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August 17, 2020

Katie Hobbs
Secretary of State
Office of the Secretary of State
1700 W Washington St Fl 7
Phoenix AZ 85007-2808
khobbs@azsos.gov

Via Electronic Mail and U.S. Mail

Re: Vote By Mail Ballots on Navajo Nation

Dear Secretary Hobbs:

This memorandum is provided in response to your public announcement that Voting By Mail (“VBM”) Ballots will only be counted if they are received by 7:00 p.m. on Election Day, November 3, 2020 (“Election Day”). See <https://azsos.gov/votebymail>.

We are requesting that all VBM ballots postmarked or with encoded date information on or before Election Day and received by County election officials by close of business on the 10th day after the election **for the 2020 general election and each and every federal and state primary and general election thereafter** from our Navajo Nation Tribal Member clients and similarly situated Tribal Members for the following reasons:

1. Navajo Nation Tribal Members living on-Reservation in Arizona (“Tribal Members”) have fewer days to cast their ballot if they VBM in comparison to non-Indian voters who utilize the VBM ballot due to slower postal service when compared to affluent areas like Scottsdale, Arizona.

2. Preliminary data from a recent study by Four Directions, Inc. demonstrates that first class mail sent from Pinon, AZ requires 6 days to arrive at the Navajo County Recorder’s Office in Holbrook, AZ; that certified first class mail sent from Teec Nos Pos requires 5 days to arrive at the Apache County Recorder’s Office in St. Johns, AZ; while certified mail sent from Scottsdale, AZ requires only 1 day to arrive at the Maricopa County Recorder’s Office in Phoenix, AZ. The preliminary data shows that the certified mail sent from Teec Nos Pos, AZ traveled from Teec Nos Pos to Albuquerque, NM to Flagstaff, AZ to Phoenix, AZ to St. Johns,

AZ, a total distance of 917 miles – one way. Given that the ballot must be first mailed to the voter, the round-trip distance that the mailed ballot must travel is 1,833 miles. For comparison purposes, the distance from Scottsdale, AZ to Jackson Hole, WY is 916 miles and the distance from Washington, DC to Disney World (Orlando, Florida) is 847 miles. Preliminary data from Four Directions, Inc.'s study is attached as Exhibit 1.

3. A novel coronavirus has killed more than 163,000 Americans and continues to spread throughout the country. Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/us-cases-deaths.html>.

4. Other states across the country have seen the increase in absentee balloting due to COVID19 stretch the capacity of their election officials and the U.S. Postal Service. See Michelle Ye Hee Lee and Jacob Bogage, Postal Service Backlog Sparks Worries that Ballot Delivery Could be Delayed in November, Wash. Post, (July 30, 2020), https://www.washingtonpost.com/politics/postal-service-backlog-sparks-worries-that-ballotdelivery-could-be-delayed-in-november/2020/07/30/cb19f1f4-d1d0-11ea-8d32-1ebf4e9d8e0d_story.html.

5. Tribal Members living on the Arizona portion of the Navajo Nation have more restrictive access to VBM than other non-Indian voters in Arizona.

6. VBM is not a simple or easy task for Tribal Members. In addition to general barriers impeding voting access, VBM adds additional barriers which include lack of home mail delivery, the need for language translation, lack of access to public transportation and lack of access to any vehicle at all, impede VBM. In general, VBM does not have the accessibility for Tribal Members living in tribal communities as it does for voters in urban and suburban areas, especially wealthy suburban areas such as Scottsdale, Arizona.

7. The requirement of VBM ballots to be received – rather than postmarked – on or before Election day, leads to the disenfranchisement of Tribal Members when their overdue ballots are rejected.

8. Our Tribal Member clients and other similarly situated Tribal Members are a protected class of voters under the Voting Rights Act.

The remedy is simple – your Office should compel county election officials to compile all VBM ballots postmarked - or with date information encoded - by or before Election Day and count these postmarked ballots if received within ten (10) days of the 2020 general election (which is November 13, 2020) and for each and every state and federal primary and general election thereafter.

Please provide your response by 1:00 p.m Pacific Daylight Time, August 19, 2020 to me via email at Mcclurechris@gmail.com or litigation will be initiated.

Please contact me at 605-496-9858 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris McClure", written over a horizontal line.

Chris McClure

Attorney for:

Darlene Yazzie, Caroline Begay, Irene Roy, Donna Williams, Leslie Begay, and Alfred McRoye