UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

ROGELIO MONTES and MATEO ARTEAGA,
 	
          Plaintiffs,
 	
vs.
 	
CITY OF YAKIMA, MICAH CAWLEY, in his official capacity as Mayor of Yakima, and MAUREEN ADKISON, SARA BRISTOL, KATHY COFFEY, RICK ENSEY, DAVE ETTL, and BILL LOVER, in their official capacity as members of the Yakima City Council,
 	
          Defendants.
	NO. CV-12-3108-TOR
	
	DECLARATION OF PETER MORRISON, Ph.D. IN SUPPORT OF DEFENDANTS' PROPOSED REMEDIAL PLAN

1.   I have been retained as an expert by the City of Yakima, Washington. My qualifications and experience are set forth in my reports previously submitted in this case.

DESCRIPTION OF PLANS

2.   Table 1 provides an overview comparison of the remedial plan that Defendants and Plaintiffs have proposed. Tables 2 and 3 present each plan's detailed summary statistics. Defendants' plan is attached to my declaration as **Appendix A.** Plaintiffs' plan is attached to my declaration as **Appendix B.**

Table 1. Overview of Proposed Remedial Plan			
Plan Name	**Hispanic Share of CVAP**	**Total CVAP deviation from Ideal**	**Key Features**
Defendants' Proposed Remedial Plan	**53.46% (D1) 35.45% (D5)**	**52.45%**	Hispanic share of CVAP is maximized to arithmetic upper limit (53.46% in D1) and concentrated in a second "influence" district (35.45% in D5). Incumbency is ignored. D3 is intentionally underpopulated, allowing for future growth. Split precincts are minimized. Electoral imbalance is reduced to 52.45%.
Plaintiffs' Illustrative Plan 1	**52.52% (D1) 45.34% (D2)**	**61.40%**	Electoral imbalance (61.40%) is unnecessarily excessive. Hispanic share of D1 CVAP (52.52%) is less than Defendants' D1 (53.46%). Precincts are unnecessarily split.
Source: Peter A. Morrison. Hispanic share of CVAP derived using Morrison's method.			

3.   Specific features of Defendants' Proposed Remedial Plan are:

- Hispanics constitute 53.46% of all eligible voters in District 1—the highest share that is possible in a five-district plan.[1] Registrants with Spanish surnames constitute 52.7% of all current (2014) registered voters in District 1.

- Hispanics constitute 35.45% of all eligible voters in a second "influence" district (District 5). As Hispanic citizens under age 18

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[1] There remains an unresolved methodological difference between Mr. Cooper and myself as to how one should derive the Hispanic share of eligible voters in each district from the American Community Survey (ACS) data. The method I use, which I regard as the standard demographic practice, yields a 53.46% Hispanic share in Defendants' proposed District 1. Using Mr. Cooper's method, that share would be 54.66% Hispanic—i.e., even higher than I estimate it to be. Mr. Cooper's method appears to introduce an upward bias. A full explanation of the methodological flaws in Mr. Cooper's method is set forth in my Supplemental Expert Report dated April 9, 2013, which is attached to this declaration as **Appendix C.**

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mature into eligible voters, this district will have at least the same percentage of eligible Hispanic voters that Plaintiffs' District 2 currently has (45.34%) by 2020. Registrants with Spanish surnames constitute 32.2% of all current (2014) registered voters in Defendants' District 5.

- Defendants' plan's electoral imbalance (measured by its +52.45% total deviation from ideal CVAP) is less severe than that of Plaintiffs' plan (+61.40%).

- The districts in Defendants' plan are geographically compact, contiguous, and minimize splitting current precincts.

- The plan anticipates the concentration of future population growth on the City's west side, mostly in District 3.

| | | | Citizen | | | Hispanic |
District	Total Pop.	Deviation From Ideal	Voting-age Pop. (CVAP)	Deviation From Ideal	Hispanic CVAP	Share of CVAP
Table 2. Detailed Summary Statistics: Defendants' Proposed Remedial Plan						
1	18,363	0.82%	7,305	-33.60%	3,905	53.46%
2	18,579	2.01%	13,074	18.85%	1,581	12.09%
3	17,917	-1.63%	12,981	18.00%	1,377	10.61%
4	18,422	1.15%	12,583	14.38%	2,559	20.34%
5	17,786	-2.35%	9,061	-17.63%	3,212	35.45%
Totals:	91,067		55,004		12,634	22.97%
Ideal (1/5):	18,213		11,001			
Total dev. from ideal:		*+4.36*		*+52.45%*		
Source: Peter A. Morrison. Hispanic share of CVAP derived using Morrison's method.						

			Citizen			Hispanic
District	Total Pop.	Deviation From Ideal	Voting-age Pop. (CVAP)	Deviation From Ideal	Hispanic CVAP	Share of CVAP
1	12,533	-3.66%	4,998	-36.39%	2,625	52.52%
2	13,358	2.68%	5,527	-29.66%	2,506	45.34%
3	12,859	-1.16%	8,653	10.12%	2,181	25.21%
4	13,175	1.27%	7,676	-2.31%	2,075	27.03%
5	12,683	-2.51%	8,702	10.74%	1,071	12.31%
6	13,176	1.28%	9,625	22.49%	685	7.12%
7	13,283	2.10%	9,823	25.01%	1,491	15.18%
Totals:	91,067		55,004		12,634	22.97%
Ideal (1/7):	13,010		7,858			
Total dev. from ideal:		+6.43		+61.40		

Table 3. Detailed Summary Statistics: Plaintiffs' Proposed Remedial Plan

Source: Peter A. Morrison. Hispanic share of CVAP derived using Morrison's method.

RATIONALE FOR DEFENDANTS' PLAN

4.   Single-member districts (SMDs) have been used extensively to safeguard a protected minority's ability to elect candidates of their choice. By adopting SMDs, this Court would rely on a strategy that has enfranchised Hispanics in cities across California, Texas, and elsewhere.

5.   Carving up the political landscape to form one or several heavily Hispanic district(s) is the favored way to empower this group. It is not, however, the only way. An alternative route to Hispanic empowerment, seen in other cities, suggests the varied possibilities local demographic settings may offer and the sensitivity of different election systems to those

settings. My own research documents local contexts where a Hispanic candidate running at large built alliances across groups and won by finishing *among the several top vote getters*.[2] By affording Hispanic candidates for City Council the opportunity to build such alliances, this Court could reinforce nascent tendencies in Yakima to unify around common local interests.

6.   Defendants' Remedial Plan would reinforce both these strategies to cure the present violation. The two top vote getters running at large would fill two of the seven City Council seats. Five other City Council members would be elected by district.   This proposed plan balances interests that can unify the City and those that may divide its members along ethnic lines. It safeguards the voting rights of Hispanics in one "control" or "opportunity" district (District 1), where Hispanics constitute the clear majority of eligible voters, and another "influence" district (District 5), where Hispanics constitute 35.45% of eligible voters. It also affords Hispanic voters across the entire city the possibility to parlay their growing numbers by building alliances that can place a candidate running at large among the two top vote getters citywide.

7.   In short, this system promotes two viable avenues of Hispanic empowerment, not just one avenue as in Plaintiffs' proposed plan. On one

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[2] See for example: William A. V. Clark and Peter A. Morrison, "Demographic Foundations of Political Empowerment in Multiminority Cities," *Demography* 32(2), May 1995: 183-201; Peter A. Morrison, "Demographic Influences on Latinos' Political Empowerment: Comparative Local Illustrations," *Population Research & Policy Review* 17, 1998: 223-246.

hand, Hispanic-favored candidates can appeal to the specific interests of Hispanic eligible voters in one district that they control and in a second district where they have influence. Additionally, Hispanic-favored candidates can appeal to any broader communitywide interests that Hispanic voters and other voters may share. Defendants' proposed plan thereby assures that one Hispanic-favored candidate *will* be elected (from control District 1); and that a second, and possibly third, Hispanic-favored candidate *can* be elected—either citywide, by appealing to communitywide interests, or from influence District 5, by appealing to shared interests among the voters there, 35.45% of whom are Hispanic.

8.   Furthermore, Defendants' Proposed Remedial Plan is intentionally forward-looking. Over time, it will afford an ever-increasing number of Hispanic eligible voters a broader set of possibilities to gain office. The number of Hispanic eligible voters will swell as the citizen population under age 18 reaches voting age. Among these future eligible voters in District 5, fully three-fourths are Hispanic; in District 1, the fraction is even larger (7 in 8).

9.   My demographic projections show that by 2020, Hispanics will constitute 45.5% of the eligible voters in District 5, up from 35.45% as of 2010.[3] In 2017, Latinos will comprise 43% of eligible voters in Defendants'

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[3] Hispanics' disproportionate presence in the under-18 citizen population of Yakima will translate over time into a noticeable increase in Hispanics' share of the City's eligible voters as youthful citizens reach voting age. A demographic accounting framework quantifies how the 35.5% Hispanic share of eligible voters in Defendants' proposed District 5 would increase over time as youthful Hispanic and non-Hispanic citizens reach voting age.

District 5. Just six years from now (i.e., in two election cycles), Hispanics will exert at least as strong an influence in Defendants' proposed District 5 as they would now in Plaintiffs' proposed District 2. Both plans afford Hispanics a strong "influence" district in future elections. One simply does so six years earlier than the other.

10.   Defendants' proposed remedy recognizes that people who reside together in an area share similar concerns. Where commonality of interest springs from an ethnic or racial identity, there exists a logical basis for grouping people by that identity to give voice to their concerns (here, in majority-Hispanic District 1 and Hispanic influence District 5).   From this perspective, Defendants' plan is superior to Plaintiffs' plan in that the former would result in a larger share of the City's Hispanic population being in a majority-Hispanic district. Defendants' District 1 contains 30.9% of Yakima's Hispanic eligible voters (HCVAP); Plaintiffs' District 1, by comparison, contains only 20.8%. Considering Defendants' Districts 1 and 5 together (i.e., both Hispanic "control" and "influence" districts), Defendants' plan contains most of the City's Hispanics (56.3% of the HCVAP), whereas Plaintiffs' Districts 1 and 2 together account for only 40.6% of the HCVAP.

11.   Under Defendants' plan, then, a larger *share* of the City's Hispanic eligible voters would derive symbolic benefits and political representation.

A validation study of this model for six localities (including Yakima) is detailed in Peter A. Morrison, "A Method to Forecast Hispanic Voting Strength at Local Scales," presented at the Applied Demography Conference, San Antonio, Texas, January 8-10, 2014.

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Under Plaintiffs' plan, by contrast, most of the City's Hispanic eligible voters (at least 59.4%) would *not* be represented by someone who feels an electoral obligation to the Hispanic community.

12.   In summary, Defendants' remedy would promote both avenues of Hispanic empowerment, balancing present and emerging interests that can unify the City of Yakima with those that may distinguish or divide its members. Defendant's plan, with its two at-large seats, holds out the prospect that *all* of the City's Hispanics may have a representative responsive to their concerns if a Hispanic-preferred candidate wins one of the at-large seats. Plaintiffs' plan, by contrast, poses the prospect that 5 of 7 councilors, each accountable to very few Hispanics in their own district, may be unresponsive to Hispanics' concerns.

THE UNRESOLVED ISSUE OF ELECTORAL INEQUALITY

13.   In the City of Yakima, a district drawn for the sole purpose of making Hispanics the majority of CVAP would inevitably cause the votes of eligible voters in that one district to carry roughly twice the weight of a vote in another district. As I referenced in my previous expert reports and deposition testimony, this imbalance would be decidedly non-neutral along racial and ethnic lines, since those whose votes would be debased are disproportionately American Indian, Asian, African American, and non-Hispanic white voters. Ironically, many Hispanic eligible voters who live elsewhere in the City would see their votes devalued, too.

14.   Plaintiffs' proposed remedial plan exemplifies this dilemma. Its electoral imbalance, measured as the total CVAP deviation from ideal, is a

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stunning +61.40%.   Plaintiffs' District 7 has a CVAP that is 197% larger
than the CVAP in District 1 (whereas in the Defendants' plan, District 2 has
a CVAP that is 179% of the CVAP in District 1). Adopting Plaintiffs' plan
would have the effect of conferring 14.3% of the power to elect City Council
members on a mere 9.1% of the City's eligible voters who happen to reside
in District 1.

15.   In crafting Defendants' Proposed Remedial Plan, I tried to avoid such
a severe electoral imbalance. First, I met the requirement that each of the
five districts must have plus or minus 5% of 18,213 residents (a district's
ideal total population) while simultaneously fashioning the necessary cure
that the Defendants' plan must include both a Hispanic "control" district and
a Hispanic "influence" district. Next, I sought to reduce the electoral
imbalance insofar as possible. I was able to reduce electoral imbalance
somewhat, from +61.40% in Plaintiffs' proposed plan to +52.45% in
Defendants' proposed plan.

16.   Nevertheless, a substantial and unavoidable electoral imbalance
remains. This remaining electoral imbalance is a necessary byproduct of my
effort to concentrate Hispanics sufficiently to comprise a clear majority (i.e.,
52%-53%) of the eligible voters in one district.   Insofar as I can tell, it is
mathematically impossible to reduce electoral imbalance below about +50%
in any five-district plan in which Hispanics comprise a clear majority of the
district's CVAP.

17.   For purely illustrative purposes, I tried to create a hypothetical plan
that minimizes electoral imbalance yet retains a *bare* Hispanic majority in

just one district, disregarding all other competing aims. I ignored the aim of

attaining a *clear* Hispanic majority in one district, the aim of

underpopulating one district on the City's west side, the aim of forming a

second Hispanic "influence" district, and the aim of keeping existing

precincts intact wherever possible. Even when I disregarded all these other

traditional redistricting criteria, I found it impossible to reduce the total

CVAP deviation below +48.25% (see Table 4). A map of this hypothetical

plan is attached as **Appendix D** to this declaration.

Table 4. Hypothetical Plan Minimizing Electoral Imbalance						
District	Total Pop.	Deviation From Ideal	Citizen Voting-age Pop. (CVAP)	Deviation From Ideal	Hispanic CVAP	Hispanic Share of CVAP
1	18,529	1.73%	7,673	-30.25%	3,840	50.05%
2	18,039	-0.96%	12,791	16.27%	1,473	11.52%
3	17,917	-1.63%	12,981	18.00%	1,377	10.61%
4	18,205	-0.05%	12,473	13.38%	2,534	20.32%
5	18,377	0.90%	9,087	-17.40%	3,411	37.54%
Totals:	91,067		55,005		12,635	22.97%
Ideal (1/5):	18,213		11,001			
Total dev. from ideal:		*+3.36*		*+48.25%*		
Source: Peter A. Morrison. Hispanic share of CVAP derived using Morrison's method.						

CONCLUSION

16.   It is my opinion that Defendants' Proposed Remedial Plan (Appendix A) is a complete cure of the vote dilution found by this Court and I recommend that it be adopted by this Court.

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Peter A. Morrison