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3rd JUDICIAL DISTRICT COURT
Dona Ana County
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THIRD JUDICIAL DISTRICT COURT
COUNTY OF DOÑA ANA
STATE OF NEW MEXICO

GRANT W. PRICE,

Petitioner,

v.

No. D-307-CV-2017-02283
Judge James T. Martin

NEW MEXICO SOIL AND WATER CONSERVATION COMMISSION, et. al.,

Respondents.

ORDER GRANTING WRIT OF MANDAMUS

THIS MATTER having come before the Court on October 22, 2018, for hearing on Petitioner's Request for Peremptory Writ of Mandamus or for Alternative Writ of Mandamus, Petitioners being present in Court and represented by Peter Goodman, Attorney at Law, and Respondents being represented by Ari Biernoff, Olga Serafimova and Rebecca Branch, Assistant Attorneys General with the New Mexico Attorney General's Office, the Court having reviewed the pleadings and the file, and considered the hearing evidence and arguments of counsel, the Court FINDS and CONCLUDES:

In his First Amended Verified Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief, Petitioner Price alleges that the four geographical voting zones proposed by the Doña Ana County Soil and Water Conservation District (hereinafter "DACSWCD" or "the District")) and approved by Respondent New Mexico Soil and Water Conservation Commission (hereinafter "Respondent," the "Commission," or "Respondent Commission") violate Petitioner's right to one person, one vote under the United States and New

Mexico Constitutions. Petitioner asserts that, under the federal and state equal protection clauses, "any government agency selecting officers by electoral districts or zones [is required] to make those district or zones as equal in population as feasible, so that all voters within the government agency's jurisdiction are equal." (Petition at page 2.), and, further, that Respondent has "set up four zones that are extremely unequal to each other in population, debasing the voting power of some citizens, in violation of the Constitutional rule." *Id.*

In opposing the writ, Respondent Commission contends that the one person, one vote requirement does not apply in connection with DASCWCD given its alleged status as a limited public body. Respondent further alleges that the District's policies and resolutions do not carry the force of law and are not enforceable by way of mandamus.

The Respondent Commission cannot and does not dispute that Petitioner Price has standing to sue, considering his undisputed residency in Zone 4 (which encompasses the City of Las Cruces and its environs) and, from a population standpoint, is the most underrepresented area in the District. *See Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 264 (1977) (finding standing where there is "at least one individual plaintiff who has demonstrated standing to assert these rights as his own").

I. The Evidence Produced at the October 22, 2018 Hearing

The hearing evidence shows that the District has five elected supervisors, four of whom are elected from geographic zones and one who is elected at large. Zones 1, 2, and 3 currently comprise 17,556, 19,881, and 14,869 registered voters, respectively, while 62,784 registered voters currently live within Zone 4, the area in which Petitioner Price resides. *See* Petitioner's Exhibit 2.

Petitioner Price introduced evidence of his voting history in Zone 4 dating back to 1990. This evidence showed that he has voted consistently in DACSWCD elections, including the special election involving the proposed mill levy in May of 2017. *See* Petitioner's Exhibit 6. He expressed concern that his vote was underrepresented in Zone 4 and that Respondent was acting in ways that diluted his vote, such as passing resolutions against the creation of the Organ Mountain Peaks Desert Monument and writing letters to the President of the United States claiming to represent the views of a majority of the citizens living within the District.

The first witness to testify for Respondent was Dustin Hunt, who has served as one of Respondent's Commissioners since 1994. He testified that the Commission consists of seven commissioners who are appointed by the Governor, with at least one commissioner coming from each of the state's six soil and water conservation regions and one commissioner selected at-large.

Mr. Hunt testified that each of the 47 individual soil and water conservation districts statewide is an autonomous public entity separate and apart from the Respondent Commission. He advised the Court that the local conservation districts identify issues relating to such matters as flood control and soil erosion, and fund their activities through grants and local taxes. According to the witness, the Commission's purpose is to work with the State Department of Agriculture and coordinate the activities of the local soil and water districts, and thereby "administer" and "oversee" the proper implementation of the New Mexico Soil and Water Conservation District Act. *See* NMSA 1978, §§ 73-20-25 through 73-20-48 (hereinafter "the Act"). The Commission "distributes" moneys to the various soil and water districts "for operational purposes" and also helps the local districts obtain grant money to fund local projects.

Mr. Hunt described how the four zones in the DACSWCD were established when the District brought the proposed boundaries to the Commission for consideration in January 2015. The witness indicated that the District formulated its proposed boundaries on the basis of watershed geography, rather than population, and attempted to explain away the disparity in population between Zone 4 and its less densely populated neighboring zones by pointing to the independent "funding source" available to the City of Las Cruces and the "unique" needs of an urban area. After a "relatively brief" discussion of the District's boundary plans at a public hearing, the Commission approved the District's proposed watershed-based geographic boundary zones. Mr. Hunt acknowledged that at least one other soil and water conservation district in New Mexico has chosen not to use geographic, watershed-based boundaries in order to insure democratic voting and adherence to the one person, one vote principle, and that he himself, at least at one point in time, viewed a population-based approach to be "a little more democratic." *See* Respondent's Exhibit E.

The next witness for the Respondent was Steve Wilmeth, a District Supervisor. He described to the Court how the zones were geographically drawn to correspond solely to the watersheds in the district. He also testified as to the broad range of projects undertaken by the District, including a collaborative effort with the Elephant Butte Irrigation District to develop an early flood warning system, the creation of "wind break" projects, weed and bush control programs, and the funding of "e-quip" projects through a cost-sharing program with District landowners.

Mr. Wilmeth also discussed why the District formally opposed the Organ Mountain Desert Peak Monument and the Doña Ana County Unified Development Code. He stated that in

his opinion these proposals threatened to adversely affect the District's landowners. While the witness agreed that the resolutions of the DACSWCD did not have the force of law, he did recognize that the "real teeth" of the District's power lay in its ability to allocate money between the respective zones. He also took these considerations into account when he helped draft the District's official land use plan. *See* Respondent's Exhibit F.

The Respondent next called Peter Vigil, the District Manager for the Taos Soil and Water Conservation District. Mr. Vigil has been with the Taos District for more than 20 years and is a current member of the National Association of Conservation Employees. He testified that the mission of the conservation districts is to provide advice to landowners about soil conservation and erosion control, but not to regulate water or land use within the district. He further testified that the Taos District has a budget in excess of three million dollars with relies almost entirely upon mill levy taxes.

Mr. Vigil testified about the formulation of the Taos zone boundaries. These boundaries were based upon geographic, watershed considerations and not population. However, a review of Exhibit G shows that the zones also reflect distinct populations such as Questa and Red River to the north, Rancho de Taos to the south, Tres Piedras and Ojo Caliente to the west and Taos and Taos Pueblo in the central zone.

Finally, Mr. Jerry Schickedanz testified about his duties as DACSWCD's Zone 1 Supervisor. As a member of the District, he has proposed brush control programs in Zone 1, including aerial spraying projects to help landowners within his zone. He was also involved in helping to develop and revise the District's official land use plan adopted in December 2015. *See* Respondent's Exhibit F. The witness was especially critical of the Bureau of Land

Management for restrictions imposed on wilderness designations, such as blanket restrictions on the use of mechanical equipment to enter into and maintain structures on BLM land.

II. Analysis of the Geographic Boundaries

A. Does the one person, one vote requirement properly apply to Respondent?

The equal protection provisions of the United States and New Mexico Constitutions require that election districts be apportioned in a manner which affords qualified voters equal weight in their representation. Describing the underlying basis of this right, the United States Supreme Court memorably noted that "[t]he conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one person, one vote." *Reynolds v. Sims*, 377 U.S. 533, 558, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964). *Reynolds* stands for the general proposition that election districts must be of substantially equal population, so as to avoid overrepresenting citizens of one district (whose votes count proportionally more) or underrepresenting citizens of another district (whose votes count proportionally less), and the corresponding corollary that any deviations from the equal-population principle must be based on "legitimate considerations incident to the effectuation of a rational state policy[.]" *Id.* 377 U.S. at 579. The precept that "citizens have a fundamental right to vote for public officials on equal terms with one another is uncontroversial." *Dool v. Burke*, 497 Fed. Appx. 782, 786 (10thCir.2012) (O'Brien, J., concurring) (unpublished). Further, "the right is comprehensive, extending beyond statewide legislative bodies to county and municipal offices, and even to smaller entities such as school boards and college trustees." *Id.* (noting that both propositions are "beyond dispute."). In the long line of cases stemming from *Reynolds*, "[t]he consistent theme . . . is that the right to vote in

an election is protected by the United States Constitution against dilution or debasement." *Id.* 397 U.S. at 54. In cases where the one person, one vote rule of *Reynolds* applies, any governmental attempt to deviate from that rule is subject to "close scrutiny." *Kramer v. Union Free Sch. Dist. No. 15*, 395 U.S. 621, 626, 89 S.Ct.1886, 23 L.Ed.2d 583 (1969); *see Abate v. Mundt*, 403 U.S. 182, 185, 91 S.Ct. 1904, 29 L.Ed.2d 399 (1971) (recognizing that courts must "carefully scrutinize[ ] state interests offered to justify deviations from population equality.").

The breadth of this mandate does not tolerate constitutional distinctions on the basis of such factors as the purpose of a particular election or the function of the elected officials. *See Hadley v. Junior College Dist.*, 397 U.S. 50, 54–56, 90 S.Ct. 791, 25 L.Ed.2d 45 (1970). In *Hadley*, the High Court extended the "one person, one vote" principle of *Reynolds* to the election of trustees of a community college district because those trustees "exercised general governmental powers" and "performed important governmental functions" that had significant effect on all citizens residing within the district. *Id.* at 53–54. In the decades following the decision in Hadley, the state and federal courts have applied the one person, one vote principle to all manner of entities of local concern. See e.g. In re Lower Valley Water & Sanitation Dist., 1981-NMSC-088, 96 N.M. 532, 632 P.2d 1170 (sanitation and water district); Johnson v. Lewiston Orchards Irrigation Dist., 99 Idaho 501, 584 P.2d 646 (IdahoSup.Ct.1978) (entity providing fresh water to city residents); Choudhry v. Free, 17 Cal.3d 660, 131 Cal.Rptr. 654, 552 P.2d 438 (Cal.Sup.Ct.1976) (entity supplying potable water, electric power and other services); *Hellebust v. Brownback*, 42 F.3d 1331 (10thCir.1994) (state board of agriculture); *Cunningham v. Municipality of Metro.Seattle*, 751 F.Supp. 885 (W.D.Wash.1990) (entity in charge of water pollution abatement and public transportation for county).

In defense of this proceeding, Respondent Commission seeks to rely on a recognized exception to *Reynolds* covering special-purpose units of government whose functions affect certain groups of constituents more than others. *See Ball v. James*, 451 U.S. 355, 371, 101 S.Ct. 1811, 68 L.Ed.2d 150 (1981); *Salyer Land Co. v. Tulare Lake Basin Water Storage Dist.*, 410 U.S. 719, 729, 93 S.Ct. 1124, 35 L.Ed.2d 659 (1973).

In *Salyer*, the High Court concluded that a special-purpose district created under California law to manage the storage of water was exempt from the *Reynolds* one person, one vote rule, thus upholding a voter qualification statute which restricted voting to district landowners and apportioned voting power in elections for directors of the water district upon the assessed valuation of the voting landowner's property. In so holding, the *Salyer* court pointed to the district's special limited purpose of "provid[ing] for the acquisition, storage, and distribution of water for farming[,]" and emphasized that all costs and charges were assessed "in proportion to the benefits received by the land, that delinquency in payment would result in a lien on the land, and that "the operations of the district[ ] primarily affect the land." *Id.* 410 U.S. at 728-729. Based upon these particular circumstances, the Court applied a rational basis test and concluded that the voting restrictions were constitutional. Four years after deciding Salyer, the Court summarized the exception it created in that case by stating that "the electorate of a special-purpose unit of government ... may be apportioned to give greater influence to the constituent groups found to be most affected by the governmental unit's functions." *Town of Lockport v. Citizens for Community Action at the Local Level, Inc.*, 430 U.S. 259, 266, 97 S.Ct. 1047, 51 L.Ed.2d 313 (1977).

Four years after issuing its opinion in *Town of Lockport*, the Supreme Court again had occasion to find the special-purpose exception to *Reynolds* applicable to a water storage district, this time in *Ball v. James*, 451 U.S. 355, *supra.* In that case, the functions of the water storage district were "more diverse and affect[ed] far more people" than the district in *Salyer*, for it comprised "almost half the population of [Arizona], including large parts of Phoenix and other cities." *Ball,* 451 U.S. at 365. The water district in *Ball* had been designated as a "nominal public entit[y]," *id.* at 368, in order to allow it to raise money inexpensively through the issuance of public bonds; the district was also imbued with and "exercised its statutory power to generate and sell electric power[.]" *Id.* at 365. Concluding that the limited-purpose water district at issue in *Ball* was "essentially [a] business enterprise[ ]," *id.* at 368, and that the district's functions bore a "disproportionate relationship" to those who owned land within the district, the Supreme Court followed the course it had laid out in *Salyer* by deferentially reviewing the district's voting scheme and upholding it as "bear[ing] a reasonable relationship to its statutory objectives." *Ball*, 451 U.S. at 371.

Against this precedential backdrop, this Court concludes that the case at bar is more akin to *Reynolds, Hadley*, and their progeny rather than to *Salyer and Bell.* As the hearing evidence demonstrates, the District -- and by extension the Respondent Commission which coordinates with and provides operational funding to the District -- performs important governmental functions which directly impact the lives and wellbeing of all those who live within its jurisdiction and, in so doing, exercises broad discretion to shape and tailor water and soil conservation policies according to its own preferences. In accordance with the controlling legislative scheme, DACSWCD is authorized to engage in a wide array of research, educational,

and planning activities relating to "the conservation, development, utilization and disposal of all waters" within its boundaries, *see* NMSA 1978, § 73-20-44(A),(C),(F); provide financial assistance to district landowners, *see* § 73-20-44(D); and levy taxes upon the District's citizenry through resolutions approved by referendum. *See* § 73-20-46. Indeed, the District possesses and exercises powers equivalent to or broader in scope and nature to those which the Court in *Hadley* found to be general and significant enough to trigger the one person, one vote requirement, including the authority to sue and be sued, enter into contracts, acquire and sell district property, and incur debt. *See* § 73-20-45.

Fairly interpreted, the hearing evidence shows that New Mexico's water and soil conservation districts -- whose activities the Respondent Commission coordinates -- provide important governmental services that "unremittingly influence" every person within the District in a profound manner. *See Hellebust v. Brownback*, 42 F.3d at 1335 ("Once a[n] ... agency has the authority to affect every resident in matters arising in their daily lives, its powers are not disproportionate to those who vote for its officials."). Troublingly, however, the Commission-approved voting procedures for District Supervisors impermissibly dilute and diminish the voting rights of Zone 4 residents, and this despite the absence of a persuasive basis to do so, one sufficient to withstand review under the prevailing "close scrunity" standard. *See Kramer v. Union Free Sch. Dist. No 15*, 395 U.S. at 626.

By way of illustration, the District's (unsuccessful) 2017 ballot measure seeking to impose a mill levy upon all real property within the District provides a glaring example of how Petitioner and the other residents of Zone 4 have been underrepresented, with their votes not given the same weight as those cast elsewhere in the District. As Commissioner Hunt, testifying

on behalf of Respondent, readily acknowledged, the proposed mill levy would have applied to everyone in the district, even those who derived no benefit from the assessment. Therefore, under the current geographic zones, the citizens in Zone 4 pay the same taxes as the other geographic zones, however, because of the disproportionate populations in each zone, their voice about how the tax revenue is distributed is diluted.[1] Moreover, in addition to its attempts to impose taxes, the District has passed resolutions and sent correspondence to the highest levels of federal government purporting to speak on behalf of all persons within its boundaries. *See* Petitioner's Exhibits 7 and 8 (the latter addressing a land use matter correctly stated to have "huge consequences to this community").

Nor do the provisions of Section 73-20-39 of the Act warrant a contrary result. While the statute contemplates the use of "geographic zoning" in elections for District Supervisors where appropriate "to ensure proper representation of district voters and to facilitate district functions," the express terms of the statute nonetheless require "the proper and equitable representation for each faction geographically zoned in the district." Guided by the well-established principle of statutory construction that statutes should be construed, if possible, to avoid constitutional questions[,]" *Schuster v. N.M. Dep't of Taxation & Revenue, Motor Vehicle Div.*, 2012-NMSC-025, ¶ 18, 283 P.3d 288, the Court understands the statute to allow geographic considerations to inform a district's drawing of electoral boundaries, so long as the ultimate boundaries of the resulting electoral unit comport with well-established and constitutionally mandated equal

[1] This tax scheme presents the classic "taxation without representation" problem that lead to the founding of our government. Driving home this point is the testimony of Commissioner Hunt and District Supervisor Wilmeth that the citizens in Zone 4 (the City of Las Cruces) had an independent funding source (presumably City taxes) and the District could reallocate money to other geographic zones by a simple majority vote of the District Supervisors.

population requirements. See *Reynolds*, 377 U.S. at 580 ("Considerations of area alone provide an insufficient justification for deviations from the equal-population principle"); *Abate v. Mundt*, 403 U.S. 182, 185-86, 91 S.Ct. 1904, 29 L.Ed.2d 399 ("[T]his Court has never suggested that certain geographic areas or political interests are entitled to disproportionate representation"). Critical here is the hearing testimony of Respondent's own witnesses acknowledging that the district all but ignored population-based factors in devising its electoral zones. In this evidentiary posture, it cannot be said that the voting scheme proposed by the District and approved by the Respondent Commission satisfied the "proper and equitable representation" element of the statute.

In sum, because the vital water and soil conservation work undertaken by the District affects all District residents irrespective of zone designations, all residents are entitled to a meaningful vote in the election of the District's governing Supervisors, i.e., a vote cast under an election method consistent with the one person, one vote imperative. The bottom line here is this: the core governmental functions conferred upon and exercised by the Respondent Commission preclude it from seeking refuge in the Salyer/Ball exception to the one person, one vote rule of *Reynolds.* and *Hadley.*

B. Is A Writ of Mandamus Proper in this Case?

Petitioners withdrew Count III, which was their claim for injunctive and declaratory relief. The only remaining claims are: Count I, a request for a peremptory writ of mandamus and Count II, a request for an alternative writ of mandamus.

"A mandamus proceeding is technical in nature and closely regulated by statute." *Mimbres Valley Irrigation Dist. Co. v. Salopek*, 2006–NMCA–093, ¶ 10, 140 N.M. 168, 140

P.3d 1117 (*citing In re Grand Jury Sandoval County*, 1988–NMCA–007, ¶ 6, 106 N.M. 764, 750 P.2d 464 (observing that mandamus proceedings are technical in nature); Charles T. Dumars & Michael B. Browde, *Mandamus In New Mexico*, 4 N.M. L. Rev. 155, 157 (1974) ("The New Mexico statutes delineate in some detail the requirements for a proper mandamus action.")). The statutes regulating a mandamus proceeding are found at NMSA 1978, Sections 44–2–1 to 44–2–14. The statutes provide, inter alia, that "[u]pon issuance of an alternative or peremptory writ, the petition or application is replaced by the writ itself." *In re Grand Jury Sandoval County*, 1988–NMCA–007, ¶ 6. The party on whom the writ is served may then show cause by an answer. *See* NMSA 1978, § 44–2–9.

"If issues of fact are raised, then mandamus should not issue, since it is only a method by which an existing right is enforced." *Shollenbarger*, 1991–NMCA–105 at ¶ 12. "Mandamus lies only to compel a public officer to perform an affirmative act where, on a given state of facts, the public officer has a clear legal duty to perform the act and there is no other plain, speedy, and adequate remedy in the ordinary course of the law." *Mimbres Valley*, 2006–NMCA–093, ¶ 11; *Lovato v. City of Albuquerque*, 1987–NMSC–086, ¶ 6, 106 N.M. 287, 742 P.2d 499.

The writ applies only to ministerial duties and it will not lie when the matter has been entrusted to the judgment or discretion of the public officer. *El Dorado at Santa Fe, Inc. v. Bd. of County Comm'rs*, 1976–NMSC–029, ¶ 5, 89 N.M. 313, 551 P.2d 1360. A "ministerial duty" arises only when the law directs that a public official must act when a given state of facts exists. *See State ex rel. Four Corners Exploration Co. v. Walker*, 1956–NMSC–010, ¶ 7, 60 N.M. 459, 292 P.2d 329 (stating a public official's ministerial duty is "an act or thing which he is required to perform by direction of law upon a given state of facts being shown to exist, regardless of his

own opinion as to the propriety or impropriety of doing the act in the particular case"); *see New Energy Econ., Inc. v. Martinez*, 2011-NMSC-006, ¶ 23, 149 N.M. 207, 247 P.3d 286 (issuing writ of mandamus compelling State Records Administrator to publish certain regulations where agency's failure to publish "breached a clear, indisputable, and non-discretionary duty to publish" the regulations).

In light of its characteristics, it is well-established that "'[m]andamus is a drastic remedy to be invoked only in extraordinary circumstances.' " *State ex rel. Shell W. E & P, Inc. v. Chavez*, 2002–NMCA–005, ¶ 8, 131 N.M. 445, 38 P.3d 886 (*quoting Brantley Farms v. Carlsbad Irrigation Dist.*, 1998–NMCA–023, ¶ 12, 124 N.M. 698, 954 P.2d 763).

The District Court has exclusive original jurisdiction in all cases of mandamus, except that "[t]he writ shall not issue in any case where there is a plain, speedy and adequate remedy in the ordinary course of law." NMSA 1978, § 44–2–5. A writ of mandamus "may be issued to any inferior tribunal, corporation, ***board*** or person, to compel the performance of an act which the law specially enjoins as a duty resulting from an office, trust or station; but though it may require an inferior tribunal to exercise its judgment, or proceed to the discharge of any of its functions, it cannot control judicial discretion." NMSA § 44-2-4. (Emphasis added). In mandamus actions, "[n]o other pleading or written allegation is allowed than the writ and answer. They shall be construed and amended in the same manner as pleadings in a civil action, and the issues thereby joined shall be tried and further proceedings had in the same manner as in a civil action." NMSA 1978, § 44-2-11.

The Commission maintains that Petitioner has a remedy at law, but does not affirmatively state the nature of the cryptically referenced remedy it assumes to exist. Nor has the Court found

any such alternative remedy in the governing provisions of the Act or otherwise. The Court has allowed the parties to engage in discovery under the statute and has held an evidentiary hearing at which the parties called witnesses and presented documentary evidence. Because Petitioner herein has no apparent remedy at law, this Court may properly address the merits of his suit against the Commission.

III. Conclusion

To reiterate, Petitioner established at the hearing that there are four geographical zones that vote in the elections for the District Supervisors and, further, that the Commission has drawn the zone boundaries such that Zones 1, 2 and 3 each have between 14,000 and 19,000 active registered voters while Zone 4 has 62,784 active registered voters. The hearing evidence demonstrated that Respondent's actions violated the "one person, one vote" constitutional mandate, as well as its statutory duty to ensure proper and equitable representation for voters.

Based upon the facts established at the hearing, it is clear that the voters in Zone 4 are not properly represented and the citizens of Zone 4 are not equitably represented as mandated in the statute. Again, there does not appear to be a legal remedy against the Commission provided in the Act or elsewhere. In these circumstances, mandamus is appropriate. *See Ziols v. Rice Cty. Bd. of Comm'rs*, 661 N.W. 2d 282 (Minn.Ct.App.2003) (stating in a case involving the equal population principle that mandamus will lie "to set the exercise of [a county board's] discretion into motion where the board fails to act, or to obtain a new and bona fide exercise of that discretion when it appears that the board has acted without discretion or in a clearly arbitrary and capricious manner."); *Ballard v. Christian*, 451 P.2d 943 (Okla.Sup.Ct.1969) (holding that mandamus would lie to compel county commissioners to exercise their statutory duty to

reapportion their districts on the basis of substantially equal population).; *State v. Seiler*, 193 Neb. 9, 225 N.W.2d 388 (Neb.Sup.Ct.1975) (same).

Consequently, the Court will issue a Writ of Mandamus directing the Respondent Commission to reconsider and redraw zone boundaries in the Doña Ana Soil and Water Conservation District to more equitably reflect the "one person, one vote" constitutional mandate.

IT IS SO ORDERED.

JAMES T. MARTIN
DISTRICT JUDGE, DIVISION VI