

<p>SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue, 4th Floor Denver, Colorado 80203</p>	
<p>Original Proceeding Pursuant to Art. V, § 44.5 of the Colorado Constitution</p>	
<p>In re Colorado Independent Congressional Redistricting Commission</p>	<p>▲ COURT USE ONLY ▲</p>
<p><i>Attorneys for Colorado Independent Congressional Redistricting Commission:</i></p> <p>Name: Frederick R. Yarger (#39479) Meghan Frei Berglind (#35574) Wheeler Trigg O'Donnell LLP</p> <p>Address: 370 Seventeenth Street, Suite 4500 Denver, CO 80202-5647</p> <p>Telephone: 303.244.1800</p> <p>E-mail: yarger@wtotrial.com berglind@wtotrial.com</p> <p>Name: Jerome A. DeHerrera (#35893) Achieve Law Group LLC</p> <p>Address: 146 West 11th Avenue Denver, CO 80204</p> <p>Telephone: 303.465.1000</p> <p>E-mail: jdh@achievelawgroup.com</p> <p>Name: Misha Tseytlin (<i>pro hac vice</i> to be filed) Troutman Pepper</p> <p>Address: 227 W. Monroe Street, Suite 3900 Chicago, IL 60606</p> <p>Telephone: 312.759.1920</p> <p>E-mail: misha.tseytlin@troutman.com</p> <p>Name: Jeremiah B. Barry (#10400) Colorado Independent Redistricting Commissions Staff</p> <p>Address: 1580 Logan Street, Suite 430 Denver, Colorado 80203</p> <p>Telephone: (303) 866-4341</p> <p>E-mail: jerry.barry@state.co.us</p>	<p>Case No. 2021SA208</p>
<p>FINAL CONGRESSIONAL REDISTRICTING PLAN</p>	

Pursuant to Section 44.5 of Article V of the Colorado Constitution, the Colorado Independent Congressional Redistricting Commission (the Commission) submits its Final Plan dividing the state of Colorado into congressional districts. Maps showing the Final Plan’s division of the state as well as the boundaries of each individual district are attached as Exhibit A. An interactive map is also available at <https://tinyurl.com/cx7pp8cu>.

THE COMMISSION AND ITS WORK

A. Commission composition

The Commission is made up of 12 members: four Democrats, four Republicans, and four unaffiliated voters. Information about the Commissioners and their selection is attached as Exhibit B.

B. Commission meetings

Since the Commission convened on March 15, 2021, it has held 50 meetings. Subcommittees of the Commission—including the Map Analytics, Public Comment, and Public Hearing Schedule subcommittees—have also met regularly. Summaries of Commission meetings are available on the Commission’s website at

<https://tinyurl.com/2ya6yd4f>. Because of the pandemic, Commission meetings were held over the State of Colorado's Zoom platform. Audio of those meetings is available in the Commission's audio archive, available at <https://tinyurl.com/3vzrjwe7>.

C. Commission public hearings and public comments

The Commission held 40 public hearings in locations across the state, with multiple hearings in each existing Congressional district. At least one meeting was held in each Congressional district after final data was released by the U.S. Census Bureau. Members of the public were invited to attend those hearings, either in person or virtually, and give testimony. As few as two and as many as 74 individuals testified at each hearing. Hearing summaries and audio are available at the same links as the meeting summaries and audio. A schedule of all Commission meetings and hearings is attached as Exhibit C.

Members of the public were also invited to submit public comments and proposed redistricting maps through the Commission's website. <https://tinyurl.com/2u33u975>. In response, the Commission received and considered over 5,000 public comments and 170 proposed

maps. Those public comments are available at <https://tinyurl.com/3x6kuuma>. Attachments to those comments, including proposed maps, as well as public comments submitted by e-mail are at <https://tinyurl.com/bmtjv8ty>.

D. Plans Prepared for the Commission by Non-Partisan Staff

The Commission's Non-Partisan Staff has assisted the Commission by, among other things, creating plans for the Commission's consideration. First, on June 23, Staff prepared and released a Preliminary Plan, which was based on preliminary data because of delays in the 2020 Decennial Census caused by the pandemic. *See In re Interrogatories on S.B. 21-247*, 2021 CO 37, ¶¶36–39 (agreeing that the preliminary plan could be prepared before final redistricting-level census data was released). The Preliminary Plan and supporting materials are available at <https://tinyurl.com/svubhry7>.

Final redistricting-level census data was released on August 12. After processing that data, Non-Partisan Staff released the First Staff Plan on September 3. That plan and supporting materials are available at <https://tinyurl.com/hrkwr2h>. A Second Staff Plan was released

September 15. That plan and supporting materials are available at <https://tinyurl.com/6bt7pdd9>. A Third Staff Plan was released September 23, 2021. That plan and supporting materials are available at <https://tinyurl.com/nxjkth28>.

Along with preparing the preliminary and three staff plans, Non-Partisan Staff also prepared seven more plans at the request of Commissioners. Also at the Commissioners' requests, Staff prepared three amendments to the Second Staff Plan and five amendments to the Third Staff Plan. Those Commissioner-requested plans and amendments can be found at <https://tinyurl.com/jtkx8xdz>.

E. Approval of the Final Plan

On September 28, 2021, the Commission voted 11 to 1 to approve the Coleman Amendment to the Third Staff Plan. All four unaffiliated Commissioners voted for this plan, three of the Commission's four Democrats voted for the plan, and all four Republicans voted for the plan. That plan is the Final Plan the Commission has adopted for submission to this Court for judicial review.

After their votes, the Commissioners made statements explaining reasons for their votes. Transcripts of those statements are attached as Exhibit D.

THE FINAL PLAN

I. District descriptions

Colorado was apportioned a new, eighth congressional seat after the 2020 Decennial Census. Accordingly, the Final Plan divides Colorado into eight contiguous districts. *See* Colo. Const. Art. V, § 44.3(1)(a). The districts encompass these areas:

District 1: Congressional District 1 is composed entirely of the area within the boundaries of the City and County of Denver, including the enclaves of Glendale and Holly Hills and several blocks of Jefferson County in southwest Denver with no population. The population of Denver is 715,522. The population of the enclaves of Arapahoe County completely surrounded by Denver add an additional 7,348 for a total population within the boundaries of Denver of 722,870 or 1,156 over the ideal district size of 721,714. Accordingly, the population of Denver from the neighborhoods of Virginia Village and Indian Creek in far eastern

Denver is included in Congressional District 6, which includes areas on the border between eastern Denver and Arapahoe County, rather than in Congressional District 1.

District 2: Congressional District 2 is in the north central part of Colorado. It includes the whole mountainous counties of Clear Creek, Gilpin, Grand, Jackson, Routt, and Summit. It includes the portion of Eagle County not in Congressional District 3. It includes all of the population of Boulder County and extends into Weld County to keep the population of the cities of Erie, Longmont, and Timnath whole. The district includes a small portion of northwestern Jefferson County to make the community of Coal Creek whole. It includes nearly all of Larimer County, including all of the population of the city of Fort Collins, but excluding the cities of Loveland and Wellington and areas surrounding those cities. The population is equalized along the borders between Congressional District 2 and Congressional Districts 4 and 8.

District 3: Congressional District 3 is a western and southern district consisting of the following 26 whole counties: Alamosa, Archuleta, Conejos, Costilla, Delta, Dolores, Garfield, Gunnison,

Hinsdale, Huerfano, La Plata, Las Animas, Mesa, Mineral, Moffat, Montezuma, Montrose, Otero, Ouray, Pitkin, Pueblo, Rio Blanco, Rio Grande, Saguache, San Juan, and San Miguel. In order to keep the Roaring Fork Valley whole, it also includes a portion of Eagle County that includes all of the towns of Basalt and El Jebel. The population is equalized by including an additional portion of Eagle County up to Interstate 70 and east, excluding the Towns of Gypsum and Eagle.

District 4: Congressional District 4 is largely an eastern plains district consisting of the following 15 whole counties: Baca, Bent, Cheyenne, Crowley, Elbert, Kiowa, Kit Carson, Lincoln, Logan, Morgan, Phillips, Prowers, Sedgwick, Washington, and Yuma. It also includes most of the population of Douglas County, except for the portion of the City of Aurora that extends into that county; the eastern portion of El Paso County not in Congressional District 5; the eastern portion of Arapahoe County not in Congressional District 6; and the eastern portion of Adams County not in Congressional District 6 or 8. It includes much of Weld County not in Congressional District 8. It extends into the portions of Larimer County not in Congressional

District 2, primarily the cities of Loveland and Wellington and surrounding areas, and the portion of the town of Windsor in Larimer County. The inclusion of portions of Larimer County equalizes the population of Congressional District 4 with other districts.

District 5: Congressional District 5 is composed of nearly all of El Paso County, including all of Colorado Springs. The area of the Town of Green Mountain Falls in El Paso County is included in Congressional District 7 rather than Congressional District 5 to keep that town whole. The population of El Paso County is 730,395, or 8,681 over the ideal district size. To equalize the population, the eastern portion of El Paso County was moved into Congressional District 4.

District 6: Congressional District 6 consists of western Arapahoe County, including all of the cities of Centennial, Littleton, and Sheridan. It also includes parts of Jefferson County, including the Columbine and Ken Caryl census-designated areas and the portions of the Town of Bow Mar and the City of Littleton that lie in Jefferson County. It includes nearly all of the City of Aurora, including the portions in Adams and Arapahoe Counties. Congressional District 6's

border with Congressional District 4 in Arapahoe County was drawn to equalize the district's population with other districts.

District 7: Congressional District 7 is a Front Range district consisting of the whole counties of Chaffee, Custer, Fremont, Lake, Park, and Teller, plus all of the City and County of Broomfield. It includes nearly all of Jefferson County except for the portion near Coal Creek in District 2, and the Town of Bow Mar and portions of Columbine, Littleton, and Ken Caryl in Congressional District 6. Congressional District 7's border with Congressional District 6 was drawn to equalize the district's population with other districts.

District 8: Congressional District 8 consists of the western portion of Adams County, including all of the cities of Brighton, Commerce City, Northglenn, and Thornton. The district also includes most of the portions of Arvada and Westminster in Adams County. It covers portions of Weld County, including all of the City of Greeley and the Town of Windsor. It includes cities in southern Weld County, including all of Firestone, Frederick, and Mead. It includes cities crossing the border between Boulder, Larimer, and Weld Counties,

including all of Berthoud and Johnstown. Congressional District 8's border with Congressional District 4 was drawn to equalize the district's population with other districts.

II. Constitutional requirements

A. Population equality and demographics

The populations of the districts in the Final Plan are as mathematically equal as possible, with a difference among districts of only one person. *Id.* § 44.3(1)(a). Six of the districts have a population of 721,714 people, and two have a population of 721,715. A Population Summary report that shows this population equality is attached as Exhibit E. That report also provides the ethnic and racial composition of each district, listing the number of individuals who identified as Hispanic and non-Hispanic and breaking down the non-Hispanic population further based on racial identification.

B. Compliance with the Voting Rights Act

The final plan complies with the federal Voting Rights Act, 52 U.S.C. § 10301 (the VRA). *See* Colo. Const. Art. V, § 44.3(1)(b). The Commission's non-partisan staff considered whether Section 2 of the

VRA requires creation of a majority-minority district or districts. Staff concluded there is not a sufficiently large and geographically compact voting-age minority population to create a majority-minority congressional district that complies with the other requirements of Section 2 of the VRA, as interpreted by the United States Supreme Court. The Commission did not receive any public comments that suggested otherwise.

C. Preservation of communities of interest

Through the public hearing and comment process, the Commission gathered information about communities of interest throughout the state and has sought to keep key communities of interest, as defined in Amendment Y, as intact as reasonably possible. *Id.* §§ 44.3(2)(a). The Commissioners gathered information about communities of interest at over 40 public hearings and from more than 5,000 public comments. That public input described many different communities of interest around the state. While it was impossible to keep all of those communities intact, this public input informed the

Commissioner's decisions and played a central role in the creation and approval of the final plan.

D. Preservation of political subdivisions

The Commission and Non-Partisan Staff preserved whole political subdivisions as much as reasonably possible. *Id.* §44.3(2)(a). When it was necessary to divide a whole political subdivision to maintain equal population between districts, the Commission kept key communities of interest together in the same district as much as reasonably possible. Of the 64 counties in Colorado, only eleven are split, and these splits are necessary to comply with other redistricting criteria. A report describing the county splits is attached as Exhibit F.

The Commission also preserved whole cities and towns as much as reasonably possible. If municipalities are on the border of two counties, they have either been kept whole in a single district or split at the county line. A report describing the city splits is attached as Exhibit G.

E. Compactness

The Commission and Non-Partisan staff kept the districts as compact as reasonably possible while also accounting for the other

constitutional factors. *Id.* § 44.3(b)(2). A report on compactness is attached as Exhibit H. This report shows the area and perimeter of each district along with the districts' ratings on five different compactness scales. On the Reock, Area/Convex Hull, and Polsby Popper scales, districts become more compact as scores approach 1.0. On the Grofman and Schwartzberg scales, districts with lower scores are more compact.

F. Political competitiveness

As required by Article V, Section 44.3(3)(c), Non-Partisan Staff has prepared an analysis of the political competitiveness of the districts in the Final Plan. That report, which includes tables addressing the partisan composition of districts and past election results of each district, is attached as Exhibit I. After considering other mandatory constitutional factors, the Commission maximized the number of politically competitive districts to the extent possible. *Id.* §44.3(3)(a).

G. No protection of incumbents or candidates

The Commission and the Non-Partisan Staff affirms that the Final Plan was not drawn for the purpose of protecting any incumbent

members of the House of Representatives, any declared candidates, or any political parties. *Id.* § 44.3(4)(a).

H. No denial or abridgement of the right to vote on account of race or membership in a language minority group

The Final Plan was not drawn for the purpose of, and does not result in, the denial or abridgement of the right of any citizen to vote on account of that person's race or membership in a language minority group, including diluting the impact of that racial or language minority group's electoral influence. *Id.* § 44.3(4)(b).

SCHEDULE FOR JUDICIAL REVIEW

The Commission initiated this proceeding by filing a petition for judicial review and request to establish a briefing schedule on July 13, 2021. In response, this Court issued a July 26, 2021 Order that set a deadline for "all interested parties" to file briefs seven days after the Commission submits its final plan to this Court, but in no event later than October 8, 2021. The Court also scheduled oral argument for 1:00 pm on October 12. In accordance with the Court's July 26, 2021 order,

the Commission will file a brief in support of the Final Plan by noon on October 8 and will present oral argument on October 12.

REQUEST FOR RELIEF

The Commission requests that the Court, after reviewing this filing and all attachments, as well as the briefs that will be submitted in support of the Final Plan, conclude that the Commission complied with federal constitutional and statutory law in drawing the Final Plan; conclude that the Commission did not abuse its discretion in applying the criteria listed in section 44.3 of article V of the Constitution; approve the Final Plan; and order it to be filed with the Secretary of State.

Dated: October 1, 2021

Respectfully submitted,

s/ Frederick R. Yarger

Frederick R. Yarger
Meghan Frei Berglind
Wheeler Trigg O'Donnell LLP

Jerome A. DeHerrera
Achieve Law Group LLC

Misha Tseytlin (*pro hac vice*
application to be filed)
Troutman Pepper

Jeremiah B. Barry
Colorado Independent Redistricting
Commissions Staff

*Attorneys for the Colorado
Independent Congressional
Redistricting Commission*

CERTIFICATE OF SERVICE

I certify that on October 1, 2021, a true and correct copy of **FINAL CONGRESSIONAL REDISTRICTING PLAN** was filed with the Court via Colorado Courts E-Filing System, with e-service to the following:

LeeAnn Morrill	()	First Class Mail
Grant T. Sullivan	()	Hand Delivery
Peter G. Baumann	()	Facsimile
Ralph L. Carr Colorado Judicial Center	()	Overnight Delivery
1300 Broadway, 6th Floor	(X)	Colorado Courts E-Filing
Denver, CO 80203	()	E-mail
Leeann.morrill@coag.gov		
Grant.sullivan@coag.gov		
Peter.baumann@coag.gov		
Attorneys for the Colorado Secretary of State		
Richard C. Kaufman	()	First Class Mail
Law Office of Richard C. Kaufman PC, Inc.	()	Hand Delivery
6464 S. Newport Court	()	Facsimile
Centennial, CO 80111	()	Overnight Delivery
rkaufmanco@gmail.com	(X)	Colorado Courts E-Filing
Attorneys for the Colorado Independent Legislative Redistricting Commission	()	E-mail
Timothy R. Odil	()	First Class Mail
Peters Schulte Odil & Wallshein LLC	()	Hand Delivery
6125 Sky Pond Drive, Suite 250	()	Facsimile
Loveland, CO 80538	()	Overnight Delivery
todil@noco.law	(X)	Colorado Courts E-Filing
Attorneys for the Colorado Independent Legislative Redistricting Commission	()	E-mail

Mark G. Grueskin
Recht Kornfeld, P.C.
1600 Stout St., Ste. 1400
Denver, CO 80202
mark@rklawpc.com
Attorney for Fair Lines Colorado

- First Class Mail
- Hand Delivery
- Facsimile
- Overnight Delivery
- Colorado Courts E-Filing
- E-mail

s/ Trisha Miller
