

Exhibit 1

Affidavit of Constance Van Kley

Constance Van Kley
Rylee Sommers-Flanagan
Upper Seven Law
P.O. Box 31
Helena, MT 59624
(406) 306-0330
constance@uppersevenlaw.com
rylee@uppersevenlaw.com

Joel G. Krautter
Netzer Law Office P.C.
1060 S. Central Ave. Ste. 2
Sidney, MT 59270
(406) 433-5511
joelkrautternlo@midrivers.com

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT, DISTRICT OF MONTANA
HELENA DIVISION**

BOB BROWN; HAILEY SINOFF;
and DONALD SEIFERT,

Plaintiffs,

vs.

CHRISTI JACOBSEN, in her
official capacity as Montana
Secretary of State,

Defendant.

Cause No.

6:21-cv-92-PJW-DWM-BMM

Affidavit of

Constance Van Kley

STATE OF MONTANA)
 : ss.
COUNTY OF MISSOULA)

Constance Van Kley, being first duly sworn, deposes and states as follows:

1. I am over 18 years old and a resident of Missoula, Montana. The matters set forth in this Affidavit are based upon my personal knowledge.
2. I am counsel of record in the above-captioned case and employed as Litigation Director for Upper Seven Law, which is headquartered in Helena, Montana.
3. I directed and oversaw the creation of a map showing 2020 Census population data for all Montana counties. That map is attached as Exhibit A to this affidavit. The map was created by downloading a map titled "Population Density in Montana Counties: 2020" from a federal government website, <https://www.census.gov/library/stories/state-by-state/montana-population-change-between-census-decade.html>. Onto the downloaded map, text boxes were added showing the names of each county and the population of each county as of the 2020 Census. Population data similarly was added

to a sidebar showing the population of each federal reservation as of the 2020 Census. County population information used in the map was published at <https://www.census.gov/library/stories/state-by-state/montana-population-change-between-census-decade.html>. Reservation population used in the map was published at <https://www.census.gov/tribal/?st=30&aianihh=0305>.

4. I directed and oversaw the creation of the map attached as Exhibit B to this affidavit. This map shows the current Montana Public Service Commission districts as provided for in Montana Code Annotated § 69-1-104. The map was created on davesredistricting.org, which calculates: the total population of each district; the ideal district population; and the numerical deviation in population from ideal district population for each district. The percent deviation for each district was calculated by dividing numerical deviation by the ideal district population. County names and the current district boundaries were found at <https://psc.mt.gov/About-Us/Commissioners/>. Each district's total population, numerical deviation, and percent deviation is shown in a text box immediately below the map.

5. I directed and oversaw the creation of Plaintiffs' Proposed Maps 1, 2, and 3, which are attached as Exhibits C, D, and E to this affidavit, respectively. These maps show potential solutions for redistricting the Montana Public Service Commission. Each map was drawn using free online software at davesredistricting.org, which calculates: the total population of each district; the ideal district population; and the numerical deviation in population from ideal district population for each district. The percent deviation for each district was calculated by dividing numerical deviation by the ideal district population. County names and the current district boundaries were found at <https://psc.mt.gov/About-Us/Commissioners/>. The current district boundaries are shown in white on each map. Each district's total population, numerical deviation, and percent deviation is shown in a text box immediately below the map.
6. The current Public Service Commission Map (Ex. B) and Plaintiffs' Proposed Maps 1, 2, and 3 (Exs. C, D, and E) also show federal Indian reservation boundaries. These boundaries were added to each map by navigating to the "Custom Overlays" tab on

<https://davesredistricting.org/> for each map and selecting “Add Maps.” The tribal map was found by searching for “(state: mt) and (owner: dra2020)” from that tab. The search results included a map titled “MT State Tribes.” That map was applied as an overlay to each map after cross-referencing the overlay with a map published at <https://tribalnations.mt.gov/tribalnations> and individual tribal maps linked from a landing page at <https://www2.census.gov/geo/maps/DC2020/TribalTract/>.

7. Plaintiffs’ Proposed Maps 1, 2, and 3 do not redistrict current and incumbent commissioners out of their Public Service Commission Districts. Incumbent District 1 Commissioner Randy Pinocci is a resident of Sun River, Montana, which is located in Cascade County. Mont. Sec’y of State, 2018 Gen. Elec. Candidate List, <https://sosmt.gov/wp-content/uploads/2018-Candidate-List.pdf>.

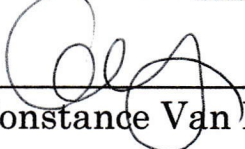
Current District 2 Commissioner Tony O’Donnell is a resident of Billings, Montana, located in Yellowstone County. Mont. Sec’y of State, 2020 Candidate Information: 2020 Candidate Filings—Non Legislative, available at <https://sosmt.gov/elections/filing/#1627309796830-82fb5310-d168>. Current District 3 Commissioner

James Brown is a resident of Dillon, Montana, located in Beaverhead County. *Id.* Current District 4 Commissioner Jennifer Fielder is a resident of Thompson Falls, Montana, located in Sanders County. *Id.* The incumbent District 5 Commissioner, Brad Johnson, is ineligible for reelection. Mont. Sec'y of State, Term Limits: Public Service Commission, https://sosmt.gov/elections/term_limits/.

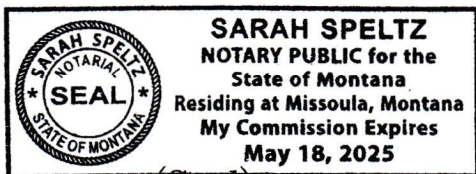
8. Each map was created with the assistance of Jacob Linfesty, who holds the title of Impact Associate at Upper Seven Law. I oversaw Mr. Linfesty's work and reviewed each map in draft and final forms.

Further Affiant Sayeth Naught.

DATED this 26th day of January, 2022.


Constance Van Kley

Subscribed and sworn to before me this 26th day of January, 2022 by Constance Van Kley.



(Seal)

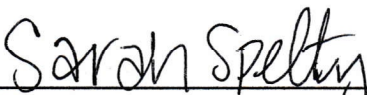
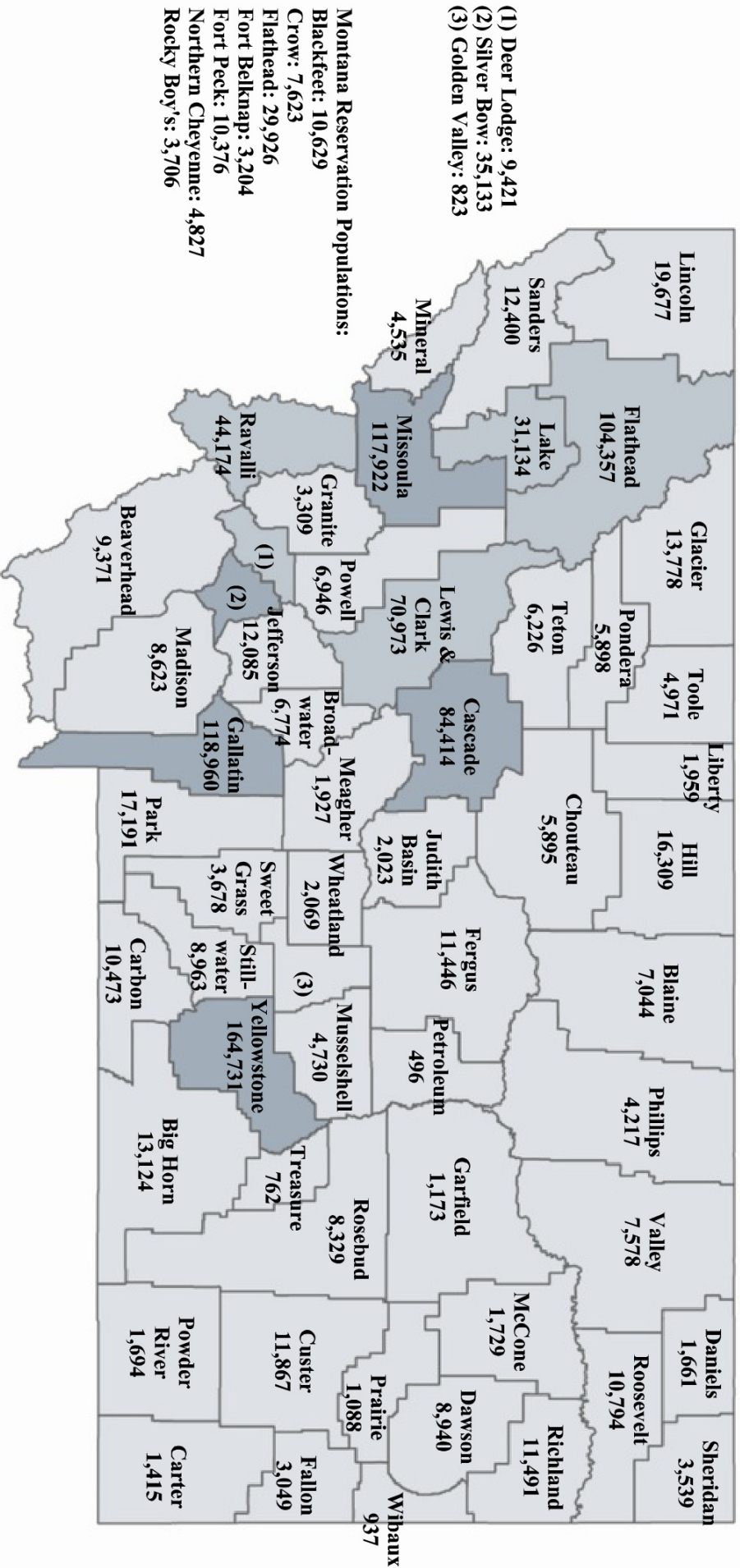

Notary Public for the State of Montana
Printed Name: Sarah Speltz
Residing at: MISSOULA
My commission expires: May 18 2025

Exhibit 1-A

**Map Showing County Population Totals
as of the 2020 Census**

Population Density in Montana Counties: 2020



Mercator County

1.	Yellowstone County	164,731
2.	Gallatin County	118,960
3.	Missoula County	117,922
4.	Flathead County	104,357
5.	Cascade County	84,414
6.	Lewis and Clark County	70,973
7.	Ravalli County	44,174
8.	Silver Bow County	35,133
9.	Lake County	31,134
10.	Lincoln County	19,677
11.	Park County	17,191
12.	Hill County	16,309
13.	Glacier County	13,778
14.	Big Horn County	13,124
15.	Sanders County	12,400
16.	Jefferson County	12,085
17.	Custer County	11,867
18.	Richland County	11,491
19.	Fergus County	11,446
20.	Roosevelt County	10,794
21.	Carbon County	10,473

Mercator County

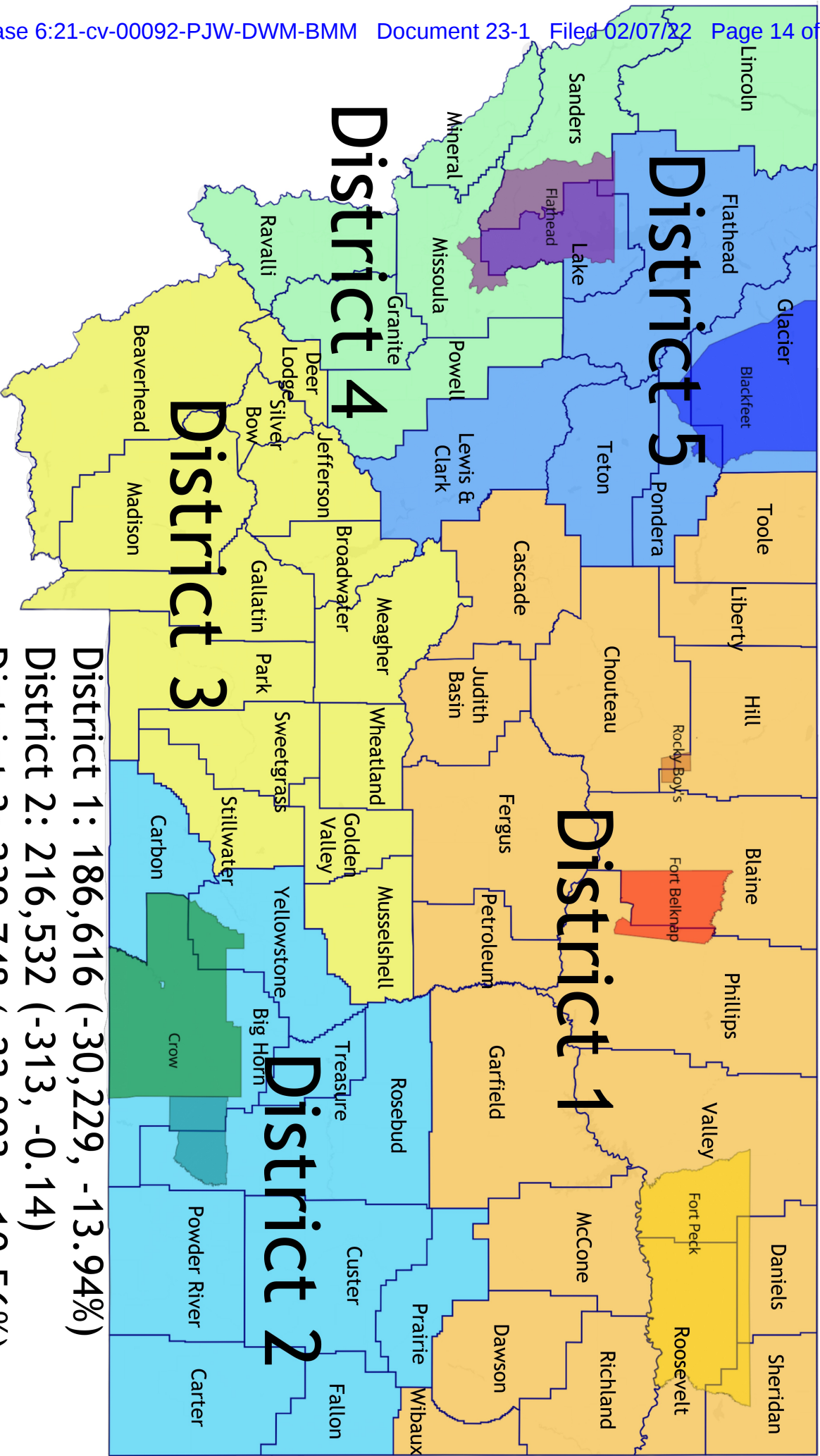
22.	Deer Lodge County	9,421
23.	Beaverhead County	9,371
24.	Stillwater County	8,963
25.	Dawson County	8,940
26.	Madison County	8,623
27.	Rosebud County	8,329
28.	Valley County	7,578
29.	Blaine County	7,044
30.	Powell County	6,946
31.	Broadwater County	6,774
32.	Teton County	6,226
33.	Pondera County	5,898
34.	Chouteau County	5,895
35.	Toole County	4,971
36.	Musselshell County	4,730
37.	Mineral County	4,535
38.	Phillips County	4,217
39.	Sweet Grass County	3,678
40.	Sheridan County	3,539
41.	Granite County	3,309
42.	Fallon County	3,049

Mercator County

43.	Wheatland County	2,069
44.	Judith Basin County	2,023
45.	Liberty County	1,959
46.	Meagher County	1,927
47.	McCone County	1,729
48.	Powder River County	1,694
49.	Daniels County	1,661
50.	Carter County	1,415
51.	Garfield County	1,173
52.	Prairie County	1,088
53.	Wibaux County	937
54.	Golden Valley County	823
55.	Treasure County	762
56.	Petroleum County	496

Exhibit 1-B

Current Commission Map



- District 1: 186,616 (-30,229, -13.94%)
- District 2: 216,532 (-313, -0.14)
- District 3: 239,748 (+22,903, +10.56%)
- District 4: 208,963 (-7,882, -3.36%)
- District 5: 232,366 (+15,521, +7.16%)

Exhibit 1-C

Plaintiffs' Proposed Map 1

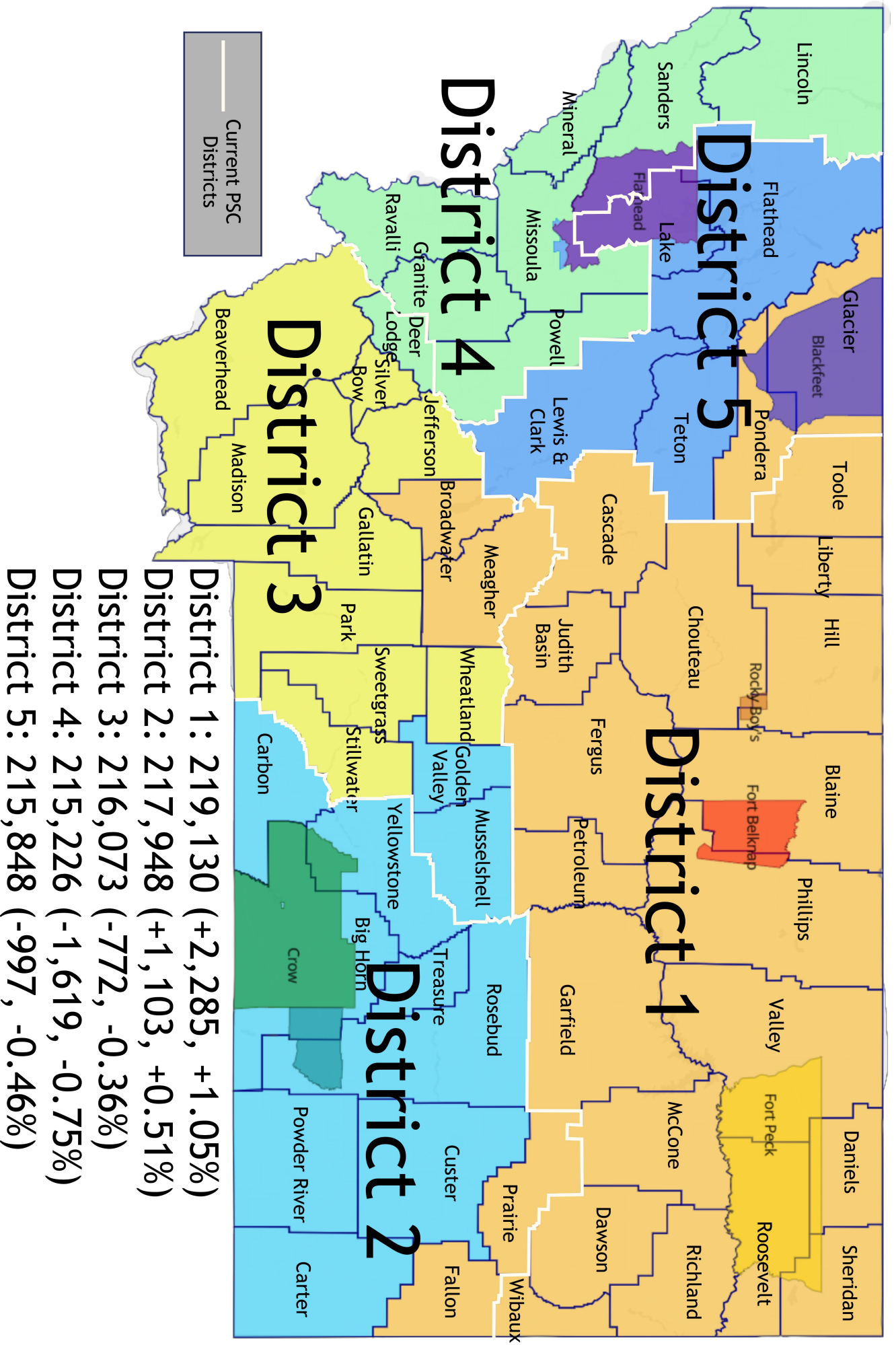
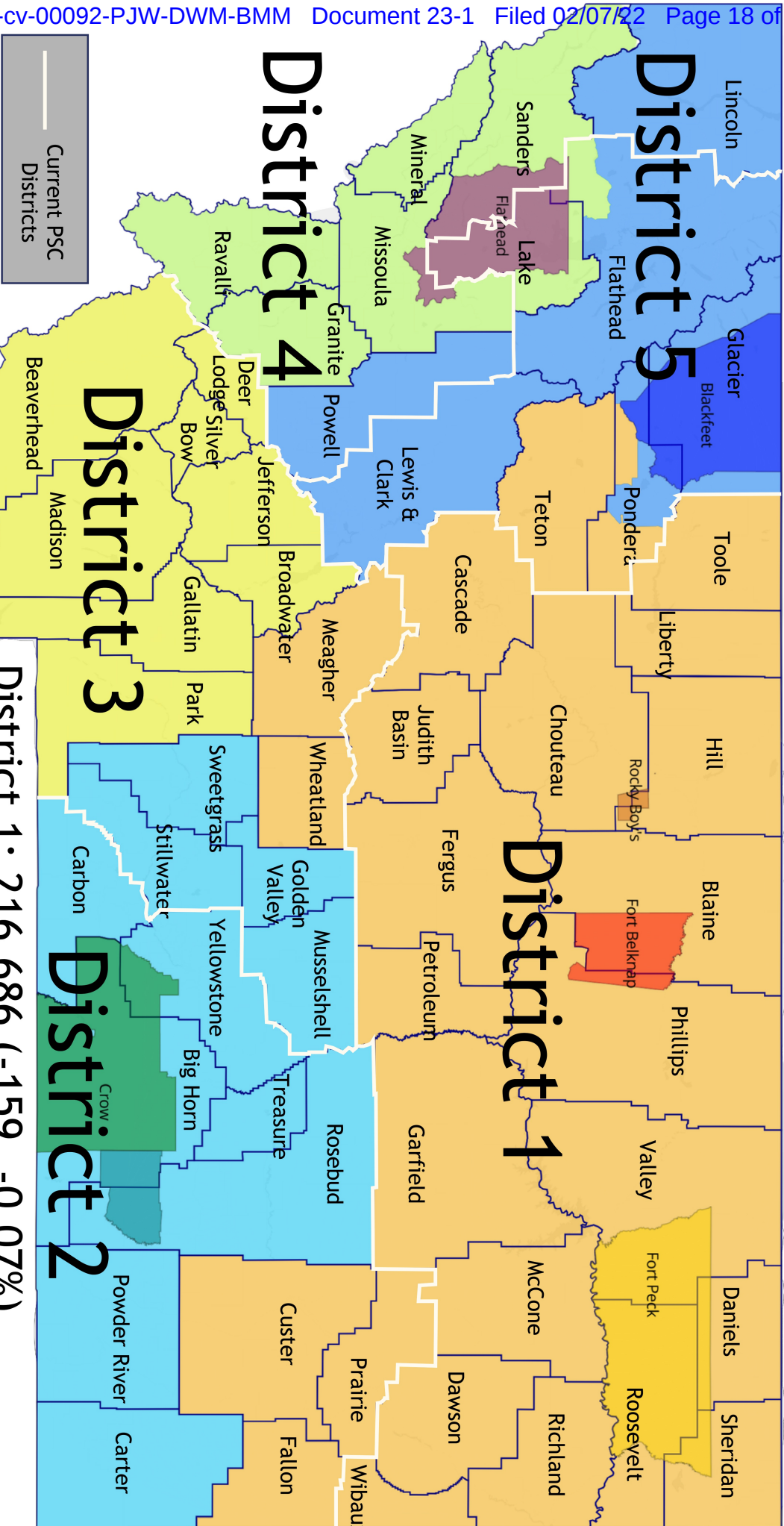


Exhibit 1-D

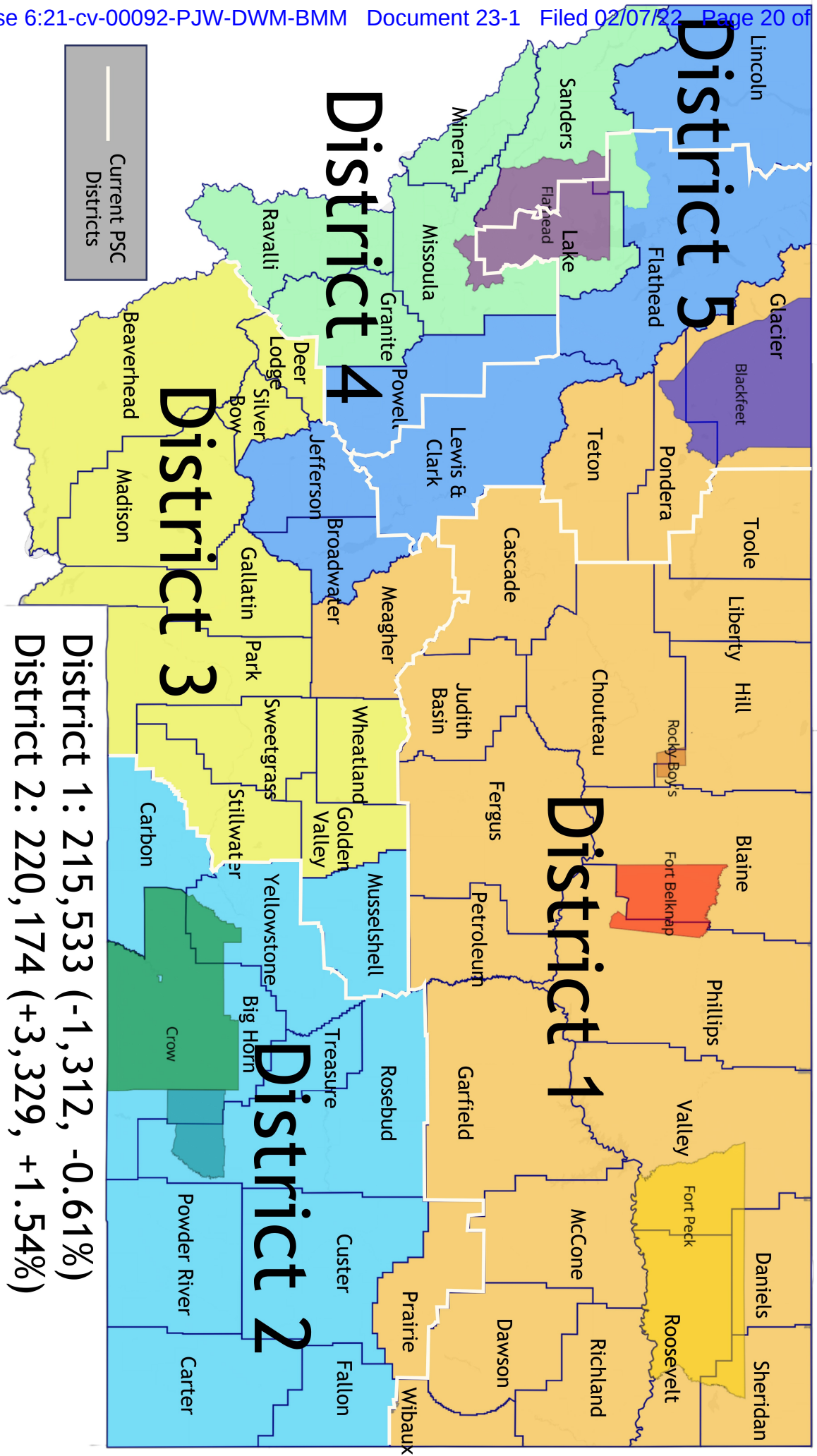
Plaintiffs' Proposed Map 2



- District 1: 216,686 (-159, -0.07%)
- District 2: 218,722 (+1,877, +0.87%)
- District 3: 217,558 (+713, +0.33%)
- District 4: 214,893 (-1,952, -0.90%)
- District 5: 216,366 (-479 -0.22%)

Exhibit 1-E

Plaintiffs' Proposed Map 3



District 1: 215,533 (-1,312, -0.61%)
District 2: 220,174 (+3,329, +1.54%)
District 3: 214,232 (-2,613, -1.21%)
District 4: 214,893 (-1,952, -0.90%)
District 5: 219,393 (+2,548, +1.18%)