent at this point is to continue this evening as long
20 as necessary to reach some significant conclusions to
21 our deliberations for the court.

22 The schedule will be as follows: We're
23 going to hear a brief report from Mr. Johnson based on
24 his hour and a half, give or take, analysis of the
25 Coalition plan as requested by the Commission. We have

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1 had a request, and I will, without objection, take the
2 request to allow Mr. Wake to address the Commission
3 relative to motions that will be heard in federal court
4 tomorrow at 9:00 a.m. And we will then, it's our
5 intent, to then take a dinner break for about an hour,
6 whenever that time frame begins, it would be for about
7 an hour in duration, at which point we would resume and
8 work as long as necessary to achieve our ultimate goal.

9 So with that in mind, Mr. Johnson, if you
10 are prepared to address the Commission, we'll take your
11 report first.

12 MR. JOHNSON: Mr. Chairman, based on the
13 instructions given before the break, I've gone through
14 the Coalition's proposed map and also Tim Johnson has
15 posted it to the web with a note saying that this map is
16 one that the Commission requested the Coalition provide
17 of their draft, it is an in-progress draft and provided
18 only per the Commission's request.

19 I've gone through the map, it is coming up
20 here, to look through the differences between the
21 Coalition's proposal and the adopted map and our various
22 versions that we've looked at over the last two days.
23 What I'm planning to do is describe where the districts
24 haven't changed at all and where the districts have
25 changed.

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1 I've done some demographic analysis of the
2 changes and looked at cities and counties and things
3 like that. Obviously, beyond that, I can describe what
4 I can see, but I can't describe motivation behind that.
5 If there are questions on that, the Coalition is here
6 and they can describe those changes.

7 First, the majority of the districts are
8 unchanged and others have very small changes. And I'll
9 just very briefly mention some of the small ones while
10 this is coming up. I can't characterize whether there's
11 a reason for this, or it's a technical mistake, District
12 8, the Scottsdale District, has a nine-person difference
13 from the adopted and from our versions. I'm not sure as

14 to that. Let's see if this comes up.

15 Other areas, it's more significant,
16 particularly in Maricopa area.

17 Also, looked at the Flowing Wells area.

18 Let me describe that, you are fairly familiar with it,
19 while this is coming up. In Flowing Wells, described by
20 the Coalition was a tradeoff for Oracle, San Manuel
21 change in an attempt to reduce deviations, as they
22 described it. Oracle, San Manuel, just under 8,000
23 people were removed from District 26 who were a total of
24 38 percent Hispanic. Then the change in Flowing Wells
25 was 6,280 people who were 17 percent Hispanic. So as

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1 would be expected, looking at the two areas, it was
2 putting a less Hispanic area in and taking out the
3 Oracle, San Manuel area. Obviously, as was our goal,
4 put those two towns in with District 23. There is a
5 small block of Tucson in there. I looked at it. It is
6 zero population, so given it's zero pop, it's probably a
7 drawing error, otherwise it does follow the Census
8 designated place line for Flowing Wells.

9 Let me show you the Scottsdale issue. In
10 District 8, up just north of Rio Verde, we have just a
11 couple blocks I can't characterize one way or the other.
12 Most blocks are zero block population. One here on the
13 edge of Rio Verde has nine people in it. I'm just
14 describing the differences.

15 The area we were looking at earlier in the
16 Queen Creek area.

17 COMMISSIONER MINKOFF: Mr. Chairman, can I
18 ask a question?

19 CHAIRMAN LYNN: Ms. Minkoff.

20 COMMISSIONER MINKOFF: That small area in
21 District 8, is that at or near a county line?

22 MR. JOHNSON: No, it's not.

23 COMMISSIONER MINKOFF: County line between
24 the blue, brown?

25 MR. JOHNSON: Right. Black lines are --

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1 COMMISSIONER MINKOFF: All --

2 MR. JOHNSON: The adopted district in our
3 plans.

4 COMMISSIONER MINKOFF: Okay.

5 COMMISSIONER HALL: So the nine people.

6 CHAIRMAN LYNN: Mr. Hall.

7 COMMISSIONER HALL: Sorry, Mr. Chairman.

8 Nine people in Scottsdale, is that an
9 error or we don't know?

10 MR. JOHNSON: Again, I don't know that.
11 We certainly can have Coalition people that can come up
12 and characterize it.

13 CHAIRMAN LYNN: Just so we're clear going
14 through this, I see Supervisor Wilcox. My guess is
15 that's a question that would be better asked of

16 Mr. Mandell. I don't want to put anybody on the spot,

17 so --

18 SUPERVISOR WILCOX: I'll note questions
19 and call Mike right away.

20 CHAIRMAN LYNN: All right. Thank you.

21 MR. JOHNSON: Again --

22 COMMISSIONER HALL: Figured we'd start a
23 list.

24 MR. JOHNSON: Just kind of covering outer
25 edges I can cover fairly quickly here, down in this area

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1 in the Queen Creek area, looking a little bit, looked in
2 more detail, it's interesting, the City of Queen Creek
3 actually goes right around that block, so it is not
4 unifying the city. I'm not sure what the thought is
5 here. 717 people there. It is 33 and a half Hispanic.
6 Putting it in 23 slightly helps the district. But
7 again, it's not in Queen Creek as we originally thought
8 when I looked at it before.

9 CHAIRMAN LYNN: Mr. Elder.

10 COMMISSIONER ELDER: Mr. Chairman, didn't
11 the Coalition representative say that was just a
12 mistake, it shouldn't have been in there? I thought
13 that's what I heard before he left. Still would be in
14 21, then, not 23.

15 MR. JOHNSON: Right. Again, no idea of
16 motivation. I try not to read anything in, am just
17 describing what is there.

18 On the Apache Junction vs. Gold Canyon
19 item, comparing this plan to what the Commission has
20 been looking at, the area outlined in green that is from
21 the county line down into Apache Junction comes down to
22 19, what the Commission looked at in our proposals for
23 change in this area.

24 The differences between the two are that
25 the Gold Canyon and kind of south edge of Apache

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1 Junction area has a total of 12,000 people, and that
2 area is 3.4 Hispanic. The Apache Junction area outlined
3 in green has just under 17,000 people and is just over
4 5.6 percent Hispanic. So there are more people in the
5 Apache Junction area they've taken out in that proposal.
6 The Coalition actually improves the Hispanic percentage
7 of District 23 slightly better, because they're moving
8 more heavy anglo areas. The area is moving 96 percent
9 non-Hispanic. The area we're moving, 94 and a half
10 percent non-Hispanic.

11 COMMISSIONER HALL: Isn't it true their
12 District 23 is still lower than ours and the bench mark?

13 MR. JOHNSON: Ah --

14 COMMISSIONER HALL: I'm confused.

15 COMMISSIONER MINKOFF: Maybe we're moving
16 more people. They're moving 17,000. We're moving
17 12,000. Even though the percentage is different,
18 they're moving 17,000.

19 COMMISSIONER HALL: That's why I'm asking

20 Doug.

21 MR. JOHNSON: This is only one of three
22 changes in the district. I can look the number up when
23 I describe the third.

24 The other is Avondale. I'll describe
25 third, give you a summary of all changes.

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1 In Avondale, the lines are very similar to
2 what the Commission has looked at, the difference being
3 this area in here. Differing with what Mr. Mandell
4 described, this area actually does split the precinct.
5 Obviously, I don't know if they were trying to keep it
6 together and made a mistake, or the reason for this, but
7 the area, the brown -- thin brown line you see is a
8 precinct line. The reason that the Commission's
9 proposed line doesn't match up exactly is that this is a
10 zero population street area. Projections don't match.

11 So, essentially, the green outline you see
12 follows the precinct line. That is the proposal
13 Commission looked at earlier. The Coalition's line cuts
14 through here. And their -- let me get the number.

15 Oh. I know the other thing I was going to
16 describe here.

17 The other piece here, and this is not
18 addressed, so maybe it's a thing to address after I
19 finish my report. This small square here, area they
20 were describing before today north of the freeway,

21 however, it is in Senator Rios' current district and in
22 the Coalition map it would move it into 12 which is not
23 a majority Hispanic district. That is one thing I'd
24 revisit.

25 COMMISSIONER HALL: And part of the

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1 Hispanic AUR, correct?

2 MR. JOHNSON: Yes. That area is all in
3 there. That area does split a precinct. The precinct
4 does not follow the old Legislative line. But there is
5 the concern there of people who currently are in a
6 district that elects moving to a district that is less
7 than majority.

8 Those are two issues I want to raise on
9 that side.

10 The ultimate effect on District 23, flip
11 through here -- bench mark for 23 is 30.18 percent.
12 According to the Coalition's printout, it goes to 29.38
13 percent. The net difference --

14 Oh, and then in proposals the Commission
15 reviewed earlier, we do get all the way to the bench
16 mark.

17 Differences I can see looking at this
18 district are in the Saddlebrooke area. The Coalition's
19 proposal just takes the towns of Oracle, San Manuel, and
20 we pick out a few people in between there in what is
21 generally considered the Saddlebrooke area, the nine
22 people in Scottsdale, which obviously don't have a

23 significant impact, but then that Avondale change is the
24 big percentage up there, as much as one and a half
25 percent difference, which is a big shift. I'm sorry,

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1 it's only one percent difference between our plan and
2 their plan. It's a combination of all those moves that
3 makes that one percent higher than ours despite Gold
4 Canyon, Apache Junction Trail.

5 Moving on to the next area, in the Gilbert
6 area here, this section of 21 that is in the Coalition
7 map coming up in Gilbert contains numbers 3,700 people
8 who are 15 percent Hispanic. As the Coalition mentioned
9 earlier, that was trying to balance out the deviations.
10 Doing a different approach, what Commission has seen in
11 proposals earlier, those proposals balance between 19
12 and 22 along the corridor here between black and green
13 lines. The Coalition's approach is balancing to the
14 south between 22 and 21. It's a different approach than
15 I can describe. I don't know the other factors.

16 CHAIRMAN LYNN: Mr. Elder?

17 COMMISSIONER ELDER: Yes.

18 Doug, is the green line on the north the
19 freeway?

20 MR. JOHNSON: Oh, you know what? That
21 freeway may not be on the Census geography.

22 COMMISSIONER MINKOFF: Doug, it's not an
23 interstate but is a US highway, if you have those.

24 COMMISSIONER ELDER: One is old Apache
25 Trail. That is still designated a federal highway so

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1 they get federal funds for improvements and maintenance.
2 And then the new highway is offset by, what is it, a
3 half mile? I don't think it's been designated yet.

4 MR. JOHNSON: I can zoom in there now.
5 The green line, moving Apache Trail up
6 from Broadway Avenue and just south of University there?
7 So -- I'm not sure exactly where the highway is in
8 there.

9 COMMISSIONER MINKOFF: Highway is south of
10 Broadway.

11 MR. JOHNSON: So that's where that is,
12 though, between Broadway and Apache Trail.

13 COMMISSIONER MINKOFF: Freeway is south of
14 Broadway.

15 MR. JOHNSON: One thing to note, something
16 the Coalition noticed to try to balance deviations, it
17 does result in a split of Gilbert down here. So, let me
18 now -- moving more into where there's larger difference
19 and larger impact on DOJ's concerns, in particular, in
20 the Maricopa area. I talked about the areas of
21 Avondale.

22 Let me start with District 16. The bench
23 mark in District 16, 13.04 black voting age. As adopted
24 by the IRC in November we took it up slightly to 13.36.
25 And this plan comes in at 12.87. So it's 15-hundredths

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1 of a point lower, but it does go down slightly.

2 Other issues in 16, when I looked into the
3 area where 14 and 16 interact here, I did want to note
4 there are a number of precinct splits in this area. You
5 can kind of see them. The square here just south of the
6 10 freeway, over here in the southwest corner of the
7 loop, we're splitting one, two, three, four precincts.
8 I point that out just to clarify that both of the plans
9 split precincts. Certainly our plan splits, also, but
10 certainly they are precinct splits.

11 The border between 11 and 15, there are
12 essentially three areas from 11 that are picked up into
13 15. These areas remove essentially 13,000, 20 who are
14 20 percent Hispanic, then 11 comes in around the 17
15 freeway and it picks up essentially the same number of
16 people who are also the exact same percentage Hispanic.
17 So that is the nature and character of that trade. I
18 don't know the reason behind that, obviously.

19 In District 10, just describe a similar
20 change. The area where the blue comes below the adopted
21 line, in that square, that is between Northern Avenue
22 and Glendale Avenue. There are 8,800 people in there
23 who are 16 percent Hispanic. That is offset slightly
24 over to the west of there where District 12 comes in and
25 picks up an area of District 10. That picks up 2,000

1 people.

2 Again, we are right on -- now it's Olive.
3 We're away from major roads but south of Peoria and
4 north of Northern. There's a small area picked up. It
5 is 2,200 people who are 21 percent Hispanic.

6 So it is putting a 21 percent Hispanic
7 area that was in 10 now in -- I'm sorry, it is moving a
8 more Hispanic area into District 12 which helps that
9 percentage slightly, also increases the deviation in 10.

10 I believe this is one of the things
11 Mr. Mandell referred to trying to spread the deviation
12 out a little bit. I can't characterize any other
13 reasons for this change, but also can't rule them out.

14 The other key area I want to describe is
15 the border between 14 and 15. From the adopted plan,
16 there's really three changes, two areas west of the
17 freeway in the adopted plan were in 14 they are now
18 moved to 15 and the area -- I'm sorry, I misstated --
19 those two areas are east of the freeway and one area
20 west of the freeway that was in 15 moves to 14. An area
21 west of the freeway was put in 15 by the Commission at
22 the request of what we affectionately called the brick
23 houses neighborhood, an area of similar architecture.
24 They're applying for historical status, that kind of
25 thing.

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1 COMMISSIONER MINKOFF: That's not correct.
2 That area is off of 19th Avenue, just west of 19th
3 Avenue, just north of west high school, east of the
4 freeway.

5 MS. HAUSER: Westwood.

6 COMMISSIONER MINKOFF: Westwood north and
7 west of 19th Avenue and Thomas.

8 MR. JOHNSON: Oh. Okay. Thank you. I'll
9 have to go check the exact area of that and get back to
10 you on that.

11 Given that, I have the numbers on that.

12 That area west of the freeway, 4,000
13 people who are 56 percent Hispanic. Two areas described
14 east of the freeway total 7,000 people who are 30 --
15 about 32 percent Hispanic. The tradeoff of those three
16 shifts, both uses the freeway as a divider between them,
17 and it increases the Hispanic percentage of 14.

18 It's one of the steps of getting that to
19 the target percentage. The tradeoff lowers the
20 percentage of 15.

21 So, just to summarize, there are a number
22 of small changes, such as the Scottsdale point, the
23 Tucson change, and along the edges, and more significant
24 changes between 13, 14, 15, and 16 the Coalition
25 described in detail earlier. Some of these are

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1 explained by the goals of hitting the 53 to 55 percent
2 difference. And those are the ones I could point out.
3 The changes such as differences between 11 and 15 are
4 less clear as to the motivation behind those. Perhaps
5 if the Commission wishes, it could ask the Coalition the
6 questions rather than the list.

7 Are there questions?

8 CHAIRMAN LYNN: Ms. Minkoff.

9 COMMISSIONER MINKOFF: Doug, do you have
10 the ability, maybe after the dinner break, to provide us
11 with a paper copy of the Coalition map?

12 CHAIRMAN LYNN: Print it out?

13 COMMISSIONER MINKOFF: Yeah. Print it
14 out, similar to what you provided to us on DOJ 2A new,
15 et cetera? And do you also have the ability to do
16 something similar to this for the Coalition plan?

17 MR. JOHNSON: Yes. On printing the maps,
18 I do have the color printer Maricopa County has
19 generously provided here. It is very useful, also very
20 slow. I can get you as many copies as it will print and
21 run a spread sheet for you as well.

22 One thing I should note I kind of glazed
23 over, obviously it is a map in progress, is described as
24 a map in progress. Running basic checks, everything is
25 assigned, 40 noncontiguous points are clearly in

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1 progress. The numbers, obviously -- you have to keep
2 that in mind as you look at the spread sheets. They
3 don't go down to hundredths of points, but the big
4 numbers work.

5 CHAIRMAN LYNN: Other comments or
6 questions for Mr. Johnson?

7 Mr. Elder?

8 COMMISSIONER ELDER: Yes. Thank you,
9 Mr. Chairman.

10 Mr. Johnson, on 16, it seems like there
11 has been a considerable change there. What has that
12 done to the percentages?

13 MR. JOHNSON: As I noted, black voting age
14 has gone down by about 15-hundredths of a point. On the
15 Hispanic point, it ended up, at this stage in
16 development, at 59.39 percent.

17 COMMISSIONER ELDER: Down from like 65.

18 MR. JOHNSON: Bench mark 64, as adopted
19 and approved, or not objected to by Department of
20 Justice, was 59.45. So it is down six-hundredths of a
21 point.

22 COMMISSIONER ELDER: Thank you.

23 CHAIRMAN LYNN: Other comments or
24 questions for Mr. Johnson?

25 Mr. Hall?

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1 COMMISSIONER HALL: So previously we've
2 been informed 10 districts changed by this map. Would

3 you concur with that analysis?

4 MR. JOHNSON: Yes. That's the count I
5 got. I did that based on population. Could be a zero
6 pop lock. 10 districts had different populations and
7 are visible changes I saw.

8 CHAIRMAN LYNN: Anything further for
9 Mr. Johnson?

10 All right, Mr. Johnson, stand by.

11 I would like at this point to hear from
12 Mr. Wake, briefly.

13 Without objection, Mr. Wake.

14 MR. WAKE: Thank you, Your Honor.

15 This is not the time for substantive
16 comment. That's not my purpose.

17 When the Commission was in Executive
18 Session, I received a phone call regarding a motion
19 filed in court for a continuance, and I have a practical
20 need to make a decision whether to oppose that or not.
21 It's somewhat different from the motion originally
22 described when we were last in public session. And
23 my -- it is affected by what the Commission's timetable
24 was. I'll tell you frankly my concern, or my question
25 when I learned of that, is whether the Commission

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1 intended to be working on this substantially tomorrow;
2 whether the reason for the request to move the reporting
3 date to Friday was to continue working on this or

4 whether the Commission intended to reach a substantive
5 resolution tonight. Because, again, it affects the
6 response I make to that motion.

7 Perhaps, Mr. Chairman, you've answered
8 that in your initial comment the Commission does intend
9 to reach a final substantive resolution tonight and not
10 to continue working substantively tomorrow?

11 CHAIRMAN LYNN: Mr. Wake -- I know you
12 haven't -- I know you haven't attended as many of these
13 meetings as some of your colleagues. Let me just, for
14 the record, indicate that any pronouncement of the
15 Chair, I mean if you were looking at a batting average,
16 I would not make a minor league team much less the
17 majors with my ability to predict when and how the
18 Commission will ultimately do its work. Clearly I was
19 stating the intent. The intent at this point is for us
20 to continue this evening as long as necessary or
21 physically possible to try to achieve a resolution of
22 the issue this evening. That is, I believe, our intent.
23 Whether that can be accomplished is anybody's guess at
24 this point.

25 MR. WAKE: Very well.

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1 CHAIRMAN LYNN: I don't know how helpful
2 that is, but that's best I can give you.

3 MR. WAKE: Thank you. When I learned of
4 that, my assumption, the assumption was to keep working
5 tomorrow. If that was the assumption, it would be one

6 response versus another. Thank you.

7 MR. RIVERA: Mr. Neil -- Mr. Wake, I want
8 to make it clear, there are two motions in front of
9 District Court. One of the motions is to continue the
10 hearing date from Tuesday to Wednesday based on a
11 variety of reasons including Mr. Johnson will not be
12 physically in the Continental United States.

13 MS. HAUSER: Hawaii is the Continental
14 United States.

15 MR. RIVERA: Continental United States.

16 The other is Mr. Johnson has to finish
17 clean-up and have a full picture in front of the court.

18 MR. WAKE: I not received any motions. I
19 checked my e-mail, also, and I haven't received it in
20 that regard.

21 MR. RIVERA: I apologize if it hasn't been
22 delivered to you. We didn't do that on purpose.

23 MR. WAKE: I may not oppose either of the
24 motions, depending on what it says are the
25 circumstances. If the scope of the hearing, if limited

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1 to voting rights issues, I may stipulate to trial
2 extension, also.

3 CHAIRMAN LYNN: Mr. Elder.

4 COMMISSIONER ELDER: When do we find out
5 the status of motions? If they don't change, we're
6 still on for 9:00 o'clock tomorrow, aren't we, and that

7 indicates we have to finish tonight.

8 MS. HAUSER: Interesting.

9 Mr. Chairman.

10 CHAIRMAN LYNN: Ms. Hauser.

11 MS. HAUSER: Commissioner Elder, good
12 question. At present, we have not been relieved of the
13 9:00 a.m., certain 9:00 a.m. deadlines tomorrow. But
14 the Court has indicated that it will hear a, in
15 conference, the motions. So Mr. Rivera and I will do
16 the best we can with the time we have available,
17 depending on when you finish.

18 So I would encourage the Commission to
19 just keep working and put that aside for the moment and
20 Mr. Rivera and I will deal with that as we can.

21 CHAIRMAN LYNN: Mr. Hall.

22 COMMISSIONER HALL: Mr. Wake, I, too, have
23 been disappointed; but I have every intention of
24 climbing in my car and driving up the hill tomorrow, if
25 that gives you any sense of comfort. It doesn't me,

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1 but --

2 MR. WAKE: Mr. Chairman, we want to avoid
3 any contested motion anywhere we can. We need basics
4 about the motions and plans in order to make sensible
5 decision on what to do. That's why I asked to address
6 you.

7 CHAIRMAN LYNN: I suggest you know what we
8 know.

9 MR. WAKE: Thank you.

10 CHAIRMAN LYNN: It was now our intent to
11 break for dinner. I would suggest that, in the interest
12 of staying on the schedule that has just been discussed,
13 that that dinner break be as short as possible and as
14 long as necessary to deal with the issue. So my
15 suggestion would be, since it is almost 10 minutes of
16 7:00 --

17 MS. HAUSER: Mr. Chairman, does the
18 Commission wish to give, first of all, any instructions
19 to Doug prior to the dinner break? Secondly, do we have
20 any word from the Coalition as to their progress at this
21 point?

22 CHAIRMAN LYNN: Thank you, Ms. Hauser.

23 Let's take that in reverse order.

24 I think we have tonight to hear from the
25 Coalition, then I'll see if there is additional

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1 instruction for Mr. Johnson.

2 Mr. Kizer.

3 MR. KIZER: Mr. Chairman, Mike Mandell is
4 in the office working on the final map now. We
5 understood what you wanted during the break was to
6 explain some changes we made in the map. We'll confer
7 with Michael during the break and come back. Some look
8 like errors. Some I don't know why the population
9 shifts were made when there appears to be no net gain or

10 loss. I have to talk with him, check things out.

11 CHAIRMAN LYNN: Can you represent, at this
12 point, with no absolute certainty, the direction of
13 districts have not changed since the previous
14 submission, in the main? There may be minor tweaks here
15 and there, and what have you. To your knowledge, have
16 you made any other substantive changes we might need to
17 be aware of?

18 MR. KIZER: Mr. Chairman, Michael Mandell
19 is not working on any substantive changes other than
20 those we indicated before. The only substantive change
21 communicated to me was by Peter Rios who said that if at
22 all possible he'd prefer to see District 23 brought up
23 to majority-minority population, not voting age.

24 MS. HAUSER: Total population?

25 MR. KIZER: That was his request to me

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1 earlier today. That's something we will look at. I
2 want to alert you to that, too. Doug might want to look
3 at that. We're probably getting pretty close with
4 changes made. My guess is it might be moving more
5 Apache Junction from his district might get us there.

6 CHAIRMAN LYNN: Appreciate that update.

7 Ms. Minkoff.

8 COMMISSIONER MINKOFF: Couple questions,
9 Mr. Kizer.

10 When do you expect to have the revisions
11 to bring to us?

12 MR. KIZER: We'll call Michael during the
13 break. I'll really have a more accurate analysis or
14 projection for you after we talk with him, see how close
15 he is. It's usually another -- my guess is probably a
16 couple more hours, but I don't know.

17 Doug, does that sound reasonable, knowing
18 what Mike is doing?

19 MR. JOHNSON: I have no idea.

20 MR. KIZER: That's my guess, based on
21 prior experience of how long takes to move lines, and
22 stuff. I'll have a better projection for you after
23 dinner.

24 COMMISSIONER MINKOFF: The follow-up
25 question to that is I made a comment to Doug I want --

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1 that I needed some kind of a paper copy to look at to
2 understand this. And I either need Doug to do this for
3 us during the break or for you to bring hard copies of
4 whatever revisions that you do so that we can consider
5 them. That's the only way I can consider this
6 effectively. I need to know are you able to provide
7 that, do we need Doug to do what you've given so far?

8 MR. KIZER: As far as what we can do, we
9 have one color copy. We can give that to you.

10 SUPERVISOR WILCOX: One color copy. We
11 can give it to you.

12 MS. HAUSER: Is there a Kinko's close by?

13 COMMISSIONER MINKOFF: Doug can make
14 copies. When Mr. Mandell finishes what he does, can he
15 come with paper copies as well as --

16 MR. KIZER: We can produce this type,
17 can't do a large number of them, print off a printer,
18 and we cannot go to a color copier and reproduce them.
19 If this helps you, Commissioner, we can give you a hard
20 copy of what you've seen so far.

21 COMMISSIONER MINKOFF: Whatever we're
22 going to consider.

23 CHAIRMAN LYNN: Some of us are visual
24 learners. Some need all the help we can get.

25 COMMISSIONER MINKOFF: Some of us never

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1 learn at all.

2 CHAIRMAN LYNN: I would like to make --
3 Does that satisfy your question?

4 COMMISSIONER MINKOFF: Yes.

5 CHAIRMAN LYNN: Other questions for the
6 Minority Coalition while they're here?

7 Okay. Before we get to instructions for
8 Mr. Johnson, if in fact there are any, I think it's a
9 good time to, with discretion of the Chair, mention one
10 thing, publicly, because I think it's important to
11 mention this on the record. We have with us this
12 evening Tim Johnson, Shilo Johnson, and Eric the Red
13 Johnson. They're in the back of the room in the corner.
14 I'll let you figure out who's who. Eric the Red has a

15 little bit of a diaper problem, but we'll let you figure
16 that out. There he is. That's Eric the Red there,
17 getting redder all the time at the moment.

18 The reason I mention it is that Tim is the
19 webmaster for our website. And our website has received
20 a very nice national award from GIS as an outstanding
21 website using GIS technology. I think everyone should
22 acknowledge that Tim is as good at the website as he is
23 in other places.

24 Mr. Johnson, we appreciate everything
25 you've done and continue to do for us.

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1 And, Shilo, we appreciate you letting us
2 have him as often as we need him. I understand you'd
3 rather have him home.

4 Ms. Hauser, seeking recognition?

5 MS. HAUSER: No.

6 SUPERVISOR WILCOX: I wanted to take a
7 moment to recognize he's a Maricopa County employee.

8 CHAIRMAN LYNN: He is indeed. We're as
9 proud as you are. You have reason to be.

10 Instructions for Mr. Johnson?

11 We're coming up on the dinner break.

12 Mr. Johnson would have an hour, at least an hour, to
13 move forward on any of the fronts we might suggest.

14 Mr. Huntwork?

15 COMMISSIONER HUNTWORK: Mr. Chairman, one

16 thing I think is the right thing to do from the
17 Coalition map is to take out the Gold Canyon area, which
18 is rapid -- quite rapidly growing, quite inconsistent
19 with the rest of the population, take that approach and
20 then achieve the same number that we had taken out
21 before by taking out a much smaller piece of Apache
22 Junction which is already split. And I think we may get
23 the 50 percent total minority population just by doing
24 those two things. Even if we don't, I think in the long
25 run it's a better fix than the one we had originally. I

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1 wonder if we can give that instruction over the dinner
2 hour.

3 COMMISSIONER HALL: I second that.

4 CHAIRMAN LYNN: In the form of a motion.
5 Made and seconded.

6 Is there discussion?

7 Ms. Minkoff?

8 COMMISSIONER MINKOFF: Mr. Chairman, my
9 only concern, I support the motion, possibly an
10 amendment is needed. Currently Apache Junction moves
11 out more people than the Gold Canyon move.

12 COMMISSIONER HUNTWORK: Correct. Take out
13 Gold Canyon and as much of Apache Junction as necessary.

14 COMMISSIONER MINKOFF: Up to 17,000. Same
15 number of people moved out.

16 COMMISSIONER HUNTWORK: Right. We do want
17 to stick -- probably stick with the same population

18 fixed before along the northern boundary rather than
19 southern which splits Gilbert, as Mr. Johnson pointed
20 out to us.

21 COMMISSIONER MINKOFF: Move to the
22 northern district rather than southern, might be able to
23 do if we pick up more in Apache Junction.

24 CHAIRMAN LYNN: Incorporate into the
25 motion for expediency.

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1 Mr. Hall.

2 COMMISSIONER HALL: I think, Mr. Chairman,
3 as we need to sharpen our focus, we need to nail 23.
4 We're all pretty much in agreement on that point. I
5 hoped that basically to come back in a form so we're
6 ready to adopt that district, if you will. Obviously we
7 still are dealing with the Maricopa County issues. I
8 don't know if that's possible in the dinner period,
9 Doug, but. . .

10 MR. JOHNSON: Commissioner, the plan -- 2A
11 with the Pima back as adopted is a cleaned-up map that
12 could be adopted. As I make this change, I'll be sure
13 to keep it that way.

14 COMMISSIONER HALL: Okay.

15 CHAIRMAN LYNN: Mr. Elder?

16 COMMISSIONER ELDER: Mr. Chairman, Doug, I
17 want to make sure the directions are clear, that we're
18 going to bring in, or take out, as the case is, take out

19 the Gold Canyon, Gold Canyon, we're going to make up
20 along that northern boundary population. We're also
21 going to go then, I want to add this, it appears to be a
22 glitch where that, you said 8,000 -- 800 people, one
23 little part. They said they don't know why that was in
24 there, you said you don't know why it's in there, along
25 the southern part of that. Is that in the motion?

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1 COMMISSIONER HUNTWORK: No.

2 COMMISSIONER ELDER: Mr. Huntwork.

3 COMMISSIONER HUNTWORK: Not make that
4 change. Trade Gold Canyon for Apache Junction in our
5 plan, otherwise our plan stays the same.

6 MR. JOHNSON: Can I clarify one question I
7 have? The motion, as I understand it, is to make the
8 Gold Canyon change in the 2A without the Pima change,
9 right? So then -- in that case we don't have the Queen
10 Creek --

11 COMMISSIONER HALL: Exactly.

12 CHAIRMAN LYNN: On the motion. Discussion
13 on the motion?

14 COMMISSIONER HALL: We're guessing, Mr. --
15 asking Mr. Johnson, I understand you'll be doing a
16 little prophecying. I'm guessing with that change, 23
17 which is now at 30.24 VAP and 49.63 may make that to a
18 majority minority. Would you think it would have that
19 impact?

20 MR. JOHNSON: I'm not ruling it out. It

21 will, given the numbers we've looked at so far on the
22 Coalition plan, will increase the Hispanic percentage
23 somewhat and will thus increase total minority. I can't
24 guess at how much.

25 COMMISSIONER HALL: I understand.

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1 MR. JOHNSON: The district right now, I
2 think it's about four points short majority minority. I
3 won't rule it out, but --

4 COMMISSIONER HALL: Okay.

5 MR. JOHNSON: Probably not that big of a
6 difference.

7 CHAIRMAN LYNN: Discussion on the motion?
8 If not, all those favor of the motion,
9 signify by saying "Aye."

10 COMMISSIONER MINKOFF: "Aye."

11 COMMISSIONER ELDER: "Aye."

12 COMMISSIONER HALL: "Aye."

13 COMMISSIONER HUNTWORK: "Aye."

14 CHAIRMAN LYNN: Chair votes "Aye."

15 Motion carries unanimously and is so
16 ordered.

17 COMMISSIONER MINKOFF: Another area to
18 focus on, District 13, as suggested by the Coalition
19 map. I'd like to see if there is a way possibly in a
20 trade between 13 and 16 to beef up the percentage of
21 Hispanic population in 13. And I obviously understand

22 it will drop a bit in 16. 16 is already very, very
23 high. In doing that, I want to make sure that the
24 percentage of African American voters in 16 does not
25 drop.

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1 CHAIRMAN LYNN: Is that a motion?

2 COMMISSIONER MINKOFF: That's my motion.

3 CHAIRMAN LYNN: Is there a second?

4 COMMISSIONER ELDER: I'd second it for
5 purposes of discussion.

6 CHAIRMAN LYNN: Thank you, Mr. Elder.

7 Moved and seconded.

8 Mr. Hall.

9 COMMISSIONER HALL: Mr. Chairman, can I
10 suggest we defer our conversation relative to Maricopa
11 County subsequent to our break? My opinion is I think
12 we have much more fundamental issues to address prior to
13 even starting to moving lines, and I don't think that's
14 a short discussion.

15 CHAIRMAN LYNN: Speaking against the
16 motion.

17 Ms. Minkoff.

18 COMMISSIONER MINKOFF: Mr. Chairman, I
19 agree with Mr. Hall's statements. I think that's a
20 reason to vote for the motion. I believe we do have
21 fundamental discussions and it will take quite a bit of
22 time. If we want to finish tonight or early tomorrow,
23 morning need to anticipate the questions we may want to

24 ask at the end of that discussion. Because to have that
25 discussion, to have it take a long time to make a

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1 decision, which may cause us to reexamine certain areas
2 of the map, and then to ask Doug to begin to reexamine
3 these, I believe we will be taking a midnight snack
4 break well into the night. So regardless of how that
5 discussion turns out, if there's any chance at all we
6 may want to look at this proposal and revisit some of
7 these areas, I'd like to get the facts and figures in
8 front of me so I can make an intelligent decision
9 without another break.

10 My concern is looking at information in
11 the Department of Justice letter, looking at the
12 statistics before us, I'd like to see if we can make 13
13 a stronger district. However, I am concerned because
14 there has been a great deal of success by the African
15 American community in current district, I believe, 22
16 and Justice Department anticipates 16 as it is currently
17 drawn would have similar success, I want to make sure we
18 do not diminish that in trying to beef up the ability of
19 Hispanics to elect representatives of their choice in
20 13. So that's why I proposed the motion.

21 CHAIRMAN LYNN: Further discussion on the
22 motion?

23 Mr. Huntwork.

24 COMMISSIONER HUNTWORK: Mr. Chairman, I

25 want to consider every possible opportunity as well. I

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1 am concerned about this particular approach because 16
2 is one of the districts that was precleared at basically
3 the current level. The changes that we have proposed to
4 make to it, and the changes that the Coalition has
5 proposed to make to it keep it at that level. The
6 suggestion now on the table is to basically beef up 13
7 by taking that down, by switching between the two,
8 finding middle ground between two of Hispanic population
9 without moving black population. If we decide that we
10 can handle a lower percentage, then that would be one
11 way to do it. If we decide instead that this is
12 evidence of the level necessary to satisfy the Justice
13 Department concerns, then that would be exactly the
14 wrong thing to do. That's the discussion, I think, that
15 is so difficult and will take some time.

16 I suppose, you know, having information is
17 better than not having it.

18 I guess I would like to ask Doug a
19 question after that soliloquy, can you do that over the
20 dinner hour along with other things you've been asked to
21 do?

22 MR. JOHNSON: Moving between the two, I
23 may not have it perfectly nailed but can give you a
24 sense of what's involved. One question, can we get it,
25 one-to-one trades, the goal is both to 56, average the

1 two, or what is the target percentage?

2 CHAIRMAN LYNN: I guess to that end, and
3 it may be a very good question, just to interject, I
4 think I agree with some of what Mr. Huntwork indicated
5 in terms of 16 is a unique district for a number of
6 reasons. One of the uniquenesses of the district as
7 recognized in not only our mapping, I think the
8 Coalition's map, there's a specific dynamic at work in
9 District 16 that doesn't exist elsewhere in Maricopa
10 County and may not exist anywhere else in the state. We
11 do have, in currently drawn 16, a balance that has been
12 recognized by the Department of Justice as not a
13 problem. That is it's not on their list of districts
14 that need attention. And one of the things that is
15 going through my mind in terms of any adjustments we
16 make to the map in order to meet our objectives is the
17 admonition to first do no harm, I think only to do
18 things required as necessary to get us where we need to
19 go. For that reason, I'm not sure I would support the
20 motion, because I'm not sure, based on the fact it is a
21 one-for-one trade and the fact it is dealing with a
22 district quite unique, I think that may be sending Doug
23 on a fool's errand; and I don't want to do that.

24 Mr. Elder?

25 COMMISSIONER ELDER: Mr. Chairman, I guess

1 my sense is that we've been struggling with this don't
2 touch 16 from a standpoint that it has been precleared,
3 the numbers are there, the uniqueness as you presented
4 are there. But it appears as though it's an option we
5 at least need to look at, because we end up in the other
6 scenarios of cannibalizing a district to make the other
7 two districts viable. And if we even if we only went
8 down from a 65 to a 62, or 61, somewhere in there, would
9 they still not have the ability to elect and bring the
10 other one up to, I don't know what it would end up, 54,
11 56, something like that, and make it a viable candidate
12 for another determination by the Department of Justice
13 eventually that says yes, they have the ability to
14 elect, also?

15 I'd like at least the exercise, even if
16 it's just a rough, whatever it might be, 15-, 20-minute
17 here's the ramification so you understand where we're
18 at.

19 CHAIRMAN LYNN: Further discussion on the
20 motion?

21 Ms. Minkoff.

22 COMMISSIONER MINKOFF: To respond to
23 Doug's comment, my intent in making the motion is not to
24 equalize it. There's unique dynamic going on in
25 District 16. We want to make sure that is maintained.

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1 But District 16, now voting age population is 59.53
2 percent Hispanic. And I'm wondering about pulling it
3 down certainly no lower than 57 percent. That was my
4 thought in making the motion but using some of those
5 voters to create a situation in District 13 where there
6 was more of a likelihood of Hispanic voters being able
7 to elect candidates of their choosing.

8 CHAIRMAN LYNN: Mr. Huntwork.

9 COMMISSIONER HUNTWORK: In order to do
10 this as a direct swap, you'd have to identify a
11 nonminority area in 13.

12 COMMISSIONER MINKOFF: Or lesser minority.

13 COMMISSIONER HUNTWORK: Lesser minority
14 area in 13. Otherwise it's a multi-district swap.

15 COMMISSIONER MINKOFF: Might not be
16 doable. I'd like to find out.

17 CHAIRMAN LYNN: Mr. Hall.

18 COMMISSIONER HALL: I'd like to reiterate
19 a point. My esteemed colleagues identified some issues
20 that affect the proposed change only in part, discussion
21 is another 30, 40 minutes away. I'm also sure, if Doug
22 can find 15 minutes to rest, it wouldn't hurt him to do
23 so. I think I need to speak against the motion.

24 CHAIRMAN LYNN: Further discussion?

25 All those in favor of the motion, signify

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1 by saying "Aye. "

2 COMMISSIONER ELDER: "Aye. "

3 COMMISSIONER MINKOFF: "Aye. "

4 CHAIRMAN LYNN: Opposed say "No. "

5 COMMISSIONER HALL: "No. "

6 COMMISSIONER HUNTWORK: "No. "

7 CHAIRMAN LYNN: Chair votes "No. "

8 Motion does not carry.

9 Further instruction to Mr. Johnson.

10 The Chair would entertain a motion

11 Mr. Johnson begin looking at possible ways of taking map

12 DOJ 2A new and looking at possibilities for further

13 balancing population to the extent that that balancing

14 does not impact improvements made in those districts

15 based on the Department of Justice requirements.

16 Would anyone care to make that motion?

17 COMMISSIONER MINKOFF: May I ask a

18 question?

19 CHAIRMAN LYNN: Certainly.

20 COMMISSIONER MINKOFF: Is your intent he

21 will only act on DOJ 2A new and not the proposed

22 district presented by the Coalition?

23 CHAIRMAN LYNN: My concern in looking at

24 both is on the theory of trying to come together with a

25 finished product, the Coalition is still working on

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1 their map. They may be undertaking some of the same

2 kinds of issues. And rather than double booking, I
3 would rather work on our product and see where we are at
4 some point in the future, if that's the road we tend to
5 finish up on. I'm open to it. My point is we certainly
6 need to at least have that explored in terms of our
7 product.

8 COMMISSIONER MINKOFF: That does make some
9 sense; therefore, I'll offer the motion you asked for.

10 CHAIRMAN LYNN: Is there a second?

11 COMMISSIONER HALL: Second.

12 CHAIRMAN LYNN: Thank you.

13 Discussion on motion?

14 Mr. Huntwork.

15 COMMISSIONER HUNTWORK: I would certainly
16 agree with the motion as it pertains to District 23 and
17 issues we've identified in District 23. For the dinner
18 hour, I would say -- I personally think it's premature
19 for any other areas. So I would love to confine it to
20 that, if we could. And this may be something he stays
21 up all night doing after final decisions later on.

22 CHAIRMAN LYNN: To be true.

23 COMMISSIONER ELDER: Understand the
24 motion, intent, is looking at deviation, not percentages
25 between Hispanic and --

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1 CHAIRMAN LYNN: Total population
2 deviation, that's the intent here. And it's to do that
3 without doing any harm to things achieved by what the

4 map does. That's the intent.

5 Ms. Minkoff.

6 COMMISSIONER MINKOFF: Relative to your
7 concern about District 22, our largest deviations on DOJ
8 2A are in 19 and 22, which are begetting population from
9 23 they already have here.

10 Would you incorporate those into your
11 concern about population deviation, anything affected by
12 that?

13 COMMISSIONER HUNTWORK: Andi, I think
14 that's part of what happened, changes made in 23 took
15 down south, took 12,000 out, didn't do anything to
16 replace in that district down south, put them into, what
17 is it 20 and --

18 COMMISSIONER MINKOFF: 19 and 22.

19 COMMISSIONER HUNTWORK: 19, 22. That's
20 what I'm talking about, the ones on the periphery of 23.

21 CHAIRMAN LYNN: Well, I certainly would be
22 happy to limit it at this point to those. It's not my
23 motion, but I appreciate the intent.

24 COMMISSIONER MINKOFF: I accept the
25 amendment.

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1 CHAIRMAN LYNN: Thank you very much.

2 Second?

3 COMMISSIONER HALL: Well, to make
4 population deviation adjustments in Maricopa County,

5 Mr. Johnson, is that a significant chore, in your
6 opinion, or are we close enough or --

7 MR. JOHNSON: Maricopa County is more of
8 an issue on this front than the area you were
9 describing.

10 COMMISSIONER HALL: Right.

11 MR. JOHNSON: Primarily because of the
12 status of District 10 is one of the competitive
13 districts.

14 COMMISSIONER HALL: Right.

15 MR. JOHNSON: Has lot of impact there, and
16 the influence status of 12.

17 I could look at using Districts 9, 11, and
18 maybe 17 to help on that reduction just to present
19 options to you.

20 I think once I present options on 23 and
21 it's surrounding districts, what I present on Maricopa
22 will be fairly clear to you, also.

23 CHAIRMAN LYNN: To be clear, the motion at
24 this point, Mr. Hall, we've not yet agreed to changes in
25 it, the motion that was presented and is being talked

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1 about refers to our, the DOJ 2A new.

2 COMMISSIONER HALL: Right.

3 CHAIRMAN LYNN: And the suggestion at this
4 point is limiting the equalization of population to the
5 change in District 23 and its ripple effect.

6 COMMISSIONER HALL: The reason I agreed to

7 change is a relatively simple issue. And I welcome you
8 to tell me I'm wrong. I think if we can address the
9 issue, the more difficult task is to address Maricopa
10 County. And I agreed with what I understood your intent
11 of your suggestion is to be, just have him start on that
12 process. I concur with that motion as it was stated.

13 CHAIRMAN LYNN: Do not agree to amendment.

14 COMMISSIONER HALL: Correct.

15 CHAIRMAN LYNN: The motion as originally
16 stated, begin to equalize population throughout.

17 COMMISSIONER MINKOFF: Mr. Chairman.

18 CHAIRMAN LYNN: Ms. Minkoff.

19 COMMISSIONER MINKOFF: I'm concerned that
20 perhaps it's not the best way to do it. At this point
21 I'd like to withdraw the motion.

22 CHAIRMAN LYNN: Does the second withdraw
23 the second?

24 COMMISSIONER ELDER: I will.

25 CHAIRMAN LYNN: Both need to withdraw. So

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1 the motion is withdrawn.

2 Further instructions for Mr. Johnson?

3 COMMISSIONER MINKOFF: I'd propose a new
4 motion, see if this gets a second, and that is to look
5 at population adjustments that were affected by the
6 changes we made to District 23. If it is seconded, I'll
7 explain the reasons for it.

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COMMISSIONER HALL: Second.
CHAIRMAN LYNN: Moved and seconded.
COMMISSIONER MINKOFF: The reason for that
is we all seem to be at least in philosophical agreement
with what we want to do with District 23. The only area
still very much up in the air is in Maricopa County.
The most serious population equalization issues involved
are in District 23 and whatever we may may not do in
Maricopa County. Since we don't know what we're doing
in Maricopa County, it may not be the best way for Doug
to spend his time. We do know what we want to do to
District 23. We've impacted 19, impacted 22, and also
impacted District 26 in Tucson. It has a negative
population at this point. So that's the reason for
suggesting this, because I think once Doug does this
we'll be comfortable, if it can be done, going forward
and accepting it.
CHAIRMAN LYNN: Further discussion on the

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motion?
If not, all those in favor of the motion
signify by saying "Aye."
COMMISSIONER MINKOFF: "Aye."
COMMISSIONER ELDER: "Aye."
COMMISSIONER HUNTWORK: "Aye."
COMMISSIONER HALL: "Aye."
CHAIRMAN LYNN: Motion carried and is so
ordered.

10 Further instructions for Mr. Johnson, not
11 that he doesn't have enough for an hour's work.

12 Having said that, other instructions for
13 Mr. Johnson?

14 Hearing none, at this time, ladies and
15 gentlemen, it is almost 20 past 7:00.

16 The Chair would suggest, and it's only a
17 suggestion, we try to reconvene at 8:15. If that is
18 acceptable, we'll take a one-hour dinner break and
19 reconvene at 8:15.

20 Ms. Hauser is looking at me.

21 MS. HAUSER: Just looking.

22 CHAIRMAN LYNN: Not seeking recognition,
23 not wanting do something different.

24 Without objection, we'll stand in recess
25 until 8:15.

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1 (Recess taken.)

2 CHAIRMAN LYNN: The Commission will come
3 to order.

4 For the record, all five Commissioners are
5 present, legal staff, consultants, and NDC staff.

6 We have, first, a report from Mr. Johnson
7 based on the instructions given him before the dinner
8 break. Without objection, on completion of
9 Mr. Johnson's report and questions attendant thereto, we
10 do have one speaker slip. And as has been our custom,

11 we're trying to take input as often as we can during
12 this process, so I would like to accommodate that
13 speaker as we move forward.

14 Without objection, then, we'll hear from
15 Mr. Johnson.

16 MR. JOHNSON: Mr. Chairman and
17 Commissioners, there were a couple of instructions given
18 before dinner, the first of which was to incorporate
19 into what has grown to be named DOJ 2A new, a shift
20 where instead of taking in the portion of Apache
21 Junction shown here in the blue outline we'd shift and
22 take in Gold Canyon and south of Apache Junction. That
23 change is shown here. The impact on District 23 is that
24 the population was 173,413. It's now 173,701, so
25 essentially unchanged, the balance of the change there.

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1 Hispanic voting age went up very slightly from 30.24 --

2 CHAIRMAN LYNN: Mr. Johnson, hold a
3 second.

4 I'd ask all members of the audience, it's
5 late enough as it is. I'd like all cellphones turned
6 off or turned to stun. And I would like any other
7 device that makes a noise or is otherwise distracting to
8 be turned off, if you would, please.

9 Mr. Johnson.

10 MR. JOHNSON: Thank you, Mr. Chairman.

11 Hispanic voting age went from 32.24 to
12 30.54, so a small increase, small increase. Actually,

13 when I spoke before about District 23, voting age
14 minority, it turns out I was looking at voting age
15 minority. I think the question had been about voting
16 minority. Total minority, 49.63, goes up to 49.84. So
17 there -- very close to 50 percent there. It may be
18 possible to do with, I hate to say it, a little
19 additional deviation in 23. The problem with that is
20 19, 22, are close, too close. Could go to 18 and 22.
21 Probably could get close.

22 Deviations get close. 19 was 4.49 percent
23 overpopulated, now point -- 4.74, so a slight increase.
24 22 was 4.61. It's now 4.19. So that's the tradeoff.

25 You can see on the screen where that shift

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1 happened. The blue line, again, is 2A, a change. And
2 the colors are as drawn now.

3 I simplified the naming. This is Map 3.
4 Are there questions about this?

5 CHAIRMAN LYNN: Ms. Minkoff.

6 COMMISSIONER MINKOFF: Explain to me. I
7 don't understand the 22, 19. What were the original
8 lines?

9 MR. JOHNSON: Sure.

10 COMMISSIONER MINKOFF: Have you moved
11 population from 22 into 19 to accommodate population
12 moved from 23?

13 MR. JOHNSON: Yes. The process I went

14 through is put the Apache Junction area back in 22, 23,
15 left 19 underpopulated, because we lost that area, then
16 put Gold Canyon and south Apache Junction into 22 making
17 that considerably overpopulated. At the time it
18 went into -- went up to the blue line, so I brought 19
19 down past the blue line to where the black line is.

20 COMMISSIONER MINKOFF: That must be a
21 pretty densely populated area, correct?

22 MR. JOHNSON: It is. This is all in that
23 Broadway-University area we were looking at before. Let
24 me get the exact street for you.

25 So this brings it down to Broadway. Over

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1 to the west it comes down a little further. It comes
2 down to what the Census calls Leisure World or Chayai
3 Grand and Southern Avenue. The adopted plan actually
4 had the central portion of this area in 22 and edges of
5 this area. This is all Mesa population, working in Mesa
6 and not splitting additional cities.

7 Any other questions about this test I can
8 answer?

9 CHAIRMAN LYNN: Questions for Mr. Johnson?
10 Mr. Elder.

11 COMMISSIONER ELDER: Yes, Mr. Chairman.
12 Where you zoomed in right where the word
13 "Apache" is, seems like an in-held piece there. What
14 are the demographics of that area?

15 MR. JOHNSON: This, essentially, all of

16 Apache Junction and Gold Canyon exception a block there,
17 90 percent anglo, 80 percent anglo. This is done in an
18 attempt to keep neighborhoods together while getting to
19 the population number. As you can see, zoom in, these
20 are pretty dense blocks, 150 people block there. I
21 tried to stick to major roads east-west, which balanced
22 better, take the north side of road than south side.

23 COMMISSIONER ELDER: Demographics the same
24 there than further out, prefer to trade than the new
25 jagged juts out, don't know where I'm at, things along

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1 that line, observation.

2 MR. JOHNSON: Small jag east or whole
3 section?

4 COMMISSIONER ELDER: Whole section,
5 another two, three miles to the east, took off the end
6 of Gold Canyon, or right where the negative or minor --
7 whatever you call it -- magnifying glass, take off that
8 end, rather than in-held piece to the west --

9 MR. JOHNSON: I had the same concern you
10 did. Didn't look to splitting Gold Canyon, did look to
11 the eastern side of Apache Junction rather than western
12 side. The blocks on the eastern side are very large and
13 very irregularly shaped, would have distorted the area
14 quite a bit.

15 CHAIRMAN LYNN: Mr. Huntwork.

16 COMMISSIONER HUNTWORK: Doug, I thought I

17 recalled something like 12,000 in the Apache Junction
18 area, something like 8, 9 thousand in the Gold Canyon
19 strip. What I thought we were going to do was take the
20 same total population we had before, which would have
21 meant we also took, took the Gold Canyon strip and
22 thirty-two additional people out of Apache Junction. As
23 far as I can tell, you didn't do that second step. But
24 if -- were my numbers incorrect or --

25 MR. JOHNSON: No. It may help -- let me

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1 put the Coalition map which I used as inspiration here.
2 You can see it's the red line which shows --

3 COMMISSIONER HUNTWORK: I see.

4 MR. JOHNSON: Jumps I did there, the
5 section, additional people added to the north there.
6 Your numbers are right.

7 COMMISSIONER HUNTWORK: Thank you.

8 CHAIRMAN LYNN: Additional questions for
9 Mr. Johnson on this section?

10 MR. JOHNSON: Actually, given the exact
11 dilemma Commissioner Elder raised, it took longer than
12 anticipated. This is the only one of the instructions I
13 was able to get ready to present.

14 Printing out of spread sheets, I didn't
15 get to that, yet. And the other one was looking at
16 population changes in District 23, and I have not done
17 that yet.

18 CHAIRMAN LYNN: Okay.

19 Additional questions, comments, or
20 instructions for Mr. Johnson, other than those already
21 given for which time was not allotted so he could
22 complete it, but --

23 All right. Mr. Johnson, thank you for the
24 moment.

25 And without objection, I would like to --

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1 we have three speaker slips, and at least in terms of
2 giving an opportunity for those who have suggested they
3 might like to be heard, I know this is a fluid situation
4 depending on what issue we're discussing at the time and
5 what relevance comments might have, let me go through
6 the speaker slips and ask if these individuals would
7 like to be heard at this time. Certainly they may
8 choose to reserve their time before us to a later point
9 in the evening, if that is their pleasure.

10 The first speaker slip I have is from Mary
11 Hartley who is a Senator representing District 20.

12 Senator Hartley.

13 SENATOR HARTLEY: Sure, I'll go. I'm an
14 Arizona State Senator representing District 20, future
15 District 14. I'm termed out. I'm not running for
16 reelection or any office at all. I'm here on behalf of
17 some constituents, mainly those in Greenway Terrace, and
18 the Encanto neighborhoods, the southwest corner of 19th
19 Avenue and Thomas.

20 These neighborhoods presented a petition
21 to the Commission asking the Commission leave them in
22 our West Valley district. These two neighborhoods have
23 been in our West Valley district for over 30 years.
24 Both they and I believe that the Commission could
25 satisfy federal law and leave their neighborhoods intact

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1 in our district. I ask you to listen to their
2 collective voices and leave them in our West Valley
3 districts.

4 These districts are tied to the West
5 Valley. These ties should not be severed.

6 Additionally, earlier today I learned of
7 some distressing information that smacks of
8 gerrymandering practices the electorate practice tried
9 through 106 to remove. And Proposition 106 created you.
10 I would like to make you aware the maps presented are
11 tainted with self-interest.

12 Supervisor Mary Rose Wilcox presented a
13 map to you that eliminates aforementioned neighborhoods,
14 thereby eliminating all announced Senator candidates but
15 Earl Wilcox that announced his willingness to run,
16 hopefully unopposed, in District 14.

17 I'm at the end of my public service. I
18 know my district and know its communities. I've served
19 on the school board for eight years and served in the
20 State Senate for eight years. I'm here for no other
21 reason but to speak for the voters of District 20,

22 future District 14. And this type of maneuvering type
23 manipulation process, I could not sit quietly and allow.
24 I couldn't ignore any of these activities today.

25 I implore you to leave the communities

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1 intact and not let you, as a Commission, be used in the
2 fashion by individuals for their own personal benefit.
3 And I would implore you, also, to take a close look at
4 District 14.

5 As I said earlier, I believe that you can
6 resolve and satisfy the federal law and still not
7 alienate these communities that petitioned you to stay
8 where they were. Thank you.

9 CHAIRMAN LYNN: Senator Hartley, there may
10 be some questions. Would you be so kind as to answer
11 them?

12 SENATOR HARTLEY: Absolutely, to the best
13 of my ability.

14 COMMISSIONER MINKOFF: Senator Hartley,
15 thank you for your comments. I have a question.

16 The two neighborhoods, Greenway Terrace
17 and Encanto Estates in the maps that the Redistricting
18 Commission drew, which district were those neighborhoods
19 in?

20 SENATOR HARTLEY: Which precinct?

21 COMMISSIONER MINKOFF: Which Legislative
22 district.

23 Rc052202. txt
23 SENATOR HARTLEY: Legislative 20
24 Legislative District and/or 14.

25 COMMISSIONER MINKOFF: The maps we drew

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1 and submitted as our final maps.

2 SENATOR HARTLEY: District 14.

3 COMMISSIONER MINKOFF: Okay. Thank you.

4 CHAIRMAN LYNN: Other questions for
5 Senator Hartley?

6 Thank you very much, Senator.

7 The next speaker slip I have is State
8 Representative Carlos Avelar.

9 Representative Avelar?

10 REPRESENTATIVE AVELAR: I'd like to yield
11 my time to the Minority Coalition, if I may, please.

12 CHAIRMAN LYNN: Without objection.

13 SUPERVISOR WILCOX: The reason Carlos
14 yielded his time, we have our maps now. You asked us if
15 we could possibly come up with our map. Michael Mandell
16 is here. We have on disk, our completed map, with one
17 exception. District 16 that there's been some
18 discussion of slight modification with the Cashion
19 community, we ask we submit our map to you and Douglas
20 and Michael work out that dilemma we have. The
21 southwestern portion of -- well, it's south -- the
22 northern portion, the north and the eastern portion of
23 District 16. We had information from Coalition members
24 we could not have time to adjust. In the interests of

25 working with you, we wanted to get a completed map to

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1 you. With that one exception, we're ready to submit our
2 maps.

3 CHAIRMAN LYNN: My suggestion would be,
4 again, I ask my fellow Commissioners to please jump in
5 if you have a different opinion, at this point, what I
6 would suggest is if that we allow Mr. Johnson to load
7 that map.

8 SUPERVISOR WILCOX: Okay.

9 CHAIRMAN LYNN: So we may take a look at
10 it. And to the extent someone from the Coalition,
11 whether that's you, Supervisor Wilcox, or somebody else,
12 simply highlight any differences between the previously
13 submitted map we've been looking at and more complete
14 map we now have, only those differences to be
15 highlighted, and in addition to that, specific areas of
16 District 16 which have yet to be completed but that you
17 could talk us through so we at least understand what
18 those proposals look like. That would be useful in
19 terms of our discussion.

20 SUPERVISOR WILCOX: Okay. That's fine. I
21 don't know how much we have, but I'll try to do that.

22 MR. KIZER: Doug has the map.

23 CHAIRMAN LYNN: I think he's doing exactly
24 what we've suggested, taking it off line to do that.

25 While waiting, in the interests of time, I

1 don't know whether Senator Aguirre wants to yield time
2 or wishes to speak. We're more than happy to take
3 comments.

4 Senator Aguirre.

5 SENATOR AGUIRRE: I'm Senator Aguirre,
6 Represent 23 and 16. I'll yield my time to the Minority
7 Coalition to explain the changes you're interested in.

8 We've been stuck at the State Capitol here
9 to late hours and working on budgets and stuff, hadn't
10 really had an opportunity to look at the Coalition map.
11 We had our first chance to look this morning. We need
12 to make changes. Because of the lateness of the time
13 frame, we're hoping to still afford those kind of
14 changes. If not, you know, there's other consequences I
15 think I'd have to resolve with the Coalition. I do want
16 to yield the rest of my time to them.

17 CHAIRMAN LYNN: Thank you, Senator
18 Aguirre. Clearly, we have no time limited to anyone's
19 comments other than the number of hours in the day, and
20 we're burning those as rapidly as we can. So it's just
21 not a problem.

22 When Mr. Johnson is ready --

23 About ready, Doug?

24 MR. JOHNSON: About two minutes.

25 CHAIRMAN LYNN: Two minutes. Okay.

1 Mr. Hall --

2 Want to do that now, just to fill every
3 nook and cranny we can in the agenda?

4 Mr. Hall.

5 COMMISSIONER HALL: Well, I don't know,
6 Mr. Kizer, if you want to answer some of the questions I
7 have or Supervisor Wilcox.

8 As we analyze the variety of issues and
9 look forward to additional information, one of the
10 questions that came to me is early on in the process,
11 MALDEF was a active participant and certainly represents
12 a significant number of Hispanic people within the area.
13 And I've noticed, of late, and even in the lawsuit
14 they've been conspicuously absent. Are they in support
15 of what you are proposing by reason of these maps or
16 have you had any communication with Mr. Perez, for
17 example, or what is their position?

18 SUPERVISOR WILCOX: The Coalition 2 map,
19 two configurations we've showed you, they reviewed it
20 and felt it adequately met the needs of the Hispanic
21 community. Because DOJ had just come down with a
22 mandate for all of us that they did not accept the IRC
23 map, MALDEF has not weighed in these last few days. But
24 they have been in support of our maps.

25 MALDEF did not want to take support or non

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1 support but they've given us clearance of our maps,
2 Coalition 2, in both configurations we gave, with only
3 minor changes. MALDEF has been extremely busy with
4 changes in Texas and California redistricting changes,
5 but we've kept in contact with them.

6 The last map we've done at the request of
7 DOJ, they have not been contacted, quite frankly, just
8 because of time. But we believe that they would be more
9 than pleased with the higher Hispanic percentages that
10 we've now achieved in 13, 14, keeping 16 status quo. We
11 believe that they would be more than pleased with that,
12 because their goal has always been to raise that
13 Hispanic figure. But they had accepted our Coalition 2
14 maps. Does that explain it?

15 COMMISSIONER HALL: Thank you. That was
16 my understanding based on previous input. They were
17 interested on higher percentages from Hispanic, in the
18 Hispanic districts. That's why I was hopeful maybe they
19 would comment relative to what percent they felt would
20 be appropriate with respect to responding to DOJ's
21 concerns.

22 CHAIRMAN LYNN: Any other questions or
23 comments awaiting Mr. Johnson's ability to show us where
24 we are with the Coalition map?

25 MR. KIZER: Mr. Chairman, just to further

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1 respond to Mr. Hall's point, MALDEF has given the
2 Coalition a lot of leeway and credibility in its ability
3 to protect the Hispanic voters in -- they did intervene
4 in the Congressional lawsuit -- based upon their respect
5 for the Coalition and its broad base throughout Arizona.
6 They deferred to the Coalition's decisions regarding the
7 maps in this litigation. So their absence in the
8 Legislative litigation, it was based upon a belief that
9 the Coalition could adequately represent Hispanic
10 interests in the state.

11 MR. JOHNSON: Almost there.

12 CHAIRMAN LYNN: I believe you.

13 MR. KIZER: Now Mary Rose will sing.

14 SUPERVISOR WILCOX: Sure. I can only play
15 the clarinet.

16 CHAIRMAN LYNN: Whenever the map is
17 loaded, if you would concentrate only on things changed
18 from the previous iteration of the map, it would help us
19 get expeditiously through this iteration and begin to
20 move forward.

21 SUPERVISOR WILCOX: I'll have Michael help
22 me with that. I'll address issues in 16 and Michael
23 will address the others.

24 MR. MANDELL: Chairman, Members of the
25 Commission, what I asked Doug is to overlay the old one

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2 earlier to this one, that way you can pictorially see
3 changes.

4 MR. JOHNSON: Red is old.

5 MR. MANDELL: Red is old, the one we
6 presented earlier this morning.

7 CHAIRMAN LYNN: Direct Mr. Johnson,
8 district by district, where you wish to highlight.

9 MR. Mandell: 13, you see there is a
10 change there. This precinct here went into 13. There's
11 a change here. This part of 13 went into District 12.

12 MR. KIZER: Explain why changes were made.

13 MR. MANDELL: Mostly made for population
14 attempting to make higher population on 13. That is
15 basically the reason for most of the changes throughout
16 the map.

17 COMMISSIONER HALL: Hispanic percentage of
18 Hispanic VAP in 13 is now what, do you know? I see.
19 Sorry.

20 MR. MANDELL: It's almost 54 percent in
21 13. It's 53.73.

22 COMMISSIONER HALL: Okay, Dan, tell me
23 what they are.

24 MR. MANDELL: The other change occurred
25 here in District 11, came into a piece of 10 here. In

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1 an attempt to balance population, 10 came down, took
2 part of 14, old 14 from the IRC map, split from 11 and

3 10 to try to alleviate population discrepancies. The
4 goal we were trying to reach was a population deviation
5 of less than eight percent. I think it's somewhere in
6 the neighborhood of 7.6.

7 Another change is right there with regard
8 to District 15 and District 16. What that actually
9 ended up doing, bringing 16, brought Hispanic percentage
10 in 15 above 41 voting age.

11 The only other change made would have been
12 made in the AJ area.

13 COMMISSIONER HALL: Fixed Queen Creek?

14 MR. MANDELL: Fixed Queen Creek. Changed
15 here adding a little more population. 19 and 22,
16 disbursing population to alleviate population variances.

17 COMMISSIONER HALL: So, Doug, what kind of
18 numbers are there on 10, 11? What seem to have changed
19 significantly?

20 MR. JOHNSON: Just comparing deviations,
21 10, in the map we looked at earlier today, deviation of
22 3.89 percent over, and it's now 1.45. And 11 had a
23 deviation of 0.45, and it's now 2.87.

24 CHAIRMAN LYNN: I don't suppose there's
25 any quick way to assess other characteristics of the

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1 voters that were swapped in those districts?

2 MR. JOHNSON: Mr. Chairman, any review I'd
3 try to do would be limited to demographics they'd be
4 talking about. If I had more time comparing to the

5 record and comments received, but I don't think we have
6 time to do that search.

7 CHAIRMAN LYNN: Mr. Huntwork?

8 I'm sorry.

9 COMMISSIONER HUNTWORK: Mary Hartley
10 appears to want to fill out a speaker slip.

11 CHAIRMAN LYNN: Are those --

12 That's the summation of the changes, other
13 than District 16?

14 SUPERVISOR WILCOX: Other than 16.

15 CHAIRMAN LYNN: Supervisor Wilcox will
16 speak to that in a minute.

17 SUPERVISOR WILCOX: Yes.

18 One of the flaws of our map we're wanting
19 to correct, in 16, the river is a natural boundary in
20 this area. How can I describe? Oh, the paper is
21 correct. The river is a natural boundary in this area.
22 The only reason that we came up into, above the river,
23 is to accommodate the African American population, which
24 we have all agreed should be accommodated. We would
25 like to swap out Burgess precinct, which is currently

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1 this area right here, with this area above the river. I
2 believe the numbers are almost even, because this is a
3 densely populated. And that would keep the Burgess
4 community in the area of the South Phoenix area, which
5 it is more accommodating to. The people shop in this

6 area, people go to Caesar Chavez High School. People
7 above the river are basically more in tune to District
8 13. They are in the Murphy School District, which is in
9 13 now. Many of their children go to Carl Hayden which
10 borders the 14, 13 district. We'd like to exchange
11 that. And we believe that would keep the numbers
12 relatively the same, not affect the African American
13 community. And we'll work with Douglas until the
14 exchange is even. That's the only change we really have
15 in the Maricopa County area with what we presented to
16 you.

17 CHAIRMAN LYNN: Doug, I don't know whether
18 it's possible. Is it possible, with this map present --

19 Is this map now part of your data base?

20 MR. JOHNSON: Yes.

21 CHAIRMAN LYNN: Can you superimpose the
22 adopted districts in this area of the state?

23 MR. JOHNSON: Is that clear?

24 COMMISSIONER HALL: Clear as mud.

25 CHAIRMAN LYNN: Clear is a relative term.

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1 Obviously, what I'm trying to get virtually is the
2 dimension of change between the maps that were
3 originally submitted and the configuration as they
4 currently exist on the Coalition's map. Ms. Minkoff
5 would like to see demographics as represented on the
6 Coalition's map on 16. She'd probably like Mr. Elder to
7 read them to her as well.

8 MR. JOHNSON: I can read them off.
9 COMMISSIONER ELDER: 58.17.
10 MR. JOHNSON: Hispanic voting age is
11 58.17. Voting age, the African American voting age is
12 12.68. And total minority voting age is 75.22.
13 COMMISSIONER MINKOFF: Doug, repeat
14 African American.
15 COMMISSIONER ELDER: 12.68.
16 COMMISSIONER MINKOFF: 12.68.
17 MR. JOHNSON: Yes.
18 COMMISSIONER ELDER: Down a percent.
19 COMMISSIONER MINKOFF: Yeah.
20 COMMISSIONER HALL: VAP.
21 COMMISSIONER MINKOFF: Yeah.
22 CHAIRMAN LYNN: Additional questions or
23 comments for the Coalition?
24 Mr. Elder.
25 COMMISSIONER ELDER: Ms. Wilcox.

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1 SUPERVISOR WILCOX: Yes.
2 COMMISSIONER ELDER: I was looking at this
3 map here, looking at 14, and looking at the impact or
4 the changes in the original adopted 14. And there's --
5 16 has come up, 13 has come in, 10 come down, 11 come
6 down, an awful lot of management of that particular
7 district, I was wanting to know what -- it seems like
8 originally there was a fairly homogeneous aspect to it,

9 then it's obvious by these changes that it wasn't, for
10 some reason. I'm trying to figure out what --

11 SUPERVISOR WILCOX: Originally that was
12 one of our districts that was majority minority we
13 viewed a little competitive. When DOJ came, instead, we
14 need to strengthen majority minority, that's when we
15 tightened it up. That's why the freeway is one of the
16 lines we used. This side of the freeway is clearly
17 heavily Hispanic. We brought it down. That increased
18 our Hispanic numbers. We made these changes because of
19 DOJ.

20 COMMISSIONER HALL: Doug, what is the
21 percentage under the new map of 14?

22 SUPERVISOR WILCOX: 55.

23 COMMISSIONER HALL: 55 even?

24 SUPERVISOR WILCOX: 55.45.

25 MR. JOHNSON: Yes.

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1 SUPERVISOR WILCOX: Sorry 56.45.

2 COMMISSIONER HALL: So it didn't change.

3 SUPERVISOR WILCOX: Changed quite a bit.

4 COMMISSIONER HALL: Was 56.45.

5 MR. JOHNSON: Didn't change from this
6 morning.

7 SUPERVISOR WILCOX: I thought you meant
8 from the original submitted map.

9 COMMISSIONER HALL: 15 is 41 and what,
10 Doug?

11 MR. JOHNSON: . 33.
12 COMMISSIONER HALL: Mr. Chairman.
13 CHAIRMAN LYNN: Mr. Hall.
14 COMMISSIONER HALL: I think that we have
15 to begin -- you know, at 9:30 begin, the old phrase,
16 begin with the end in mind.
17 I'm wondering, at some point we have to
18 decide where we want to be.
19 You know, if we continue to do what we're
20 doing, we're going to continue to get what we've got.
21 We need to need to decide where we want to be. I have
22 expressed concerns for some time now relative to whether
23 or not these level of percentages will satisfy the
24 concerns that I see in the letter from the Department of
25 Justice. That issue, in my mind, is paramount. Not

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1 only in my mind, but I think it's paramount under the
2 law. And so while we have been extremely sensitive
3 throughout this process for the past 15 months to
4 compactness, contiguity, communities of interest, and
5 whatnot, I see our primary and paramount directive from
6 the court is to respond to and adequately address the
7 concerns relative to voting rights issues outlined
8 within their letter.

9 So my recommendation is at this point I
10 think we need to have a discussion as a Commission and
11 determine whether or not we feel that in order to

12 adequately address those concerns that is in the level
13 of some of the previous plans that Mr. Johnson has
14 prepared on our behalf of the 58, 59 percent range,
15 which we know DOJ has already precleared, or something
16 in the range of the numbers that we see presented in
17 front of us ranging from 41 to 53 to 58. So -- I
18 mean, I'm at your discretion, Mr. Chairman. It just
19 seems to me we have to decide where we want to go before
20 we -- what our end goal is in mind before we continue to
21 analyze the detail in many of these districts.

22 SUPERVISOR WILCOX: Mr. Chairman, if I
23 may, it's pertinent to the discussion. When we looked
24 at 15, that is not one of our majority minority. We
25 only stated it because originally it had been. We

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1 wanted to show these kept the level. The 55 -- 53 to 55
2 percent, 55 number, is really drawn from your expert
3 Dr. Handley in her written report. The 55 number is
4 what she suggests to the Commission is an adequate
5 number. And we believe that sincerely. We do believe
6 that if we could beef up 13 a little bit, we would try
7 to do that. We believe that Dr. Handley's expert
8 testimony is one that we think has very, very good
9 standing. I just want to put that on the record.

10 CHAIRMAN LYNN: Thank you.

11 Senator Hartley, I'm not going to take
12 your comments at this time. I have a suggestion from
13 the Commission we begin Commission discussion to move

14 forward. What we won't be able to do, I'll apologize in
15 advance, is not have continuing ongoing debate between
16 the Commission and anyone who wishes to speak. It
17 simply will not work. We've taken input, may take input
18 at future times this evening at appropriate moments, but
19 I'm concerned that if we continue along this line, we
20 will hear a lot of input but we will not make a lot of
21 progress. We need to make progress this evening. We're
22 under court order to proceed.

23 SENATOR HARTLEY: I understand that,
24 Mr. Chairman. However, due to comments made by one of
25 the Commissioners and some of other comments made by the

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1 previous speaker, I would like to address concerns asked
2 in regard to District 14.

3 CHAIRMAN LYNN: What is the Commission's
4 pleasure.

5 COMMISSIONER MINKOFF: I think so.

6 COMMISSIONER HALL: Yeah.

7 CHAIRMAN LYNN: Senator, please. Briefly,
8 if you could, please.

9 SENATOR HARTLEY: I intend to be very
10 brief.

11 District 14, in regards to the freeway
12 being a barrier, does not seem to be problem south of 14
13 nor north of 14. Some of the issues could have been
14 resolved in regards instead of the carve-out done that

15 is being proposed by the Commission by encompassing part
16 of -- still staying somewhat contiguous, taking in
17 downtown Glendale, which is overwhelmingly Hispanic. It
18 didn't necessarily have to be configured in this
19 fashion.

20 Secondly, I'd like to point out at this
21 point in time, less than three weeks before petitions
22 are due, District 14 is now the only district being
23 suggested with no announced candidates living within its
24 borders other than Mr. Willcox. Everyone else in
25 District 14 who is announced has now been carved out of

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1 it. That is a matter of great distress to me as an
2 exiting legislator, regardless of any other legislator,
3 no incumbent, no announced candidates living within the
4 borders of proposed District 14, somewhere three people
5 are going to have to come up and come up with the money
6 or possibly the \$5 contributions or signatures to
7 qualify, and that is an undue burden. I think it
8 disenfranchises District 14 and should be taken into
9 serious consideration by the Commission.

10 CHAIRMAN LYNN: I want to be clear about
11 your comments. I want to be sure that the comments you
12 just made are in reference to the Coalition's proposed
13 District 14.

14 SENATOR HARTLEY: Yes.

15 CHAIRMAN LYNN: And not the Commission's
16 adopted 14.

17 SENATOR HARTLEY: That's correct, sir, the
18 Coalition.

19 MR. KIZER: Mr. Chairman, just to that
20 point, that information is not correct. There are four
21 announced candidates living in the boundary of 14, three
22 of which are Hispanic. If you want names, we'll give
23 them to you.

24 CHAIRMAN LYNN: When you say "there," the
25 Coalition's 14?

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1 MR. KIZER: Which you see on the Map,
2 four.

3 CHAIRMAN LYNN: Two lines.

4 MR. KIZER: Coalition.

5 CHAIRMAN LYNN: Your map? Our map?

6 MR. KIZER: Coalition map.

7 CHAIRMAN LYNN: Tan?

8 MR. KIZER: Tan tones. I can give you
9 names if you want, gave them to you earlier. If you
10 want --

11 CHAIRMAN LYNN: What is the Commission's
12 pleasure?

13 Mr. Huntwork?

14 Ladies and gentlemen, I'd ask you to be
15 quiet, if you would, please.

16 COMMISSIONER HUNTWORK: I think the
17 Commission needs to be begin discussing, go around the

18 table, take a few minutes apiece and say what is on our
19 minds, listen to each other, share reactions to this,
20 and begin to try to come to some consensus about what
21 we're in clear-cut disagreement on, if that's where it
22 goes, about what we want to do.

23 CHAIRMAN LYNN: Would you like to start?

24 COMMISSIONER HUNTWORK: I'm happy to start
25 or finish, I don't care. I think the process needs to

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1 start.

2 I'll start it, if you want me to.

3 CHAIRMAN LYNN: Thank you, Mr. Huntwork.

4 COMMISSIONER HUNTWORK: Well, thought
5 number one, there are several unrelated pieces of the
6 puzzle, number one, I think that the point has been made
7 is well-taken, the Commission cannot simply accept a map
8 brought to us by anybody except our own consultant, but
9 we can take the ideas from that map. And we can work
10 with them to the extent that they make sense for our own
11 reasons. If we do that, then truly the chips fall where
12 they may. If it includes or excludes candidates, or
13 whatever, that's the result of the process and not the
14 result of any intent.

15 So I think we can work with the ideas the
16 Coalition brought forward, simply filter it through our
17 own careful checking, see if particular switches that
18 have been made and precincts in, out, and so on, would
19 make sense.

20 Second thought, it's now 9:00 o'clock at
21 night, or there at 9:30, 9:40. We don't even know
22 whether we have an extension or not, I guess we won't
23 know until tomorrow morning whether we have an extension
24 or not. And that seems to me to impose a procedure on
25 us. That procedure is that we need to pick a plan

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1 between now and tomorrow morning. There's only one
2 thing we can do, and that is pick a plan that we can
3 live with for our own reasons and then be ready to
4 continue the dialogue. But between now and tomorrow
5 morning we can't complete the dialogue, period.

6 So I would think we would, the next step
7 would be to say we need to either work with the
8 Coalition plan and try to do something with that or work
9 with our plan 2A new or 2A -- 3 new, or whatever we're
10 calling it at this point, and proceed accordingly for
11 the next couple of hours until we have something we're
12 ready to submit.

13 CHAIRMAN LYNN: Thank you, Mr. Huntwork.
14 Ms. Minkoff.

15 COMMISSIONER MINKOFF: Mr. Chairman, I
16 feel we're getting closer, because I now feel we are
17 comfortable with 27 of 30 districts or maybe 26, 16
18 coming in play. It really seems that the only area
19 where there still exists some questions and significant
20 concern is in the majority-minority districts within

21 Maricopa County. So I would really like to focus our
22 activities in that area and determine what we're going
23 to do about those districts.

24 I would also like to, in reaction to
25 Senator Hartley's comments, state that I remember very,

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1 very clearly the information that we got, both from I
2 think Westwood Village, is that area just north of old
3 West High School that went on -- I was almost going to
4 put in whatever district they wanted if only they
5 wouldn't send in another speaker up to the microphone --
6 very much wanted to be with the Historic Districts, and
7 Greenwood Terrace, Encanto Estates, very close to them,
8 made it extremely clear they did not want to be, even
9 though they were within blocks of that area, they did
10 not want to be with Historic Districts, really did want
11 to be in the West Valley District. We accommodated
12 them, a relatively small jog. I think we did it for
13 very important reasons. I think we should consider
14 doing that again in whatever districts we ultimately
15 approve.

16 CHAIRMAN LYNN: Thank you, Ms. Minkoff.
17 Mr. Hall.

18 COMMISSIONER HALL: Mr. Chairman, the fact
19 of the matter is we all were very comfortable with 30
20 districts. DOJ was uncomfortable with five. So, thus,
21 we're here, which brings us to the point we have to
22 decide what we feel satisfies the court order, DOJ's

23 issues. I guess my question is, as I look at the
24 suggestions as provided by the Coalition, and it's
25 understandable, because their desire is to have some of

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1 these numbers -- if I put the wrong words in your mouth,
2 Mr. Kizer Ms. Wilcox, please correct me -- have the
3 numbers a little lower in an effort, if you will, to
4 spread the influence a little broader.

5 I'm wondering, is that an is that an
6 accurate summary, you think? I'm wondering if there --
7 what I hear you saying is you folks, in District 13, you
8 feel like approximately 53, 54 percent is adequate to
9 elect.

10 And I guess my question is, Mr. Chairman,
11 is if we're -- if we as a Commission are willing to
12 agree that they have a few less percentage points,
13 numbers with respect to the districts that are drawn,
14 and we were to give Mr. Johnson some of those more
15 flexible instructions, I'd be interested to see what he
16 would be able to do with respect to input he's received
17 from the Coalition and a little more flexibility from
18 us. I think he was given the number of 59 percent and
19 that somewhat restricted his ability to -- or restricted
20 his creativity.

21 Would that be safe to sum it up,
22 Mr. Johnson?

23 In my mind, at the risk of sounding

24 redundant, I think we need to find a target and then
25 from there work about in an effort to determine what map

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1 we need to adopt this evening.

2 CHAIRMAN LYNN: Mr. Elder.

3 COMMISSIONER ELDER: As usual, I will
4 ramble a little bit.

5 I was trying to go down the plus and
6 minuses aspects of the different plans, 2A, 2A modified
7 new, and the Coalition A adopted as they somewhat jibe
8 in many respects. And one of the comments I wrote down
9 is it doesn't appear DOJ has a fixed number. We can't
10 say make them all 59 percent, Joshua. We have different
11 districts maybe giving more credit than due, or DOJ has
12 said we can have a more successful candidate than other
13 districts, other districts more than successful
14 candidate of choice.

15 I don't know that we can come up with
16 specific numbers. The only thing we can do is make them
17 as high as we possibly can and work with trying to come
18 up with an agreement, because we've gotten a sense that
19 the three-judge panel is looking for the discourse
20 between the various disparate parties and is looking for
21 a compromise, if you will, or looking for the bringing
22 together of all good minds and good humor, or good
23 people, or whatever way you want to put it.

24 The sense, though, I keep coming back to,
25 is when we start looking at the numbers, is that the

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1 Coalition has felt they can really deal with, that they
2 can be successful at, seemingly, are too far below the
3 targets that at least my personal sense is what DOJ is
4 looking for. So it's almost like we can't get there
5 from taking that model and trying to find more stuff
6 around the edges, around the fringes.

7 The other aspects of it is the wholesale
8 sort of loss of our principles. I guess that's what it
9 is. We went through a process that Alan with NDC said
10 we want to develop a plan. And I think the Commission
11 was exemplifying it when it came up with the term "a
12 principled plan." And some of the things, that's why I
13 looked at 14 and asked that question: Where is it
14 going, why do we cannibalize, have to cannibalize that
15 so much? And on the other side, the other side of the
16 plans, Doug came back with a 58, 59 number, the target
17 seemed to do exactly the same thing. We had gone away
18 from four of five principles that brought us to the game
19 in the first place, and we're only looking at, number
20 one, granted, what is the overriding issue, is it's the
21 Department of Justice, and it's the various minority
22 voting rights where they had concerns in those five
23 districts.

24 So with that said, and almost at the point
25 of saying we need to make them as high as possible, this

1 is a temporary, one-election situation, and it may be
2 that we've got to look at things that are alien to
3 ethics, or the thing that brought me here, brought us
4 here, whether it's us, or me, it seemed like we need to
5 do a better job. And -- I guess, you know, it's a
6 frustration level. I don't like any of the plans,
7 particularly, that we've come up with. It's not even a,
8 you know, a -- I can't remember which one -- split the
9 baby -- which king --

10 COMMISSIONER MINKOFF: Solomon. But he
11 didn't.

12 COMMISSIONER ELDER: Yeah.

13 I almost, look at the plan there, yeah,
14 has good pieces to it. We have some percentages and
15 numbers that can elect. And my sense is we've got to go
16 ahead, move ahead and decide whether we're going to go
17 with the adopted modified Coalition end of the scale,
18 which is almost can't get there from here, or go with
19 the numbers we know we can get there with okay, we have
20 to just leave it to whoever is going to make the
21 decision on Tuesday.

22 So, thank you.

23 Sorry.

24 CHAIRMAN LYNN: I'm still -- I would like
25 to add two cents, but I'm not sure where to get another

1 penny.

2 Let me start with what I know.

3 What I know is that the Department of
4 Justice had no problem with 25 districts and raised
5 concerns with five. In identifying those five, clearly
6 I saw in the letter a -- an option to deal in a variety
7 of ways with the concerns raised by the department by
8 the Attorney General. One option clearly is to, as was
9 stated in the letter, concentrate on the five districts
10 and produce from those five three districts that the
11 department could ultimately sign off on. The
12 alternatives in that letter were also to deal with other
13 districts in order to create the same effect in the
14 overall map, because it's the totality of the
15 circumstances that are taken into account when the issue
16 is raised. And the third option, or some combination,
17 was provide additional information to the department
18 that would help support the map that was submitted.

19 Now, here is what is changed. The arbiter
20 of what we do is no longer the Department of Justice,
21 it's the court. The court has indicated that their
22 interest is, I think, to resolve the situation in a way
23 that works, at our request, for this round, not for the
24 decade, but for this round of elections. The
25 differences in the plans --

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1 And first of all, I should say that I'm
2 very appreciative that my understanding is that the
3 Coalition has been working not from their maps but from
4 our maps in order to give us what they've given us
5 today. I appreciate that because it's important for two
6 reasons. First, it recognizes publicly that we do
7 have -- we have the burden of presenting a map to the
8 court. Whether or not the Commission joins or Coalition
9 joins in supporting that map or not, it is our burden to
10 do so. And the Coalition has been asked to do the same
11 but they have the option to join with us, bring in their
12 own, fight it out at a later date, whatever those
13 options are.

14 By starting with our map and by offering
15 changes, or modifications, particularly in two parts of
16 the state, Pima County and Pinal County, we do get down
17 to, I think with minor, minor differences, we are
18 probably in agreement, and I'm not speaking for anybody,
19 just observation, we are probably in agreement on 27 out
20 of 30 districts, give or take.

21 We then get down to three difficult
22 districts in the Central Phoenix area which need to be
23 addressed in some fashion because neither the Coalition
24 nor our fix in 29, for good and proper reasons, the
25 impact on the adjacent districts does what the DOJ

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1 letter objects to. And so it's off the table. And it
2 means that we have to effect two additional changes in
3 Maricopa County, at a minimum, that satisfy the
4 requirement of the Department of Justice, assuming that
5 our fixes in District 23 similarly achieve that goal.
6 Now, we entered the process with the idea that we would
7 do as little harm as possible, to use a term of art that
8 we sometimes use, it's collateral damage, that is to say
9 if you are trying to achieve a particular goal in a
10 particular area of a map, to do so in a manner more
11 surgically implemented than to try to reconfigure an
12 entire group of districts in a way that does a lot of
13 harm and has more of a ripple effect.

14 One of the concerns I have is that in
15 talking with the Coalition about the number of districts
16 that have been affected by the changes they made to our
17 map is there are a total of 10 districts affected in
18 some ways, far more than the two districts that need to
19 be fixed in the Phoenix area in order to achieve a
20 consensus. And my concern is that somewhere in between
21 those two numbers of two and 10 is probably the right
22 number of districts to be affected in a way that
23 satisfies our desire to do as little damage as possible
24 while delivering on the improvements the Department of
25 Justice has mentioned.

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1 To that end, the discussion that has gone
2 on with the Commission -- I apologize for going on so

3 long. One of the issues of being Chairman, you tend to
4 be able, don't speak as much as other people, allowing
5 other people to speak. It doesn't mean you're not
6 thinking. I've been accused of that on occasion. But
7 my thoughts are when we are now concentrating on two or
8 three districts in Phoenix that need to be adjusted, how
9 we arrive at the differences that exist between the two
10 maps are, as were previously stated, initially we asked
11 our consultant to redraw those maps using a -- a bench
12 mark figure of approximately 59 percent, which we
13 divined from the Department of Justice letter as being
14 certainly a more acceptable number toward the bench mark
15 of over 60 percent that exists in the districts. And
16 the Coalition took a different tact and has a different
17 agenda.

18 And I want to state for the record that
19 when we start drawing maps, clearly we're coming from
20 very different places, not to say one is better or
21 worse; they are different. The Coalition has a
22 responsibility to the people in the Coalition, some of
23 whom are incumbent legislators, some of whom may be
24 potential candidates for office, some of whom may have a
25 future desire to hold public office but are not

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1 currently candidates. That's their obligation.

2 Our obligation is to neither incumbents
3 nor potential candidates but rather to the people of

4 Arizona to represent their interests and to implement
5 Proposition 106 in the best fashion we can. To that
6 end, and to satisfy the point at which we find ourself
7 right now with a deadline of 9:00 a.m. tomorrow morning,
8 perhaps subject to extension based on a number of
9 circumstances, but what we know it to be true is the
10 court is expecting an answer from us at 9:00 a.m.
11 tomorrow unless something else happens.

12 What I would like to do, and again, I
13 don't know how long it would take, is propose that we
14 literally have agreement on 27, by and large 27
15 districts. And if we as a Commission were to change our
16 instructions to the consultant, Mr. Johnson, number one,
17 reducing the threshold of minority voting age in the
18 districts, and asking Mr. Johnson to look very carefully
19 at the changes that the Coalition suggests, not to
20 accept them wholesale, because I will tell you I'm very
21 uncomfortable not with what I know but with what I don't
22 know. I don't know what drove the Coalition to make
23 certain changes in those districts. I'm relatively
24 confident some percentage of them are politically
25 motivated and don't want to sign on to them. I'll be

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1 very candid about that. I'm candid about everything.
2 To the extent I know what they are, I want to avoid
3 them. To the extent I know about them, they need to
4 make sense, how they can be explained, how I can
5 understand changing the existing district, new district,

6 for a purpose understandable and that also helps achieve
7 the goal. And so I don't know whether it's feasible.

8 I guess what I'd like to see happen is see
9 us take a shot through our consultant at using input
10 from the Coalition and with recognition that we are
11 really concentrating -- I believe we have as close to a
12 meeting of the minds in Pima and Pinal County, and try
13 to see if we can get at three districts in Phoenix that
14 are lower than the 59 percent that we told Mr. Johnson
15 to deal with earlier that do as little damage as
16 possible to the districts we originally adopted but get
17 us to a place we can reasonably be assured we've done
18 our best effort to meet the objectives contained in the
19 DOJ letter.

20 I apologize for the length of that
21 statement.

22 Mr. Huntwork.

23 COMMISSIONER HUNTWORK: Mr. Chairman, it
24 is helpful to begin to talk sincerely and listen to
25 these ideas, I think. Your comments were very helpful

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1 to me. Mr. Elder's were. But I have a -- I get stuck
2 at the starting point.

3 On the one hand, throughout this process
4 we have attempted to take input and to find compromise.
5 We attempted to provide for as much competitiveness as
6 possible, even, you know, I think, at the risk of

7 diluting these districts too much. The Justice
8 Department has slapped our hands for doing that. And
9 now the matter is going, as you pointed out, is going to
10 be resolved by a decision maker that is neither us nor
11 the Coalition nor the Justice Department. And to some
12 extent we are going to have to make a guess as to how
13 that decision maker is going to deal with the material
14 that we bring forward.

15 I see -- I see two different and competing
16 thoughts. One is, if I read the letter from the Justice
17 Department as carefully as I can, I come to the
18 conclusion that particularly in this, in these
19 districts, depending on which map you use, I call them
20 13 and 15, the two southern districts, I guess 14 and 15
21 on our map 2A, just to be specific, we have to make
22 those numbers as high as we can. That's how I read this
23 letter. That's how I honestly read this letter. The
24 reason I read it this way is because where the Justice
25 Department could find a bench mark district, they

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1 attempted to hold us to that standard.

2 So we have the districts in Tucson, for
3 example, where you have almost identical demographics
4 but because one they could identify as a successor to a
5 bench mark district, they held it to be retrogressive
6 because it did not compare favorably with that district.
7 So reading this letter as honestly as I can using the
8 Justice Department criteria, those two districts are

9 successors to bench mark districts that had very high
10 numbers. I don't know the exact numbers, but if they
11 are not in the 60 percent, I would be -- I would be
12 flabbergast.

13 Well, okay, the letter says that District
14 14 is the successor to 65 percent. I don't believe that
15 it states what District 15, what exactly is the
16 situation in 15.

17 So reading this letter in a technical way,
18 it's trying to, like the Oracle Delphi, the Oracle was
19 always right, but you never knew what they were saying.

20 CHAIRMAN LYNN: We aspire to be that.

21 COMMISSIONER HUNTWORK: In this case, I'm
22 trying to, I'm trying to get into the mind of the Oracle
23 here. And that's what I think they were saying. So --
24 so if we're going to do what the Justice Department
25 appeared to be telling us to do, we try to rationalize

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1 these so-called inconsistencies, I find a consistency,
2 and that's what I find.

3 On the other hand, now I want to put
4 myself in the mind of the court, which is not the
5 Justice Department. The court itself does not have to
6 view the Justice Department as the Oracle we do. I
7 don't know if they are inclined to do so or not. I have
8 no idea what the court would do. Typically the
9 inclination of the court would be to wish to find

10 compromise of the litigants before it. In this case, I
11 do not know if that is what the court would decide or
12 not.

13 All of this is leading me to think that
14 before we go home tonight we need to have a plan, one
15 plan, that is viable and can be presented which responds
16 to what I believe the Justice Department is calling for
17 in this letter, because I am -- I think the court may
18 very well read this letter exactly the same way I do and
19 may very well say: You've all failed in the mission you
20 were assigned by the Justice Department and, so,
21 somebody else is going to draw the lines.

22 I don't want that to happen because I feel
23 we can respond to that interpretation of this letter,
24 take into consideration as well as possible under the
25 circumstances all of the other criteria that at least

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1 are possible to consider at this stage and come up with
2 a solution that is going to be better than what the
3 court in the abstract could come up with.

4 So I do not wish to default if that is the
5 interpretation given to this letter.

6 On the other hand, if we do that this
7 evening and go before the court tomorrow morning, I do
8 not wish there to be any implication that we would be
9 unwilling to consider and continue to discuss
10 compromise. I'm very encouraged that the Coalition has
11 completed its map and is ready to present its map to the

12 court tomorrow morning.

13 And so I'm coming to the conclusion that
14 what -- the best contribution we can make to this
15 process at this time I think is to put forward the best
16 map we can that responds to that interpretation of this
17 letter and continue the dialogue with the Coalition and
18 conceivably with the Court on another occasion.

19 CHAIRMAN LYNN: Mr. Hall.

20 COMMISSIONER HALL: Thank you,
21 Mr. Chairman.

22 I appreciate the remarks of each of you
23 and the focus of the interpretation. I, too, along with
24 Mr. Huntwork, am hung up on the language you're reading.
25 I thought if we had gone before the court on Monday, was

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1 it, seems like a year ago, and we had not received
2 feedback from Department of Justice, then we would have
3 been put in a situation to litigate different positions
4 in effort to find a main compromise. Now our
5 instructions are, as the appointed Legislative body, if
6 you will, for redistricting, to respond to these
7 concerns.

8 What -- a lot of things Jim indicated I
9 don't know. Here's what we do know. We do know the
10 bench mark of 65 percent, and 13, 14 were split out of
11 the bench mark of District 22 at 65 percent. We also
12 know the court says 51.2 and 56 are not sufficient, said

13 those levels are virtually identical of District 20 and
14 not acceptable.

15 We're talking 14 points and change. So
16 even if a person took half of that, we're about where we
17 told Mr. Johnson, 58, 59 percent.

18 I'm just were concerned as I look at that,
19 we've not adequately responded, as I have been
20 consistently harping on, we have to respond to those
21 concerns, when we are simply looking at districts that
22 are more in the 53 percent range, simply because I think
23 it is our obligation to insure the Hispanic community in
24 these areas have an adequate opportunity to elect a
25 candidate of their choice.

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1 So I -- I concur with Mr. Huntwork's
2 comments relative to the fact I think we have an onus to
3 insure that we do that appropriately.

4 CHAIRMAN LYNN: Thank you, Mr. Hall.

5 Ms. Minkoff.

6 COMMISSIONER MINKOFF: Thank you,
7 Mr. Chairman. I also appreciate all the comments that
8 have been made. We are trying very, very hard to get
9 this right.

10 A few comments. Number one, when we asked
11 Doug to proceed under our original guidelines and also
12 to do as little collateral damage as possible to
13 adjacent districts, I think he proceeded very, very
14 well; however, on DOJ 2A new, even just in the Central

15 Phoenix area, in an attempt to repair two out of three
16 districts, there are six districts that are affected.
17 District 11 and District 12 are affected in a relatively
18 minor way. 13, 14, 15, 16 are affected significantly.
19 When you add that to the changes that we made in the
20 southern part of the state, Pinal County, and also
21 eastern Maricopa County as a result, and the change to
22 District 26 in Pima County, what we have done so far has
23 impacted 10 of 30 districts, some significantly, some
24 not significantly.

25 The Coalition started with our map and I

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1 believe attempted to do the same thing, has impacted
2 only one additional district, and that's District 10,
3 and the impact there has also been minimal.

4 So once again, the big impact and
5 districts we're really talking about, and only ones that
6 really concern me in terms of what we do to them, are
7 13, 14, 15, and 16.

8 Yes, we have to be careful with other
9 districts. We don't want to change their essential
10 character. None of the plans we're looking at now
11 really do that. The impact, 10, if you look at the
12 Coalition plan, 11 and 12, if you look at both theirs
13 and ours, the impact on those districts is really
14 minimal.

15 I look at the bench mark and it scares me.

16 And then I look at the Department of Justice analysis of
17 District Two in Northeastern Arizona, and they had no
18 problem with the way we drew District Two even though it
19 was, I believe --

20 Jose, maybe you remember the figures
21 better than I do. Bench mark figure was above 70
22 percent?

23 MR. RIVERA: 72.

24 COMMISSIONER MINKOFF: 72, and we went
25 down to the low sixties.

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1 MR. RIVERA: 62.

2 COMMISSIONER MINKOFF: We dropped the
3 bench mark by 10 percent, they didn't raise their
4 eyebrows. Didn't raise their eyebrows because we were
5 able to demonstrate with the information we sent that at
6 62 percent there was still effectiveness of ability of
7 minorities to elect candidates of their choosing in that
8 district.

9 So I really think that that is what we
10 have to look at.

11 It would be very, very easy, except I'm
12 not sure Doug can do it, to tell them DOJ said the bench
13 mark is 65 percent; go ahead and do it. If we did, we'd
14 probably end up with one of the districts with zero
15 minority population. We know that that wouldn't be
16 approved in terms of meeting the bench mark. We didn't
17 do that in other 27 districts. I'm not sure we need to

18 do that here. We do, however, need to come up with
19 numbers that we believe and we can defend are effective.
20 And since, like the IRS, DOJ doesn't give advisory
21 opinions, it really falls on us to determine, in good
22 faith. I don't necessarily want to rely on the crutch
23 of the DOJ letter.

24 I do know that 51 and 50 percent don't
25 work. They have made that very, very clear. I do know

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1 that 65 percent will work, because that's the figure
2 they mention in their letter. But I believe it's my
3 responsibility as a Commissioner to determine in my own
4 mind, and with my other four Commissioners, what,
5 between 50 or 51 and 65, gives an effective district to
6 a minority population. And I don't know how we're going
7 to do that between now and 9:00 a.m. but I really
8 believe that's the task in front of us.

9 CHAIRMAN LYNN: Mr. Huntwork.

10 COMMISSIONER HUNTWORK: I believe that's
11 the task in front of us. I don't -- I absolutely
12 disagree with characterizing the letter as a crutch. It
13 is what we have to respond to. I mean the perspective
14 here is, as has been said repeatedly, we believed in our
15 original districts. We believe they were right. We had
16 experts who ran analysis and advised us they were
17 electable by minorities. The Justice Department
18 disagreed with us.

19 We now do not have the luxury of running
20 any of those tests on the districts that we're going to
21 put forward. We do have bench marks for those districts
22 which are high bench marks.

23 You point out that District Two came down
24 from 72 to 62 percent. Andi, that's still 62 percent.
25 That's not 52 percent or 55 percent or even 59 percent

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1 that we're talking about. And I think that -- I really
2 think in order to comply with what is in this letter, we
3 have to look at higher numbers in those districts. 59
4 percent is, is not an unreasonable number to look at.
5 It could very well be argued it's too low based on bench
6 marks in those districts.

7 CHAIRMAN LYNN: Mr. Elder.

8 COMMISSIONER ELDER: Mr. Huntwork, let me
9 ask a question of you.

10 If you think that 59, or thereabouts, may
11 be a viable number, does that same rationale go over
12 into 16 where we're at 65? Can we bring that number
13 down? And I think the -- we may be able to bring it
14 down, at least in my opinion, we may be able to bring it
15 down a couple points, but not to 59. We bring it
16 down --

17 COMMISSIONER MINKOFF: It's at 59
18 Hi spani c.

19 COMMISSIONER HUNTWORK: It's approved.
20 The other districts we're talking about were

21 disapproved. And one point of collateral damage I think
22 we should avoid wherever we can is we weaken a district
23 that has already been approved. That's what we sought
24 to avoid between 27 and 29, between 25 and 23 in this
25 mix as well.

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1 When we talk about collateral damage, I
2 tend to think that this is the central question, the
3 relatively minor changes we make from other boundaries
4 while a consideration is less important to me than
5 getting this number right. But I don't want to do
6 collateral damage to a district that is already a
7 majority-minority district that has already been
8 approved.

9 COMMISSIONER ELDER: Would it not still be
10 a majority-minority district, total minority under those
11 classifications, not just Hispanic, when we add in other
12 minorities into that area, end up still having a
13 majority-minority district?

14 We have been able to extract enough
15 Hispanic to get away from -- Ms. Wilcox made the
16 comment, "Well, you packed us." Whether you have or
17 not, if we have additional Hispanics to go into 13, 14,
18 that may give us the flexibility to get those up.

19 COMMISSIONER HUNTWORK: Correct me if I'm
20 wrong. I don't think the Justice Department would
21 approve a district they think is packed. This district

22 was approved.

23 COMMISSIONER ELDER: The comment didn't
24 come from Department of Justice. It was the Coalition's
25 comment "you packed us."

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1 You are saying they didn't view that as
2 being packed?

3 COMMISSIONER HUNTWORK: I'm saying, right.
4 Right.

5 COMMISSIONER ELDER: If we added two
6 percent, is that packing?

7 COMMISSIONER HUNTWORK: I have a very
8 simple --

9 I know how to play the game as well as
10 anybody in the world. It's a very simple rule of thumb.
11 If a district is approved, let's not mess with it.

12 COMMISSIONER ELDER: There's not a single
13 plan up there that does not touch 16.

14 COMMISSIONER HUNTWORK: But the plans
15 don't weaken the demographics of 16. The plans we --
16 changes we may propose to 16 do not change the
17 demographics in any significant respect.

18 CHAIRMAN LYNN: Mr. Johnson?

19 MR. JOHNSON: I wanted to clarify one
20 number. 65 percent is in the letter, cited as bench
21 mark for 14. 16 is actually 59 percent.

22 COMMISSIONER ELDER: Hispanic voting age,
23 Hispanic total, or total minority?

24 MR. JOHNSON: 59 voting age Hispanic.
25 COMMISSIONER ELDER: Go through. Total

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1 minority is like 65.

2 MR. JOHNSON: African American voting age.

3 COMMISSIONER HALL: 16 is we have two
4 groups of voters at play in one district which, based on
5 history, have a tendency to vote in a polarized fashion.
6 Therefore, the attempt and effort of that district was
7 to insure the African American had a -- an appropriate,
8 and I might add, unobjected appropriate number of people
9 within that district so they would have an influence and
10 voice in that district. As Mr. Huntwork as adequately
11 pointed out, it wasn't objected to.

12 And subsequently -- in addition, a number
13 of Hispanics in that district also had a significant
14 influence in that district.

15 I just think that that district is
16 something that would not be prudent to fiddle with.

17 To the north, and just to correct Andi's
18 numbers, there's 10 amendments in Maricopa County by
19 reason of the Coalition map, six by reason of our map in
20 Maricopa alone. Amendments to District 10, for example,
21 are significant, in my mind, without having any detailed
22 analysis, which we're not going to have access to before
23 midnight tonight, I can assure you. 10 is one of the
24 districts we deemed to be a competitive district we said

25 we want to not harm, if you will, in an effort to try

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1 and protect some of those surrounding districts. So,
2 thus, you see that --

3 Doug, I think that's right. In your
4 adjustments you did not affect District 10; is that
5 right?

6 MR. JOHNSON: Right.

7 COMMISSIONER HALL: As Andi indicated, 11
8 was extremely minimal?

9 So five extremely minimal. 16 is minimal.
10 Especially with respect to numbers, with respect to
11 numbers, very little harm with respect to numbers.

12 Bringing it back to the point, which is
13 what is what we feel numbers appropriate to adequately
14 address this letter by Department of Justice. This is
15 not a crutch, mandate, the Bible today, folks. Correct
16 me if I'm wrong. This is it. We have to respond to
17 this. And that's our orders. That's why we're here.
18 That's why I haven't seen my kids in five days. I'm
19 suggesting we have to decide what is appropriate in that
20 respect.

21 So, therefore, I make a motion that we, as
22 a Commission, at least we can -- you guys spit me out or
23 something, we as a Commission would adopt District 23 as
24 we last saw it.

25 CHAIRMAN LYNN: On which map?

1 COMMISSIONER HALL: On --

2 CHAIRMAN LYNN: Three? New 3?

3 COMMISSIONER HALL: What is the new name
4 of the map, Doug?

5 MR. JOHNSON: Map 3.

6 COMMISSIONER HALL: Cool. Not DOJ 3 C?

7 So Map 3.

8 I recommend we adopt District 23 on Map 3
9 as set forth on this Map 3 as one of our responses to
10 the objections set forth in the letter from the
11 Department of Justice and Districts -- this is the
12 equivalent of 2A new --

13 Let's take it one at a time.

14 COMMISSIONER HUNTWORK: This changes 22,
15 19 --

16 COMMISSIONER MINKOFF: Doesn't change --
17 19, 22, 26 down in Pima County.

18 COMMISSIONER HUNTWORK: Goes up into
19 Avondale.

20 COMMISSIONER MINKOFF: Right. Absolutely
21 right.

22 COMMISSIONER HALL: Well, we can -- we can
23 shape it however you want. Say I move we adopt that
24 map, but --

25 Doug, you had a comment.

1 MR. JOHNSON: Just to answer any questions
2 about what it's touching.

3 COMMISSIONER HALL: This is essentially a
4 revised to DOJ 2A new.

5 MR. JOHNSON: Yes. Revisions are to 19,
6 22, 23.

7 COMMISSIONER HALL: 13, 14, 15 are the
8 same?

9 MR. JOHNSON: Yes.

10 COMMISSIONER HALL: For purposes of
11 discussion, I make a motion we adopt this map as a
12 response to the Department of Justice's objection to our
13 adopted plan.

14 CHAIRMAN LYNN: The entire map?

15 COMMISSIONER HALL: Yes.

16 CHAIRMAN LYNN: Second?

17 COMMISSIONER MINKOFF: Entire map
18 including Maricopa County?

19 COMMISSIONER HALL: Right.

20 CHAIRMAN LYNN: That's what I understand.
21 The map.

22 COMMISSIONER HUNTWORK: For purposes of
23 discussion, I second it, the entire map in front of us.

24 CHAIRMAN LYNN: For purposes of
25 discussion, it's moved and seconded Map 3 be adopted as

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1 our response.

2 Discussion on the motion.

3 COMMISSIONER MINKOFF: Do we have
4 print-outs of that map we asked for?

5 CHAIRMAN LYNN: Demographics or --

6 COMMISSIONER MINKOFF: Anything.

7 CHAIRMAN LYNN: Be specific.

8 COMMISSIONER MINKOFF: What is on the
9 screen.

10 MR. JOHNSON: Color copy or demographics?

11 COMMISSIONER MINKOFF: Both, if I can have
12 it. If not available, I'll go ahead and discuss without
13 it. If they aren't available, we'll discuss it without
14 them.

15 MR. JOHNSON: I've not had time to print
16 it out. In terms of demographic print-outs, your
17 printout for 2A new will be the same except for those
18 three districts, 19, 22, and 23. But that's what we
19 have available at this time.

20 CHAIRMAN LYNN: So, Mr. Johnson, just so
21 I'm clear, should we be looking at DOJ 2A with no
22 changes to 29?

23 MR. JOHNSON: Thank you, Mr. Chairman,
24 that's correct.

25 CHAIRMAN LYNN: Thank you. The only

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1 districts not absolutely accurate are what?

2 MR. JOHNSON: 19, 22, demographics are
3 essentially accurate. Deviations have shifted slightly.
4 In 23, the population has gone up by 300 and the
5 Hispanic voting age has gone up by three-tenths of a
6 point from what you have in front of you. And total
7 minority age has gone up by 25-hundreths of a point from
8 what you have in front of you.

9 CHAIRMAN LYNN: Okay.

10 Discussion on the motion.

11 Mr. Huntwork?

12 COMMISSIONER HUNTWORK: Mr. Chairman, a
13 couple of points.

14 First, the first is one of context.

15 I would much prefer to be negotiating with
16 the Coalition than to be doing this. But I feel,
17 myself, that we would need to have some indication from
18 the Court that the Court would be willing to either
19 interpret this letter differently than I'm interpreting
20 it or would be willing to entertain a compromise at
21 different levels than what the Justice Department
22 appears to me to be asking for. So I would like to have
23 that dialogue continuing on another front.

24 In the meantime, I do think we have to --
25 I personally think we have to adopt a map along these

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1 lines because I believe that is what the Justice

2 Department is calling for.

3 In support of this map, I would like to
4 point out a couple of salient things. The first,
5 perhaps the most important is that new District 13, as
6 it would result from this, as it is numbered in this
7 map, is, I believe, a completely competitive district.
8 I know that we don't have numbers in front of us, but
9 I -- based on my own personal knowledge of that area, I
10 think we probably will have numbers before this is
11 complete, at least rudimentary numbers. I would be
12 amazed if that didn't come out very close to fifty-fifty
13 in competitiveness. It is -- that is a stated goal of
14 everybody in this process. And --

15 (Reporter asks the audience to be quiet.)

16 CHAIRMAN LYNN: Thank you, Lisa. I
17 apologize.

18 If you would, please.

19 COMMISSIONER HUNTWORK: This would be one
20 of the most competitive districts in the State of
21 Arizona.

22 Doug, do you have any preliminary numbers
23 on that district? Is there anything you can offer about
24 what that district would look like?

25 MR. JOHNSON: Going back to Dr. McDonald a

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1 few minutes ago, he was able to run registration figures
2 for us. We've not been able to process AQD numbers at
3 this point, at this time, because of time. I do have

4 registration figures that are -- have just come.

5 COMMISSIONER MINKOFF: Well?

6 COMMISSIONER ELDER: Could we have those,
7 please.

8 While he's bringing those up,
9 Mr. Huntwork, it looked like it preserved 10 in original
10 its configuration, which was a competitive district.

11 COMMISSIONER HUNTWORK: That's true.
12 That's correct, too.

13 MR. JOHNSON: Bringing something, so it's
14 easier to read.

15 COMMISSIONER HALL: Well, I'm wondering if
16 we could come back to that issue, Mr. Chairman.

17 CHAIRMAN LYNN: Mr. Huntwork has --

18 COMMISSIONER MINKOFF: He's almost there.

19 CHAIRMAN LYNN: Mr. Huntwork has the
20 floor.

21 COMMISSIONER MINKOFF: He looks like he's
22 got it.

23 MR. JOHNSON: The two spread sheets we're
24 looking at here, the one on the right I've highlighted
25 is registration for the Coalition's map they just

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1 submitted to us and on the left is registration for the
2 2A no change in Pinal map. So it doesn't have the
3 change in 23, 19, and 22. But for the Maricopa
4 districts there's no change. So looking -- this -- this

5 one, districts we're looking at are 10 through 16, I
6 guess.

7 You look over on the right, this is the
8 difference between the two parties' registration
9 figures. And you can see that 12, Republicans have 1.54
10 advantage over Democrats. And that's as of, measured
11 out of total registrations. Republicans in that
12 district are 41 percent. Democrats are 39 and a half.
13 And Independent is 19 and a half. That's 12. And 13 is
14 even closer together.

15 Republicans at -- Democrats at 41.2,
16 Republicans at 40.7, half a point Democratic advantage.

17 Perhaps I can zoom in.

18 COMMISSIONER HUNTWORK: I'd just like --

19 MR. JOHNSON: Now, just the Coalition maps
20 numbers.

21 COMMISSIONER HUNTWORK: I didn't ask for
22 that, just this one.

23 What I'd like to do is conclude by saying
24 that is one of the state law factors that I think that
25 it is our responsibility to take into consideration as

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1 we decide which of the approaches that address the
2 Justice Department concerns would be the most
3 appropriate to take forward. So I think that is one
4 factor in favor of this map.

5 CHAIRMAN LYNN: Discussion on the motion?

6 MR. JOHNSON: Mr. Chairman, if I can

7 clarify one thing for the record, per the Commission's
8 instruction, these numbers are from the rebuilt
9 registration data base and they are active voter
10 figures.

11 CHAIRMAN LYNN: Thank you.

12 Can we go back to the map?

13 I want the discussion on the map as it's
14 contained in the motion.

15 Further discussion on the motion?

16 Mr. Hall?

17 COMMISSIONER HALL: Doug, for the sake of
18 discussion, I don't want you to get too comfortable, in
19 the event that a determination were to be made by this
20 Commission that a lower percentage would be acceptable,
21 in this map, in districts 14 and 15, is it safe to
22 assume that those percentages would directly translate
23 to 13?

24 MR. JOHNSON: I could certainly try to get
25 them into 13. The only fly in the ointment is 12's

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1 position in it; but they could be a goal I could strive
2 for if that's the Commission's request.

3 COMMISSIONER HALL: 12's position,
4 Hispanic percentage.

5 MR. JOHNSON: Bring 12 down, get into 13,
6 can I get it down or does it end up in 12. Probably go
7 around.

8 COMMISSIONER HALL: So, would -- with your
9 permission, Mr. Chairman, I wonder if it would be
10 appropriate for me to ask the Coalition a question on
11 this map or rather --

12 CHAIRMAN LYNN: If it's germane to the
13 motion on the floor and will help us get to a decision
14 on that motion, I'm more than happy to allow it.

15 COMMISSIONER HALL: Just wanted to know
16 what your perception was of that particular District 13.

17 CHAIRMAN LYNN: Is that helpful in
18 determining how you'll vote on the motion?

19 COMMISSIONER HALL: Yeah.

20 CHAIRMAN LYNN: Ask your question.

21 COMMISSIONER HALL: Mr. Kizer, with your
22 permission, can I ask you a question on this map, or
23 whomever, ask looking at your statistics, statistical
24 analysis, you guys did revised analysis of District 15,
25 41.33 percent on your map. That's a VAP population, on

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1 that particular one.

2 I just wanted to know from your
3 perspective on 13, under the map up on the screen, now
4 total minority population is 43.47. Did you guys
5 have -- I understand you are not an effectiveness
6 expert, Mr. Kizer. I'm wondering if you felt like --
7 what your opinion was to the relative level of influence
8 of the Hispanic community within 13 as it sits on the
9 map.

10 MR. KIZER: What is VAP?

11 COMMISSIONER HALL: VAP, 24.77 on 13 and
12 over 31 on 12.

13 MR. KIZER: Well, you know, as we said at
14 the beginning of this day, we didn't think a Hispanic
15 would be able to win in that district.

16 COMMISSIONER HALL: With respect to 14 and
17 15, percentages are over 59. I assume you would agree
18 with our confidence, 12, those two districts, a Hispanic
19 candidate would have, the Hispanic community would have
20 an effective opportunity to elect a candidate of choice?

21 MR. KIZER: The effect of higher levels,
22 effective opportunity of choice, able to be that high,
23 take some from those, put in 13, able to elect third
24 candidates out of the districts, which is our
25 preference.

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1 COMMISSIONER HALL: I understand.

2 CHAIRMAN LYNN: Ms. Minkoff.

3 COMMISSIONER MINKOFF: Thank you,
4 Mr. Chairman.

5 I've got a real problem with this plan,
6 what it does, specifically with 13, 14, and 15. I don't
7 think I can support it because of the impact there.
8 District 16 is very definitely a unique district. It's
9 the only district in the entire state, to my knowledge,
10 that has two significant minority groups, both of which,

11 in past elections, have, number one, shown racially
12 polarized voting and, number two, both have been
13 successful in electing candidates of their choice to
14 office.

15 So I think we have to be very, very
16 careful in doing no harm to District 16 for that very
17 reason. And we've got a Hispanic voting age majority
18 and we've also got a significant and highly active black
19 population, and they've both been successful. So let's
20 put that one aside.

21 14 and 15 in this particular map both
22 have, I believe, excessive concentrations of Hispanic
23 voters above what is needed to be effective. Hispanic
24 population in both of these districts approaches 60
25 percent. The total minority in both of those districts

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1 approaches 70 percent, 69.5 in one and 68.68 in the
2 other. I'm talking only about voting age population.
3 Because in these districts there is no other minority in
4 significant concentration to elect candidates of their
5 own choosing, I believe that the concentration of
6 Hispanic voters in these two districts is above what is
7 needed to elect and we have taken a very strong minority
8 influence district and created a situation where it is
9 not a minority influenced district. And I believe that
10 this proposal diminishes the opportunity of Hispanics in
11 Maricopa County to elect representatives of their
12 choosing. And on that basis, I cannot support it.

13 COMMISSIONER HALL: So what number, Andi,
14 would you use?
15 COMMISSIONER MINKOFF: Well, I don't have
16 a magic number. Unfortunately, none of us do.
17 COMMISSIONER HALL: We do. 59 is what is
18 before us.
19 COMMISSIONER MINKOFF: That's not a magic
20 number either.
21 COMMISSIONER HALL: You are saying too
22 high.
23 COMMISSIONER MINKOFF: 65 is bench mark.
24 COMMISSIONER HALL: 59 is precleared.
25 COMMISSIONER MINKOFF: Not for these

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1 districts.
2 COMMISSIONER ELDER: 16.
3 COMMISSIONER MINKOFF: 69.
4 COMMISSIONER ELDER: Focusing on Maricopa,
5 and like kind districts, we know 59 precleared. If you
6 think that's too high, what number would you use?
7 COMMISSIONER MINKOFF: I think it's too
8 high because 16 is a very different district than 13,
9 14, or 15 either in the adopted maps and Coalition maps
10 or in our draft DOJ 2A new. 16 is different because
11 there are two significant minority groups in that
12 district. In order for Hispanics to be effective in
13 that district, they need a higher percentage than they

14 do in the other three districts.

15 If 59 works in 16, if you ask me to say a
16 number off the top of my head, I'd say somewhere between
17 55 and 57 ought to work. Certainly ought to work.
18 Possibly even lower. I would feel real, real
19 comfortable defending a number around 55 percent.

20 COMMISSIONER HALL: For the sake of
21 discussion, utilizing the configuration in front of us,
22 if we utilize 55 and four percent and change, one from
23 another, eight, nine total, and move that to the table
24 to move all of that to 13, that would make that 34
25 percent.

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1 COMMISSIONER MINKOFF: Make it 32 percent,
2 32, 33 percent.

3 COMMISSIONER HALL: Well, rounded.

4 COMMISSIONER MINKOFF: Yeah. And it would
5 make the total minority population around 45 percent.

6 COMMISSIONER HALL: My question is -- I'm
7 not attaching an opinion to it, I'm just doing some
8 hypothetical numbers in my head here. I'm saying if
9 those numbers look more like that, is that a scenario
10 you are saying you'd feel more comfortable with?

11 COMMISSIONER MINKOFF: Depending where
12 lines are drawn. I'd have to see it. Based on numbers
13 alone, without seeing where the district is drawn, I'd
14 feel comfortable defending districts like that as
15 allowing members of the minority community to elect

16 candidates of their choosing, much more comfortable than
17 here, greater enhanced ability than map 2A or 3.

18 CHAIRMAN LYNN: Mr. Huntwork.

19 COMMISSIONER HUNTWORK: Mr. Chairman, what
20 is so frustrating about this debate is I agree. I would
21 like to say that if we originally in all good faith
22 adopted the districts which we thought were the most
23 effective, and they are well below these numbers,
24 furthermore, if the court -- if this process could
25 unfold in such a way that we had leeway before the court

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1 to negotiate these numbers, there were an arbitrator to
2 say yes, we'll accept a lower number, the lower the
3 number, the closer it is to our original determination,
4 these are the things that none of us are debating about.
5 What I'm concerned about is the letter from the
6 Department of Justice and how I interpret that.

7 And again, I know we're at this point
8 we're repeating, but hopefully it adds perspective each
9 time. I see high bench marks in this. And to comply
10 with this letter I see high percentages. I don't think
11 we can go home tonight without a plan that embodies that
12 requirement. And then I think that if there's going to
13 be a process, that it has to take place in front of a
14 tribunal that can grant us the leeway that this
15 document, at least as I interpret it, is not due. And
16 anything else I think is throwing dice. We might as

17 well hold the next meeting in Las Vegas.

18 CHAIRMAN LYNN: Further discussion on the
19 motion?

20 Is there further discussion on the motion?

21 I share Mr. Huntwork's frustration. And I
22 think I share the rationale for that frustration as
23 well. I am confident that we must respond to the charge
24 of the court. And part of the problem is if it's true
25 that in cases like this courts often, and this court

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1 may, wish to have a negotiated outcome as opposed to a
2 definitive outcome from one party, even though one party
3 is charged with producing the outcome in terms of some
4 degree of deference, those two things are opposed to
5 each other, that is to say we have guidelines but we
6 also have a negotiating partner at some point that has a
7 different agenda. Those things are very difficult to
8 reconcile. And so I do think that -- I do think we have
9 to make a decision at this point whether or not we
10 proceed down a path of some sort of agreement on a
11 solution or a judgment on a solution. And the paths are
12 different. Once you make that decision, I'm not sure
13 that the motion, as it's currently made, is the right
14 one to go into court with, for a few reasons. I'm
15 not -- and I'm struck and don't want to take this out of
16 context, but I'm struck with some of the last comments
17 that Mr. Kizer made with respect to electability, which
18 I believe we all are mindful of and want to make sure

19 that groups in the state have the ability to elect
20 candidates of their choosing, that in two of the three
21 districts the numbers are not only sufficient but
22 perhaps overly-sufficient, and one of the districts in
23 question are still lacking, to Ms. Minkoff's comment,
24 that some number. We know we don't know exactly what it
25 is. Adding to, and we all use our numbers for the sake

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1 of illustration, adding to the Hispanic population in
2 13, at the expense of populations in 14 and 15, might be
3 as close in judgment as we could get to a fully
4 negotiated solution without negotiation. And I know
5 that sounds contradictory, but it takes the spirit of
6 some of the comments we've had and testimony we've had
7 and tries to put that into play.

8 I understand that we have a bench mark
9 issue and there is clearly a DOJ bottom of the scale
10 which they've already rejected. And somewhere in
11 between is perhaps the place to be.

12 I'm not sure I can support the motion in
13 current form.

14 I'm not sure -- I'm struggling with how
15 far we can go in some direction to make that
16 accommodation among those three districts to bring 13 up
17 without doing damage to 14 and 15 in such a way they
18 still maintain the characteristic of still being
19 electable. If we can do that, I'm much happier to

20 support the motion.

21 Further discussion on your own motion,
22 Mr. Hall?

23 COMMISSIONER HALL: Mr. Chairman, you
24 certainly raised a lot of sentiments I have, also. Let
25 me say I made the motion in effort to move us forward.

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1 And I -- I am not one who am willing to rubber stamp
2 this map. I think we've been suffering from paralysis
3 by analysis, and I sense that we're off that point.
4 I -- I concur. I think that there is middle ground.
5 And I'm not sure how to get there, but there is no
6 question we need to get there rapidly.

7 To Jim's point, if we can get there
8 rapidly, we need to get a map tonight, folks. And this
9 is the map, in my opinion. But if we can rapidly get to
10 an area where it seems to be where the influence or
11 opportunity are higher than -- in 13, for example, and
12 we're able to spread that influence a little bit around
13 a little better, I would be in favor of that. But my
14 concern, is Mr. Chairman, is timing and the fact that we
15 have a 9:00 a.m. deadline tomorrow. So I -- you know --
16 and maybe there would be additional input from the
17 Coalition with respect to, you know, we could identify a
18 number in certain areas that would be a target to give
19 Mr. Johnson clear direction in an effort to try and
20 determine what would be an amenable compromise, if you
21 would.

22 CHAIRMAN LYNN: Let me first apologize to
23 Lisa Nance and suggest --

24 MR. RIVERA: Mr. Chairman, if I may -- in
25 terms of -- there have been a lot of comments about a

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1 9:00 a.m. deadline tomorrow morning. What we have
2 tomorrow morning is a deadline to report to the court
3 where they are going to consider whether they are going
4 to continue the plans or not. The thought pattern is if
5 the court thinks if we're making success down the line,
6 they will go ahead and continue --

7 MS. HAUSER: More likely.

8 MR. RIVERA: It's more likely that the --
9 they will allow us to go ahead and present plans one day
10 later. They've already in ruling on -- seems like years
11 ago -- Monday -- both parties agreed the trial could
12 start Wednesday.

13 COMMISSIONER HALL: Having said --

14 MR. RIVERA: The court said, we agree to
15 present two days, start the trial Wednesday. Tomorrow
16 they want to hear tomorrow because we asked for a
17 scheduling conference in terms of this. The deadline
18 tomorrow is a scheduling conference for tomorrow
19 morning. And that's what we have right now, a
20 scheduling conference for tomorrow morning.

21 CHAIRMAN LYNN: If in the opinion of the
22 court the scheduling conference is not sufficient, at

23 the conference they'll call for the plan, will they not?

24 MR. RIVERA: That's correct, they'll call
25 for a plan either later that day or the following day.

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1 But I want to assure there's not -- the deadline
2 tomorrow morning is a scheduling conference.

3 CHAIRMAN LYNN: I understand.

4 We do have quorum issues tomorrow. I want
5 that to be clear as well.

6 We extended as much time this week as we
7 could to get this done recognizing we are volunteers.
8 Some of us have other obligations that must be
9 undertaken from time to time.

10 As I was about to say before Mr. Rivera's
11 timely comments, Lisa Nance has been with us whatever
12 time, whatever time we started, and is overdue for a
13 break. Even though it's late in the evening, we cannot
14 expect her to continue without those breaks
15 periodically. We need to take a 15-minute break to
16 accommodate her. And I suggest we do that right now and
17 get right back to our discussion.

18 (Recess taken from 10:54 p. m. to
19 11:14 p. m.)

20 CHAIRMAN LYNN: I'd ask the Commissioners
21 to take their seats.

22 Noting all five Commissioners are at least
23 in the room and legal counsel as well as consultants are
24 present, we'll reconvene.

25 I'll call the Commission in session.

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1 There is a motion on the floor.

2 Further discussion on the motion.

3 Mr. Hall.

4 COMMISSIONER HALL: Mr. Chairman, thank
5 you for the break. I now have logic.

6 I'd like to withdraw my motion with
7 permission of the second.

8 CHAIRMAN LYNN: Is the second prepared to
9 withdraw the second?

10 COMMISSIONER HUNTWORK: Yes.

11 CHAIRMAN LYNN: Mr. Huntwork was the
12 second.

13 COMMISSIONER HALL: Mr. Chairman, I'd like
14 to restate the motion.

15 CHAIRMAN LYNN: Mr. Hall.

16 COMMISSIONER HALL: I guess I'll try not
17 to make this too long.

18 I assume by nodding of heads we're all
19 pretty much in agreement on District 23. We're all in
20 pretty much agreement on not messing with 29. So with
21 that premise, then, I would make a motion that we all go
22 to bed except for Doug.

23 COMMISSIONER MINKOFF: Second.

24 COMMISSIONER HALL: I would like to make a
25 motion that we instruct Doug to go back and --

1 We are scheduled to reconvene at what time
2 in the morning?

3 CHAIRMAN LYNN: Yet to be determined. We
4 noticed the meeting at 8:00 o'clock. Any time at or
5 after 8:00 o'clock.

6 COMMISSIONER HALL: Tell Doug to go back.
7 What I'm suggesting, I think there's room, bring the
8 percentage from 59, for example, we've given you as an
9 example, to 55, wherein you can utilize some of those
10 additional voters to strengthen the percentages in 13
11 and utilize what which I feel are voters in 12, I think,
12 to come to 13 and make, maybe, a more amenable solution.
13 And part of the motion is, it's rather windy, you may
14 need the transcript, I am still of the opinion we do not
15 touch 16.

16 So I guess, to restate that is we ask you
17 to go back and redraw, utilizing the suggestions that
18 the Coalition provided for us, and utilizing the ideas
19 you've already incorporated into districts 13, 14,
20 discussing utilizing percentages from 59 to 55,
21 utilizing maps, utilizing directions from Department of
22 Justice.

23 CHAIRMAN LYNN: Second?

24 COMMISSIONER MINKOFF: I'll second the
25 longest motion on the face of the earth provided instead

1 of saying do not touch 16 you say you do not change the
2 essential character of 16. There may be a need to move
3 some in and out, doesn't change the character --

4 CHAIRMAN LYNN: I'll let you discuss it if
5 you second it and not a conditional second.

6 Do you second the motion?

7 COMMISSIONER MINKOFF: I'll second the
8 motion and ask you if you accept that change.

9 COMMISSIONER HALL: I would like to hear
10 from Doug on the subject of 16 before I consider what
11 you are saying.

12 MR. JOHNSON: I'm afraid it's probably --
13 the question of 16 is more of a legal question. Do we
14 get into trouble if we change it in terms of its
15 character versus actual line, so we have to --

16 COMMISSIONER HALL: In this, did you
17 change it?

18 MR. JOHNSON: It is changed. The top is
19 flatter, to say it easily, but the percentages remain
20 just as high.

21 COMMISSIONER HALL: Counsel, I assume, is
22 happy with 16 as it is here?

23 MR. JOHNSON: There hasn't been formal
24 legal review I know of.

25 COMMISSIONER HALL: I understand so far

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1 from the point -- I'm fine, trust Doug's judgment, fine
2 with Andi's amendment to the motion, Mr. Chairman.

3 CHAIRMAN LYNN: The maker accepted the
4 motion, motion as amended.

5 I want to be sure I understand it. The
6 instruction to Doug, as I understand it, is in effect
7 start as he did other day with our adopted map and to
8 the extent that it is necessary, to move population
9 among the districts in question, the ones enumerated in
10 the motion. He is to do so with the idea instead of a
11 bench mark of 59 percent as guidance, it is a 55 percent
12 guidance, for that purpose.

13 Do I understand the motion?

14 COMMISSIONER HALL: Correct, Mr. Chairman.

15 CHAIRMAN LYNN: Discussion on the motion.
16 Mr. Huntwork.

17 COMMISSIONER HUNTWORK: Well, once again,
18 the motion takes us in the direction of our original
19 plan, which I -- which I believed in, voted for, and
20 still believe in, as the, in actuality, the most
21 effective plan for minority populations in all four of
22 the districts we're talking about here. On the other
23 hand, I still have this letter in front of me, and I
24 don't see any basis for going all the way down to 55
25 percent. That's how I read this letter. The bench mark

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1 says much higher than that. I don't see any
2 authorization implicit or otherwise in this letter to go
3 10 percent below the identified bench mark of 65
4 percent. I don't have any objective evidence or
5 statistical information of any kind that would
6 contradict the -- what the Justice Department is saying.
7 So I'm uncomfortable with a 55 level.

8 I would -- I am persuaded that we don't
9 have to stay at 59 percent. It's a very difficult,
10 slippery slope.

11 I think that -- I do think you can come
12 down from that. But I'm definitely not persuaded we
13 come all the way to 55 percent.

14 CHAIRMAN LYNN: Ms. Minkoff.

15 COMMISSIONER MINKOFF: Mr. Chairman, the
16 only absolute numbers we have are 65 percent, which we
17 know is the bench mark, and 50 and 51 percent, which we
18 know do not meet DOJ standards. And in between those
19 numbers is a gray area. And that is where we are
20 charged with making the decision. The Justice
21 Department will not give us a number they would accept.
22 They just told us -- except 65 percent. We know they'll
23 accept that. We just know what they wouldn't accept.
24 It's our job to come up with a number that we believe
25 creates at least two effective majority-minority

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1 districts. Based on testimony we have from the Hispanic

2 community, I feel comfortable with 55 percent. They
3 feel comfortable with 55 percent.

4 They know the community better than
5 anybody else.

6 Based on input we have that that community
7 of interest will be represented in federal court, is
8 already represented in federal court, I feel comfortable
9 with the 55 percent number.

10 CHAIRMAN LYNN: Mr. Elder.

11 COMMISSIONER ELDER: Mr. Chairman, I think
12 from a position of strategy with the court, that idea,
13 rather than to go to the Court with the argument that
14 the Coalition believes in a low number, DOJ, given the
15 bench mark and goal, and they believe they can elect, to
16 go down to their number is taking a pretty good-size
17 risk. I feel we probably ought to be several points
18 above their number so that we can go in and argue the
19 point on the basis of we've got pretty good testimony
20 here they believe they can elect at this level; DOJ is
21 here. We, based on our responsibility, believe this
22 number here is something that gives the ability that we
23 are charged to manage or enact through our plans, and
24 run with that.

25 I don't agree with 55. I'd like to be at

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1 56, not much more, 56, not 55, two, three percent down
2 from 59, gives an ability to raise numbers in other

3 districts, and go with that.

4 So I guess -- I'm in agreement with the
5 motion we don't go to 59 and say that's where we are,
6 started at, at an arbitrary number to a great extent; go
7 to another arbitrary number.

8 I think 55 is too low.

9 CHAIRMAN LYNN: Thank you, Mr. Elder.

10 It's difficult. It's a difficult choice
11 even without Velcro. With it, it's even harder.

12 The difficulty here is knowing what I'm
13 afraid at this point is unknowable, and what is
14 unknowable is how much is enough. So we have Velcro and
15 Coke Cola going all over our Commission.

16 It is late.

17 I'm going to make this short. I'll make
18 it short.

19 I'm concerned, have the same concerns
20 Mr. Huntwork raised, Mr. Elder raised, about our
21 responsibility with respect to the concerns raised by
22 the Department of Justice.

23 Having said that, I am not at all worried
24 that a case at 55 is substantially different than a case
25 made at 56. I think it is a matter of tea leaves at

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1 this point to know which of those is a more effective
2 number. And I would hope that this motion is designed
3 in such a way as to suggest two things: First, that the
4 Commission, first and foremost, in trying to do its

5 duty, is trying to do it with the utmost regard for all
6 of the input it has received on this issue, not only in
7 the last couple of days but since the beginning of this
8 process and, secondly, that we are willing to listen to
9 that input when it makes sense from the standpoint of
10 solving the immediate problem at hand, which I just want
11 to reiterate is an interim solution with the three-judge
12 panel sitting in the stead of Department of Justice in a
13 position to decide whether or not the moves we have made
14 with respect to our adopted plan are sufficient.

15 My hope would be, and here's the dynamic,
16 the closer we move to the numbers in the Coalition plan,
17 the more likely it might be that the Coalition would see
18 its way clear to support the result, because they have
19 their goals clearly stated in terms of the number of
20 effective districts that they are seeking. The degree
21 to which our numbers are disparate from their numbers, I
22 fear, reduces the opportunity for those agreements to be
23 in place. I would like to be able to achieve both.

24 I am prepared to support this motion.

25 Mr. Hall.

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1 COMMISSIONER HALL: Thank you,
2 Mr. Chairman. And I appreciate that.

3 I think it would be appropriate that, just
4 to remind everyone, that this is merely a motion for our
5 consultants to conduct additional work wherein tomorrow

6 we then will have, in essence, two alternatives that
7 have been prepared by the Commission, the one that we've
8 been looking at for some time and then the one with
9 lower percentages, and then maybe I can explain a little
10 bit the rationale I had in the number I selected, which
11 is absolutely no rationale whatsoever, but I -- I was
12 sensing that, in essence, we are taking approximately a
13 little over nine percentage points from the two
14 districts that are over 59 and utilizing those and
15 spreading those over a third district. And that in my
16 opinion seems to have sufficient ability, if you will,
17 sufficient fuel to utilize surrounding demographics in
18 an effort to make a third district strong enough to
19 where there is legitimate influence.

20 I, like you, concur if in the morning
21 after evaluating -- furthermore, I think what this does,
22 I feel comfortable the lines are a little cleaner than
23 some lines we've seen from the Coalition and have a
24 clear understanding of the motivation of some of those
25 lines. I like you tomorrow will be interested to

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1 determine see what level of support would be available
2 from the Coalition members, because I, like you,
3 Mr. Huntwork, consistently have been concerned about the
4 level of requirement that we have mandated from DOJ.
5 And I am unconvinced any number lower than 59 would be
6 acceptable to Department of Justice without a very
7 strong and probably unanimous support from key leaders

8 in the Hispanic community who could testify to the court
9 that based on their experience in the political system
10 and Hispanic community that those percentages are
11 electable. Shy of that support in a written form
12 tomorrow, I would be unwilling to support the plan that
13 would be the product of the motion that I have put
14 forthcoming. And without that kind of support, then, on
15 the morrow, I recommend we go back to the 59 percent
16 plan.

17 CHAIRMAN LYNN: Further discussion on the
18 motion?

19 Mr. Huntwork.

20 COMMISSIONER HUNTWORK: I'm continually
21 impressed by this process to hear, understand, listen to
22 the evaluation, listen to the public, and your own
23 opinion changes. And I do feel it is important to have
24 some fidelity to what this letter says from the Justice
25 Department.

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1 I don't think we can adopt a motion out of
2 the air and have integrity or credibility. Therefore, I
3 want to focus on one provision of this, discussion of
4 District 29 in Tucson. It says -- it's on page five,
5 right in the middle, majority of proposed 29 population
6 from bench mark District 10 which had a Hispanic voting
7 age population of 55.3 percent, AIRC presenting no
8 credible evidence, we can conclude a drop of eight

9 percentage points, et cetera, will result in the
10 continued ability of voters in proposed District 29 to
11 elect candidates of their choice.

12 Here's a reference in this letter where
13 the Department of Justice appears to have recognized
14 that 55 percent was an electable number. So on the
15 basis of my fellow Commissioners and that provision in
16 the letter from the Department of Justice, I will
17 support this motion.

18 CHAIRMAN LYNN: Further discussion on the
19 motion?

20 If not, all those in favor of the motion,
21 signify by saying "Aye. "

22 COMMISSIONER HALL: "Aye. "

23 COMMISSIONER MINKOFF: "Aye. "

24 COMMISSIONER HUNTWORK: "Aye. "

25 CHAIRMAN LYNN: Chair votes "Aye. "

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1 Opposed say "No. "

2 COMMISSIONER ELDER: "No. "

3 (Motion carries four-one.)

4 CHAIRMAN LYNN: Mr. Johnson, do you feel
5 the instruction is clear and concise with what we're
6 asking you to do?

7 MR. JOHNSON: Yes.

8 CHAIRMAN LYNN: The next issue is timing.

9 I know, Mr. Johnson, that you are
10 accustomed to long hours. And clearly you are a lot

11 younger than most of us, by half, and -- I want to ask a
12 couple of questions. We have some scheduling issues
13 tomorrow which, in the opinion of the Chair, make it
14 difficult for us to convene prior to 10:00 a.m. And I
15 want to be clear about a couple of things.

16 First of all, does a 10:00 a.m. starting
17 time tomorrow, given what counsel needs to be doing
18 tomorrow, present any problem?

19 MR. RIVERA: No, Mr. Chairman. I think
20 that works real well.

21 CHAIRMAN LYNN: Thank you.

22 Mr. Johnson, if we were to set a reconvene
23 time of 10:00 a.m., might we expect not only that the
24 work on these districts would have been completed but
25 that by that time you would have been able to supply us

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1 with a full statistical analysis identical to that
2 presented earlier on the maps we were studying plus the
3 color copies to go with it at 10:00 a.m. tomorrow?

4 MR. JOHNSON: Yes. I'm getting used to
5 sleeping to the sound of the printer going, so that will
6 work.

7 One question, if I may, actually for Jose
8 and Lisa. I know they have a 9:00 a.m. meeting with the
9 Judge. Will they be available at 10:00?

10 CHAIRMAN LYNN: It's a hearing. What
11 we've arranged to do is one of the members of the legal

12 team will attend federal court on our behalf. One will
13 be with us tomorrow morning. I believe the coin has
14 been flipped. Mr. Rivera will be in court.

15 MR. RIVERA: I get court and the Hawaii
16 trip.

17 CHAIRMAN LYNN: So that's been taken care
18 of.

19 Is there any objection to that timing?

20 I will indicate --

21 I know Mr. Kizer is still here. I'm
22 saying this just in terms of spirit of discussion and
23 the motion. If you remember our theme song from this
24 process, Mr. Kizer, it is, in fact: You can't always
25 get what you want but sometimes you get what you need.

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1 We clearly would like to hear from the
2 Coalition tomorrow morning as we look at this map.
3 Because we have a very tight time frame tomorrow,
4 assuming that the court grants some indulgence of a
5 continuation of this process, given we might be able to
6 achieve a meeting of the minds, we're going to be
7 meeting for approximately two hours tomorrow, 10:00 to
8 noon, and that's about all the time we have a quorum
9 available tomorrow. It would be my hope that we could
10 continue the dialogue in an active fashion so as we
11 might achieve some sort of agreement somewhere by the
12 close of that session. And again, I want to state that
13 with Mr. Hall's admonition fully in place about the vote

14 that was taken this evening, which was a procedural vote
15 and need tomorrow to make an informed and final judgment
16 with respect to responding to the court's edict.

17 MR. KIZER: May I respond?

18 CHAIRMAN LYNN: Please.

19 MR. KIZER: Mr. Chairman, Mr. Rivera and I
20 just discussed the motion before you and what that would
21 allow us to say or not say in court tomorrow. It is our
22 consensus that the Coalition is very interested in
23 looking at the 55 percent map. It may be doable,
24 because it's really not very far apart from where we're
25 at. We do ask you to look at one fix, I don't know if

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1 Doug, at the primary precincts, the problem for us is
2 internally, can look at that. But with the motion, we
3 are able to go into court in morning at 9:00 and tell
4 the judges that we are continuing to negotiate in good
5 faith, may have it resolved by noon tomorrow, and we're
6 up until midnight tonight working on it and made
7 substantial progress. That's our feeling about the
8 motion.

9 CHAIRMAN LYNN: Thank you, Mr. Kizer. As
10 always, thank you.

11 Mr. Johnson.

12 MR. JOHNSON: Mr. Chairman, one thought
13 that might help the process in the morning. With the
14 Commission's leave, when I finish whatever I'm working

15 on this evening, if it's all right to e-mail it off to
16 the Coalition contact names I have, and I suppose other
17 parties, if counsel think that's appropriate.

18 CHAIRMAN LYNN: To the extent other
19 parties then see it perhaps in advance of our seeing it,
20 it may cause somebody a problem. This is an open
21 process.

22 I understand the Coalition needs to have
23 an opportunity to adequately respond to what we're
24 doing.

25 I don't mind a bit that they have that

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1 head start understanding that this is a proposed
2 solution and has no more weight at that point than that.

3 Mr. Hall.

4 COMMISSIONER HALL: I agree with that,
5 Mr. Chairman, except I want to insure other parties also
6 would have that same privilege. I don't know if they
7 would like to designate someone, i.e. Mr. Mills or
8 someone --

9 Mr. Mills, do you volunteer for duty?

10 MR. MILLS: I volunteer. I'll get my
11 e-mail address to Mr. Johnson.

12 COMMISSIONER HALL: I suggest,
13 Mr. Chairman, that's equally reasonable.

14 CHAIRMAN LYNN: The other thing is the
15 court proceeding tomorrow. I want make sure our
16 negotiation, substance negotiation, is separated from

17 the process negotiation with the court. That is to say
18 I don't think this proposed map should be a part of the
19 discussion in federal court tomorrow by either side,
20 because it has no standing until the Commission has seen
21 it and, in fact, ultimately would discuss and perhaps
22 take action. I don't -- I don't know how to reconcile
23 those two concepts.

24 MR. RIVERA: Mr. Chair, let me as a lawyer
25 ask, if you can, the problem with releasing this is

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1 there are people in this e-mail process that would
2 not -- have not been present here and not heard the
3 comments in terms of how -- under what conditions we'd
4 have. This is one of those cases I don't think you want
5 to open the door. You don't know who would go out and
6 come back in.

7 I think I feel more comfortable advising
8 this map doesn't get released until the Commission
9 review it to all other parties.

10 CHAIRMAN LYNN: The other point, and it
11 may not be acceptable, if we want comment, Mr. Kizer,
12 I'm happy to hear it. I think if the Coalition can do
13 as we're doing, sort of multi-tasking tomorrow, some
14 attorneys in federal court at 9:00, others, perhaps
15 yourself, perhaps yourself continue to be with us
16 tomorrow morning, I think where we'll be tomorrow at
17 10:00 is exactly on the same footing, that is to say all

18 the input of the Coalition duly made part of the record
19 this afternoon and evening.

20 We've instructed our consultant to respond
21 in general terms to the input that has come into the
22 record and to have -- and to exercise a specific
23 instruction we've given. 10:00 o'clock tomorrow both
24 you and your colleagues and we will see results of that
25 for the first time. My hope would be that we'd continue

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1 to engage in discussion on the result, again, on equal
2 footing until we might be able to arrive at a consensus
3 of opinion.

4 MR. KIZER: 10:00 a.m. is fine for seeing
5 the map.

6 CHAIRMAN LYNN: Thank you, Mr. Kizer.

7 Is there other business to come before the
8 Commission this evening?

9 Mr. Johnson?

10 MR. JOHNSON: Let me clarify one thing.
11 Usually the standard part we talk about, given the hour,
12 my assumption is all past instructions, the goal, aim
13 for the target percentage is while keeping all criteria,
14 priorities, and comments of the Commission in mind.

15 CHAIRMAN LYNN: Thank you for the
16 clarification. As is always the case with instructions,
17 that is the case.

18 Hearing no other business, the Commission
19 will recess until 10:00 o'clock tomorrow morning in this

20 room

21 Thank you all very much.

22 (Whereupon, the hearing recessed at

23 approximately 11:43 p.m.)

24 * * * *

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2 STATE OF ARIZONA)
3 COUNTY OF MARICOPA) ss.

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6 BE IT KNOWN that the foregoing hearing was
7 taken before me, LISA A. NANCE, RPR, CCR, Certified
8 Court Reporter in and for the State of Arizona,
9 Certificate Number 50349; that the proceedings were
10 taken down by me in shorthand and thereafter reduced to
11 typewriting under my direction; that the foregoing 292
12 pages constitute a true and accurate transcript of all
13 proceedings had upon the taking of said hearing, all
14 done to the best of my ability.

15 I FURTHER CERTIFY that I am in no way
16 related to any of the parties hereto, nor am I in any
17 way interested in the outcome hereof.

18 DATED at Phoenix, Arizona, this 23rd day
19 of May, 2002.

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