The Legislative Branch
The Navajo Nation

LoRenzo Bates
Speaker of the 23rd Navajo Nation Council

RESOLUTION OF THE
NAVAJO UTAH COMMISSION
OF THE NAVAJO NATION COUNCIL

NUCAUG-758-18

REQUESTING INTERVENTION BY THE UTAH LIEUTENANT GOVERNOR'S OFFICE, UTAH ATTORNEY GENERAL, UNITED STATES DEPARTMENT OF JUSTICE IN THE MATTER OF THE SAN JUAN COUNTY, UTAH CLERK/AUDITOR FALSIFYING ELECTION DOCUMENTS

Whereas:

1. The Navajo Utah Commission (NUC) is a governmental subdivision of the Navajo Nation and is subject to oversight of the Navajo Nation Council - Naabik'iya'ti' Committee pursuant to resolution no. NABIAP-21-15; and

2. On March 9, 2018, Mr. Willie Grayeyes filed with the San Juan County Utah Clerk/Auditor his declaration of candidacy for the San Juan County Utah District 2 commissioner position. On March 20, 2018, at 4:30 p.m., Ms. Wendy Black sent by electronic mail to John David Nielson, County Clerk/Auditor, a challenge of Mr. Grayeyes' candidacy by stating in the email "I would like to formally challenge the validity of Willie Greyeyes being able to run for San Juan County, Utah Commissioner. It has been brought to my attention that he may live outside of the county and state of Utah. My concern is as a challenger for this commission seat. Wendy Black, Blanding Utah"; Wendy Black's March 20th email is attached hereto as Exhibit "A"; and

3. On April 13, 2018, at 2:27 p.m., John David Nielson, San Juan County Clerk/Auditor, by email asked Ms. Wendy Black "[w]ould you mind filling out an official challenge form (attached) for your challenge of Mr. Grayeyes right to vote. This form helps to meet all the requirements needed in order to challenge a voter's right to vote. I've also attached the original challenge paper for your assistance. Let me know if you have any questions. thanks John David". Since Ms. Wendy Black was out of town on April 13th, she informed county clerk/auditor that she can come in on Monday, April 16, 2018. John David Nielson's April 13th email to Wendy Black is attached hereto as Exhibit "B"; and

4. Supposedly on April 16, 2018, Ms. Wendy Black met with San Juan County Clerk/Auditor, John David Nielson, to complete the official form used to "CHALLENGE TO THE RIGHT TO VOTE PRE-ELECTION". Ms. Black stated that the basis of her challenge is Mr. Grayeyes' "principal place of

residence is not in the voting precinct claimed; and … principal place of residence is not in the geographic boundaries of the election area." Both Ms. Black and Mr. John David Nielson, County Clerk/Auditor, dated next to their signatures on the second challenge "March 20, 2018", as the date they signed the official form; the second challenge is attached hereto as Exhibit "C". However, Mr. Nielson entered a statement in the Federal District Court of Utah on August 7, 2018, that he acknowledges the terrible mistake he made by backdating the official form because March 20th was the date Ms. Black initially filed her complaint by email. As an elected official notarizing the official document, Mr. John David Nielson perjured/falsified the document as though it was signed by Ms. Black and him on March 20, 2018, which in fact did not happen; and

5. Judge David Nuffer, United States Federal District Court of Utah, stated in his memorandum of decision in the matter of *Willie Grayeyes, et al., v. Spencer Cox, et al* (Case No. 4:18-cv-00041), that "[b]oth forms of the challenges received—March 20th Challenge and April 16th Challenge—were insufficient. The timeline to determine a candidacy challenge was not complied with, and Defendant Nielson improperly sought to expand that timeframe by using the voter challenge statute to make a backdoor challenge to Plaintiff Grayeyes's candidacy. Defendant Nielson overstepped his role by taking on a prosecutorial role; an investigative role; and directing Ms. Black to complete a voter challenge. **He also falsified the voter challenge once received.** Defendant Nielson gave notice of a voter challenge when there was none. He failed to specify a time for Grayeyes's response and decided the voter challenge issue before the actual deadline for a response." (Emphasis added) Judge Nuffer's memorandum of decision is attached hereto as Exhibit "D"; and

6. The Moab Sun News reported on August 9, 2018, that the San Juan County Clerk/Auditor John David Nielson "backdated an April document to reflect a March date, and Nuffer said it looks like falsification." Federal District Court Judge Nuffer is quoted in the Moab Sun News to have stated, "In my view, this is a false document. When an official is falsifying a document, it is a cause for concern … why would he do that?" Defendant Nielson's attorney stated in reply to the Federal District Court Judge Nuffer, "Again, he (Nielson) has admitted to making the mistake." The Moab Sun News article is attached hereto as Exhibit "E"; and

7. The San Juan County Clerk/Auditor, John David Nielson, falsifying an official government document in what appears to be his plan to disenfranchise Mr. Willie Grayeyes not only from running as a candidate for County Commission District 2 seat but also entirely removing him from voting in Utah shocks the core conscience of Navajo voters in San Juan County Utah. When Defendant Nielson could not meet the timeline for challenging Mr.

Grayeyes' residency in San Juan County, he challenged the voting rights of Mr. Grayeyes; and

8. The Navajo Utah Commission is appalled by the San Juan County Clerk/Auditor's egregious actions to falsify an official document, employing a strategic plan, to deny Mr. Grayeyes' voting rights. Mr. John David Nielson must be removed from San Juan County Clerk/Auditor because he already admitted to the Federal District Court of Utah, Judge Nuffer, that he made a grave mistake. John David Nielson also stated in his July 16, 2018, deposition when asked "That was false too. Correct?", his reply was "It was" then attempted to explain his reasoning as "I realized that that was probably not what I should have done, but the thought in my head was that the original challenge was done on March 20th, and so that's what we were making this, to March 20th." An excerpt (page 63) of John David Nielson's July 16th deposition is attached hereto as Exhibit "F"; and

9. The Navajo Utah Commission believes it to be in the best interest of Navajo voters to have the San Juan County Clerk/Auditor John David Nielson be investigated and prosecuted for his egregious act by falsifying official government document.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Navajo Utah Commission hereby states that it has lost confidence and trust in John David Nielson as San Juan County Utah Clerk/Auditor because he admitted falsifying official government documents in order to challenge the candidacy of Navajo citizen, Willie Grayeyes, for County Commission District 2 and disenrolling Mr. Grayeyes as a voter in Utah.

2. The Navajo Utah Commission further hereby seeks the intervention by the Utah Lieutenant Governor's Office, Utah State Attorney General and the United States Department of Justice to do all things necessary to remove Mr. John David Nielson from the position of San Juan County Utah Clerk/Auditor.

3. The Navajo Utah Commission directs the Office of Navajo Utah Commission to disseminate this resolution to San Juan County Clerk/Auditor, San Juan County Utah Commission, Utah Lieutenant Governor's Office, Utah State Attorney General's Office, United States Department of Justice Voting Rights Section and Steven Boos, Attorney for Mr. Willie Grayeyes and Mr. Terry Whitehat in the matter of *Willie Grayeyes, et al., v. Spencer Cox, et al* (Case No. 4:18-cv-00041) civil case.

CERTIFICATION

We, hereby certify that the foregoing resolution was duly considered by Navajo Utah Commission at a duly called meeting in Teec Nos Pos, Arizona at which a quorum was present and the same was passed by a vote of 6 in favor, 0 opposed, and 1 abstention, this 16th day of August, 2018.

Davis Filfred, Chairperson
NAVAJO UTAH COMMISSION

MOTION: Herman Daniels
SECOND: Wesley Jones

Chair not voting