

# **EXHIBIT 8 – PART A**

September 28, 2005

Mr. John Tanner  
Chief, Voting Section  
Civil Rights Division  
Room 7254-NWB  
Department of Justice  
1800 G Street, NW  
Washington DC 20006

**RE: Submission under Section 5 of the National Voting Rights Act by the Secretary of State of Arizona, Number 2005-2943, Concerning Polling Place Identification Procedures and Procedure for Provisional Ballots**

Dear Mr. Tanner:

I am the elected County Recorder of Coconino County, Arizona. I urge you to deny preclearance for the polling place identification procedures and procedures for provisional ballots submitted by Arizona Secretary of State Janice Brewer through the Arizona Attorney General Terry Goddard.

The reasons for my objection are that Secretary Brewer's procedures will effectively disenfranchise a significant number of minority language voters within Coconino County.

Provisional Ballots

The procedures for counting provisional ballots will result in casting off the votes of persons who did not or could not bring the requisite forms of identification to the polls on voting day. The procedures allow these persons to vote a provisional ballot but in order for that ballot to be counted, the voter must present to the county recorder one of the acceptable forms of identification by 5:00 p.m. on the Friday following the election date. This "conditional provisional" balloting procedure presents unique problems for Coconino County.

Coconino County is the second largest county in the United States, with 18,661 square miles of land. Within its borders are Grand Canyon National Park and many square miles of public lands and Indian Reservations. Only six percent of the land in Coconino County is privately held. Five Indian Reservations comprise 46 percent of the land in Coconino County. Residents of these five Reservations are minority language speakers and live in widely dispersed small communities. Nearly 30% of the County's residents are Native American.

Travel from the outlying areas of Coconino County to the County seat in Flagstaff is difficult, if not impossible, for most of the year. Despite Arizona's reputation as a desert state, rain and snow

especially during the November elections can prevent travel across the mostly unimproved sandy/clay roads on the Navajo and Hopi Reservations in the northeast quadrant of the county. I have included as Exhibits A, B, and C several news articles about weather-related emergencies that have resulted in road closures. The Navajo community of Leupp is located in Coconino County. To better illustrate the nature of the landscape, and the lack of paved roads in most of Coconino County, please refer to the attached map of Indian Country included as Exhibit D. The green dots depict the polling places located on the Indian Reservations in Coconino County.

The Navajo Mountain polling place is located in the northeast corner of the county, 99 miles from Tuba City, the closest community by passable road to a county office. Tuba City is located approximately 70 miles from Flagstaff. Conceivably, the county board of supervisors could post an elections official in Tuba City from election day on Tuesday through 5 p.m. of the following Friday to receive identification. Even so, Navajo Mountain area residents who voted provisionally and who must present the required identification in Tuba City would have to travel 200 miles round trip just to make their vote count. Some Reservation residents, especially the elderly, retain traditional lifestyles and do not own vehicles. For them, the right to vote and to have their vote counted will be denied.

Photographs of the Navajo Mountain polling place and the road to the Navajo Mountain Chapter House are included in Exhibits E and F. Exhibit G depicts the rugged and impassable terrain of the Hopi and Navajo Indian Reservations. While no residences are visible in these photographs, traditional hogans (Exhibit H) are scattered throughout this wide expanse of desert.

Another minority language group that will be disenfranchised by Secretary Brewer's "conditional provisional" voting procedures is the Havasupai Tribe. The Havasu 'Baaja reside in the small community of Supai near the Colorado River and adjacent to Grand Canyon National Park in the western part of Coconino County. The community is accessible only by foot or mule on an eight-mile trail (shown in Exhibit I), or by helicopter. To reach the trailhead or helicopter pad, one must drive 68 miles from a paved state highway on Indian Road 18 to Hilltop, on the rim above the canyon. Total travel time from the county seat in Flagstaff to Hilltop is 3-4 hours. Coconino County maintains a polling place in Supai for every county, state, and national election. While the County routinely equips the polling place with the latest voting machines which can send the results via telephone modem to the county seat, the telephone lines do not work most of the time. In fact, we have never successfully transmitted voting results electronically from Supai. As a result, a county official brings out the vote in a backpack, as told in the news article from the Arizona Daily Sun dated February 8, 2004 (Exhibit J). Again, for Havasupai voters to make this kind of journey just to have their provisional ballot counted is tantamount to disenfranchisement.

The Navajo Mountain community and the Supai community are just two examples of minority language groups who will bear an undue burden if Secretary Brewer's "conditional provisional" voting procedures are approved.

In Coconino County, I am acutely aware of the cultural traditions of the tribal residents. During my 13 years as Coconino County Recorder, I have devoted a great deal of effort to reaching each and every voter in Coconino County, especially those on the Indian Reservations. I have observed that tribal residents will make the journey to their polling place on election day, rather than vote by mail. Voter participation at the polling places from Reservation precincts is typically much higher than for non-Reservation precincts (see Exhibit K). Like a pilgrimage, exercising the right to vote must be done in person not by mail. Moreover, these minority language groups—the Navajo, Hopi and Havasupai—prefer to communicate verbally rather than by the written word, which is a relatively recent

European adaptation of their language. In fact, Coconino County is required by the Department of Justice to provide interpreters at the polls to explain the ballots at Navajo polling places because a significant portion of Navajo voters do not communicate in English, either verbally or in writing. As a consequence, voting by mail is not a realistic alternative for minority language groups in our county.

I call to your attention the Arizona statute for provisional ballots that is already in place. A copy of A.R.S. 16-584 is attached as Exhibit L. Subsection (E) describes the circumstances where a provisional ballot must be counted. To summarize, when a provisional ballot is received, it is verified by the county recorder for proper registration. In other words, if the voter's ballot signature and information are the same as that in the voter registration records maintained by the county recorder, the provisional ballot is counted. The process that is in place does not require a voter to present additional identification in order to have his or her vote counted.

#### Polling Place Identification Procedures

The procedures submitted by Secretary Brewer for your consideration are an attempt to implement the provisions of Proposition 200 an initiative approved by Arizona voters on November 2, 2004. While Proposition 200 requires that every qualified voter present "one form of identification that bears the name, address and photograph of the elector or two different forms of identification that bear the name and address of the elector," the law does not provide of list of what types of identification are acceptable. Secretary Brewer has made up a list. That list is not practicable and is likely to prevent voters, particularly minority language groups, from voting at the polls.

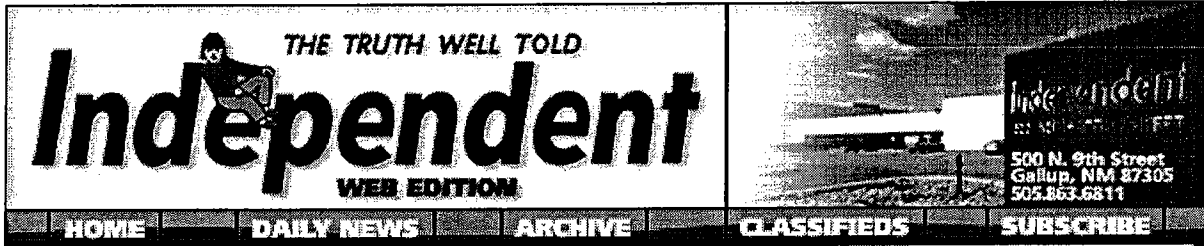
As explained above, this limited list of identification forms imposes a particular burden on residents of Indian Reservations. The Navajo Nation, for example, does not issue tribal identification cards. The Havasupai Tribe issues cards, but some have them, some do not. Tribal enrollment is typically evidenced by a single sheet of paper outlining the family lineage. Not all reservation residents have Arizona driver's licenses or even nonoperating licenses. Other forms of identification without photographs are not common. For example, traditional Navajos residing in hogans do not receive utility bills. Instead they burn wood for heat and kerosene lamps for light. Residents on a reservation do not pay property taxes and do not receive tax bills. Banks are not commonly used by traditional Reservation residents. For example, the Havasupai Tribe has its own cashier and there is no bank located in Supai. More importantly, an "address" on a reservation is not specifically described by a street number, rural route number, lot and block, or metes and bounds. Voter registration addresses typically describe the location of a residence by distances from landmarks such as highway intersections or trading posts. Addresses on other types of records may be in a different format, making comparison difficult if not impossible.

For these reasons, I urge you to deny preclearance of Arizona Secretary of State's polling place identification and "conditional provisional" voting procedures. Please contact me if you have any questions about these reasons.

Sincerely,

Candace Owens  
Coconino County Recorder

# EXHIBIT A



## Reservation state of emergency

Snow, rain, mud wreak havoc

By Jim Maniaci  
Diné Bureau

WINDOW ROCK — Pummeled by snow storms, and rain storms in recent weeks, the Navajo Nation has declared a state of emergency joining its three Arizona counties and the state's governor in issuing similar declarations.

With the declarations, each of the five governments can marshal all its workers, their equipment and supplies for life-saving and disaster relief, offering assistance to the others in a humongous mutual aid program.

President Joe Shirley Jr. signed the declaration issued Friday afternoon by the five-member Emergency Management Commission when he returned from a flight to Tuba City for the Western Agency's inaugurations of chapter level officials for their four-year terms.

Division directors were scheduled to meet late Friday afternoon to receive their assignments which workers, equipment and buildings will be used, especially in the Dilkon and Chinle police precincts which bore the brunt of the end-of-the-year flooding when rains melted snow causing sticky mud.

Emergency management workers also have set up a command post in the Public Safety Division headquarters in Window Rock.

Hardest hit last week were the Bird Springs and Leupp Chapters in the southwest corner of the reservation and the Tachee-Blue Gap Chapter southwest of Chinle.

### Officials worried

With the series of storms continuing to roll over the countryside with only a day or two between each blast, tribal, county, state and federal officials are worried that the repeated hammering of the environment will result in

## Weekend

January 8, 2005

Selected Stories:

[Kristy's Coffee Shop closes after 40 years](#)

[Reservation state of emergency: Snow, rain, mud wreak havoc](#)

[Zuni band trying to raise funds to perform at inaugural](#)

[Some charges dropped in Borst rape case](#)

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the loss of life none as of Friday afternoon. Assessments of the damages have yet to be made because they would not give true cost estimates until the storms are finished ravaging the land and its people.

The declaration, which will remain in effect until the commission cancels it, says "The Navajo Nation has suffered hardship due to heavy rain-snow and snow melt conditions, causing extensive damage and immediate threat to lives; numerous roads have been closed and are impassable, causing hardship to stranded motorist(s) and resident(s); there is insufficient and inadequate vehicles for gaining access; low level of available food supplies, medical supplies and other life-supporting supplies, and numerous requests are coming in for emergency assistance, including feed for livestock."

Schools, including Head Starts, and senior citizens programs, as well as transportation services to the groups also have been hampered, the declaration adds.

Most impacted, the declaration says, are the people in remote and isolated areas blocking "private access roads to their homes, which prevents them from (having) access to medical services, food, water and other basic necessities to maintain their lives."

The tribe's declaration also thanks all the agencies "who are providing their assistance with the current state of emergency."

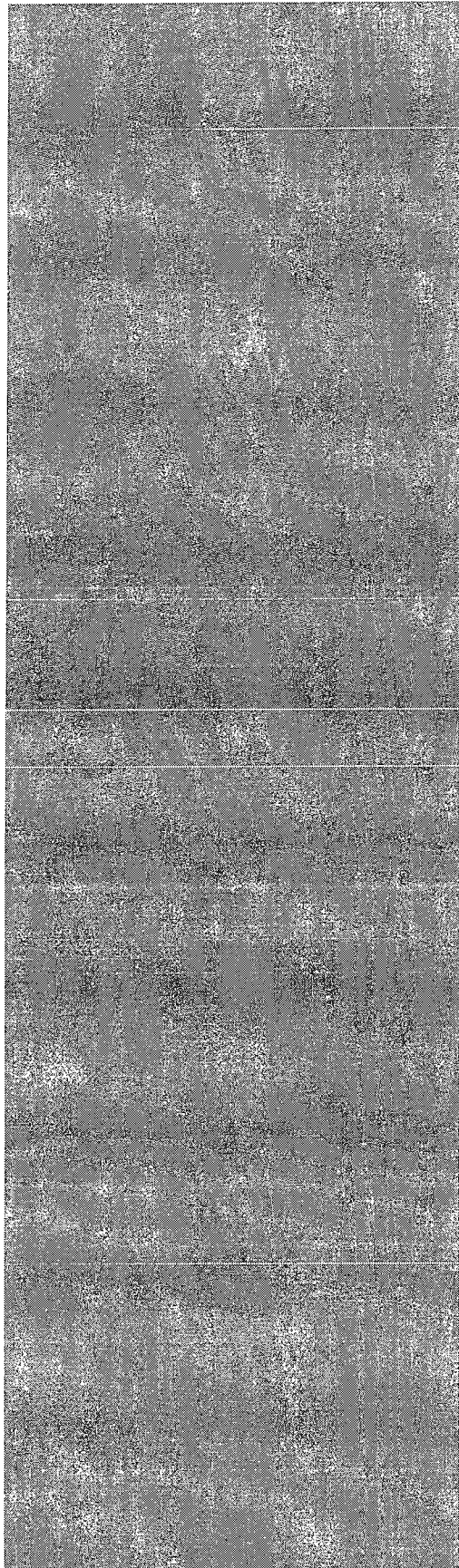
Captain Randy John, Law Enforcement Department acting chief, sent orders Wednesday to all seven precinct commanders to assess the situations in their districts. Dilkon and Chinle were most affected. He also said Friday that there is a standard operation procedure (SOP) for each district to have five officers on stand-by status for temporary duty, if needed.

**Saving reserves**

"We are not committing our reserves until needed because once activated we don't know how long we will need to keep them in the field," he explained.

This would provide about a dozen extra officers each to the Dilkon and Chinle patrol regions, if needed, provided the Tuba City and Kayenta police districts remain in relatively good condition.

Lt. Ronnie Wauneka, the department's highest-ranking woman officer who is Dilkon's commander and a former number two in the neighboring Chinle precinct, submitted detailed reports of the events which began the night of



Dec. 28.

The new bridge on BIA Navajo Region Route 71 over the Little Colorado River, despite rumors to the contrary, still stands. She said it was not usable part of the time because of the muddy road. And Route 2 on the south side of the river was washed out about 2-3 miles north of the junction of 2 and 71 at a location known as "Dead Man's Curve."

Another main worry was that a half-dozen large pipe culverts on Route 6830, which is part of the same network, would be plugged with sand. But, she said, the BIA Roads Department kept the debris cleared out enough to save the crossing in the sandy and fairly level area.

Wauneka also said the river rose up to 15 feet, then subsided.

**Families evacuated**

In all, 7 of 17 families being monitored had to be evacuated. Those who remained or returned were receiving visits early in the morning, while the ground was still solid. The Community Health Representatives, the popularly "CHRs," received the highest of praise from both Wauneka and John.

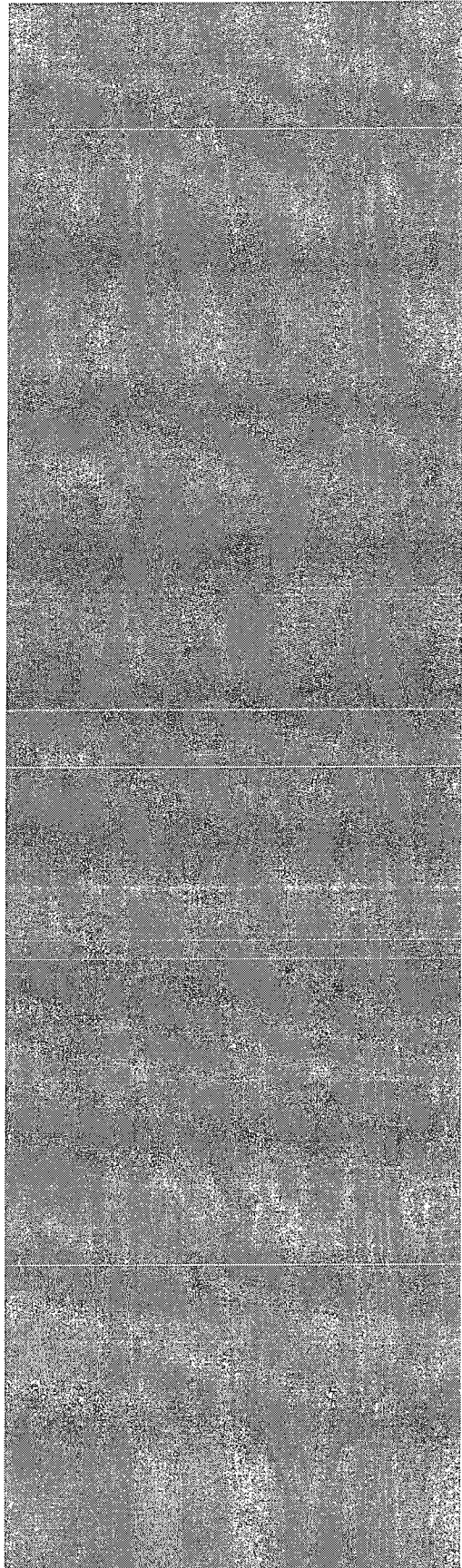
Sergeant Dean Hadley of the Chinle precinct said calls for assistance have been coming in the past two days, with the road to Blue Gap open but impassable due to heavy mud flows.

Hadley said assessments gathered Friday morning were to be evaluated by 5 p.m.

"As calls come in, we're sending somebody out to make an assessment of what's at the highest risk, including livestock," he said. Officers remain on 8-hour shifts, he added.

Johnny Johnson, the Emergency Management Department's acting manager, said people should telephone or contact their police station, which will relay requests to the emergency operations center, if more than local resources are needed.

In her report, Wauneka noted the Leupp Chapter's emergency response team's performance, with assistance of everyone in the community, such as the schools and local store, along with help from the Coconino and Navajo County Sheriff's Offices, Police Chief Steven Garnett and staff of the Winslow Police



Department, and the Arizona Transportation Department.

She also has a detailed matrix list of the families in the most flood-prone areas, with 11 at home totaling 40 people. Six families were staying (usually with relatives) in Winslow, Flagstaff and Phoenix. Almost all of the 11 are listed as needing food, about half needing wood for heating and cooking, and two needing water. The list also includes if they have a vehicle (and what type), telephone and electricity.

Only two have livestock, according to her list.

— To contact reporter Jim Maniaci, telephone (505) 371-5443.

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