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 UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

CHICANO FEDERATION OF SAN)
 DIEGO COUNTY and MIRNA PEREZ,)
 on behalf of themselves, and)
 all others similarly situated)

Plaintiffs,)

vs.)

CITY OF SAN DIEGO; MAYOR)
 MAUREEN O'CONNOR; EDWARD)
 STRUIKSMA, JUDY McCARTY, BOB)
 FILNER, ABBE WOLFSHEIMER, WES)
 PRATT, RON ROBERTS, BRUCE)
 HENDERSON, and GLORIA McCOLL,)
 Council Members; CHARLES)
 ABDELNOUR, City Clerk and)
 DOES 1 through 200,)

Defendants.)

CASE NO 80103 R (M)

COMPLAINT FOR VIOLATIONS OF
 THE 1965 VOTING RIGHTS ACT;
 TITLE 42 U.S.C. SECTIONS 1973,
 ET SEQ.; THE 1965 CIVIL RIGHTS
 ACT; AND TITLE 42 U.S.C.
 SECTIONS 1983, ET SEQ.

CLASS ACTION

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1 Plaintiffs allege on information and believe as fol-
2 lows:

3 I

4 JURISDICTION

5 1. This action is brought by Plaintiffs on behalf of
6 themselves and on behalf of the class, all SAN DIEGO
7 HISPANIC AMERICANS, pursuant to Federal Rules of Civil
8 Procedure 23 and Sections 2 and 3 of the Voting Rights Act
9 of 1965, and to enforce rights guaranteed by the Fourteenth
10 and Fifteenth Amendments to the United States Constitu-
11 tion. This action is brought against Defendant CITY OF
12 SAN DIEGO to stop the imposition by Defendant CITY OF SAN
13 DIEGO of practices and procedures that result in the denial
14 and abridgement of the rights of Hispanic American Citizens
15 of the United States who are residents of the City of San
16 Diego. (Hereinafter plaintiffs will be referred to as "SAN
17 DIEGO HISPANIC AMERICANS"). Plaintiffs seek and are enti-
18 tled to a declaratory judgment declaring the present at
19 large system of electing San Diego City Council persons to
20 Districts unconstitutional under the Fourteenth and Fif-
21 teenth Amendments to the United States Constitution.
22 Plaintiffs' further seek relief under Title 42 U.S.C. 1973,
23 1973 (a), 1973 (c), and 1983. Jurisdiction is conferred on
24 this Court by 28 U.S.C. Sections 1331 and 1343.

1 II

2 PARTIES

3 2. Plaintiff, CHICANO FEDERATION OF SAN DIEGO COUNTY
4 ("CHICANO FEDERATION"), is a non-profit corporation organ-
5 ized and existing under and by virtue of the laws of the
6 State of California. It has been established to further
7 the social and civic interests, and to secure the rights of
8 SAN DIEGO HISPANIC AMERICANS. Its objectives include the
9 promotion of the cultural identity and improvement of the
10 social and economic lot of the Spanish-speaking people of
11 San Diego County. Its objectives also include encouraging
12 SAN DIEGO HISPANIC AMERICANS to fully exercise their politi-
13 cal rights and improve their welfare so that they may effec-
14 tively share with the community majority all rights, privi-
15 leges and benefits to each person, without discrimination
16 whatsoever, as guaranteed by the United States Constitu-
17 tion. The CHICANO FEDERATION's Board of Directors is com-
18 posed of Jess Haro, Jesse Macias, Mateo Camarillo, Tomas
19 Carlos, Cristine Chirboga, Joey Porras, Jr., Benjamin L.
20 Saravia, Gloria L. Serrano, David Valladolid, Antonio
21 Yepiz, Jose De La Garza, Rosemary J. Esparza, Felipe Lopez,
22 Pedro Sanchez, Jr., Frank Vizcarra, Ana Maria Burgos,
23 Alvaro Celaya, Tina DeBaca, Max R. Hernandez, Richard
24 Inzunza, and Lydia Ulloa.

25 3. Plaintiff MIRNA PEREZ ("PEREZ") is a SAN DIEGO
26 HISPANIC AMERICAN residing in the community of San Ysidro
27 in the City of San Diego. PEREZ is a registered voter in

1 the County of San Diego. She is the Chairwoman of the Task
2 Force for a Better San Ysidro. The Task Force for a Better
3 San Ysidro in an unincorporated association of United
4 States citizens residing in San Ysidro, a community of San
5 Diego. As the name implies, it has been organized for the
6 purpose of improving the conditions of the people of the
7 South Bay part of the City of San Diego.

8 4. Plaintiffs and the proposed class of SAN DIEGO
9 HISPANIC AMERICANS are aggrieved parties and a protected
10 class under Title 42 U.S.C. Sections 1973 et seq. and Sec-
11 tion 1983. Plaintiffs are commencing this action to make
12 the political processes leading to nomination and election
13 to the San Diego City Council open equally to SAN DIEGO
14 HISPANIC AMERICANS. This action is intended to redress
15 practices and procedures of Defendant CITY OF SAN DIEGO
16 causing SAN DIEGO HISPANIC AMERICANS to have less opportuni-
17 ty than other members of the electorate to participate in
18 the political process and to elect representatives of their
19 choice to the San Diego City Council.

20 5. Defendant CITY OF SAN DIEGO is a political and
21 geographical subdivision of the State of California and is
22 organized and existing under and by virtue of a general
23 charter and the laws of the State of California. Its'
24 legislative authority making body is comprised of a Mayor
25 and eight members of the City Council. The City Council's
26 power includes the power to reapportion the council dis-
27 trict boundaries.

1 6. Defendant MAUREEN O'CONNOR, the elected Mayor of
2 the City of San Diego is the City's Chief Executive Offi-
3 cer. She is sued in her official capacity.

4 7. Defendants EDWARD STRUIKSMA, JUDY McCARTY, BOB
5 FILNER, ABBE WOLFSHEIMER, WEST PRATT, RON ROBERTS, BRUCE
6 HENDERSON, and GLORIA McCOLL are the present Council mem-
7 bers for the City of San Diego, and as such, they consti-
8 tute the legislative governing body of the City of San
9 Diego pursuant to State Law. Each Council member is sued
10 in his or her official capacity.

11 8. Defendant CHARLES ABDELNOUR is the City Clerk
12 and is responsible for the conduct of the councilmatic
13 elections in the City of San Diego. Mr. Abdelnour is
14 sued only in his official capacity.

15 9. DOE Defendants are the officers, agents, employ-
16 ees of those defendants identified herein or otherwise
17 associated with and responsible for the unlawful conduct
18 set forth herein.

19 10. The 1970 Census indicated that the population of
20 the City of San Diego as of 1970 was 697,000.

21 11. The 1980 Census indicated that the population of
22 the City of San Diego as of 1980 was 878,538 of whom
23 72,582, (8.9%) were black. In addition, 130,613 (15%) of
24 the City's population identified themselves as being of
25 Spanish origin.

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1 12. The past several years have been marked by a a
2 major increase in the SAN DIEGO HISPANIC AMERICAN popula-
3 tion in the City of San Diego. During this period, SAN
4 DIEGO HISPANIC AMERICAN population has become concentrated
5 in two areas. The first area in which SAN DIEGO HISPANIC
6 AMERICANS are concentrated are the neighborhoods located in
7 the South Bay portion of the City of San Diego. (Hereinaf-
8 ter referred to as "SAN DIEGO HISPANIC AMERICANS AREA
9 #1".) The SAN DIEGO HISPANIC AMERICANS AREA #1 is composed
10 approximately of contiguous precincts 390000 through
11 395600. This would include, among others, census tracts
12 100.01, 100.2, 100.3, 100.4, 100.05, 100.06, 100.07,
13 101.01, 101.07., which in 1980 had approximately 30,173 SAN
14 DIEGO HISPANIC AMERICANS. The second area in which SAN
15 DIEGO HISPANIC AMERICANS are concentrated are the neighbor-
16 hoods along and south of the Highway 94 corridor. (Herein-
17 after referred to as "SAN DIEGO HISPANIC AMERICANS AREA
18 #2.") The SAN DIEGO HISPANIC AMERICANS AREA #2 is composed
19 of contiguous precincts which would include, among others,
20 census tracts 32.00, 34.02, 35.00, 36.00, 39.00, 47.00,
21 48.00, 49.00, 50.00, 51.80, 41.00, 44.00, 45.00, 46.00, and
22 41.0001, which in 1980 had a combined SAN DIEGO HISPANIC
23 AMERICAN population in excess of 25,000.

24 13. The application of a racially and ethnically
25 neutral redistricting criteria to the population character-
26 istics of San Diego would have resulted in a redistricting

1 plan which recognized the significant growth of the
2 Hispanic population and, together with the avoidance of the
3 practices complained of herein, would have increased signif-
4 icantly the opportunity for Hispanic citizens to partici-
5 pate in the political process and to elect candidates of
6 their choice to the council.

7 III

8 HISTORY OF THE SAN DIEGO
9 CITY COUNCIL ELECTION SYSTEM

10 A. INCORPORATION: 1850-1889: Election by District

11 14. San Diego first incorporated in 1850 under the
12 Special Charter System provided by the California Legisla-
13 ture. Under this system a "Common Council" consisting of
14 five members, elected by individual wards, and the office
15 of Mayor were established to conduct municipal business.

16 15. The "Common Council" system of government was
17 abandoned by the City of San Diego in favor of a home-rule
18 charter system which was adopted by San Diego voters in
19 1889. Under the home-rule charter system San Diego has had
20 five basic forms of government since its creation. These
21 have consisted of, in seriatim, a bicameral council, a
22 unicameral council, a commission plan, a mayor-council
23 system, and a city manager-council system.

24 B. Bicameral Council (1889): Mixed, At-Large and
25 Election by District

26 16. The Charter of 1889 provided for a bicameral
27 (two-chambered) legislative body that contained a Board of
28

1 Aldermen with nine members and a Board of Delegates with
2 eighteen members. The nine aldermen were elected by gener-
3 al election to 4-year terms. The 18 delegates were elected
4 two each from nine city wards.

5 17. The system of election under the 1889 San Diego
6 City Charter was set forth in Article II of that Charter
7 which provided in pertinent part:

8 SECTION 1. The legislative power of the City
9 of San Diego shall be vested in two houses of
10 legislation, which shall be designated the Common
11 Counsel, and shall consist of a Board of Aldermen
12 and a Board of Delegates.

13 SEC. 2. The Board of Aldermen shall consist
14 of nine members, who shall be elected by general
15 ticket for the city at large.

16 * * *

17 SEC. 4. The Board of Delegates shall con-
18 sist of two members from each ward who shall be
19 elected at each general municipal election by the
20 qualified electors of their respective wards, and
21 shall hold office for two years. Each member of
22 the Board of Delegates must have been both an
23 elector of the city and an actual resident of the
24 ward for which he was elected at least one year
25 next preceeding his election. (emphasis added)

26 C. Unicameral Council and Commission Form of Government
27 (1905- 1906): Election by District

28 18. Voters abandoned the bicameral system in 1905 in
favor of a unicameral council form of government. The city
was divided into nine districts instead of the twenty-sev-
en members under the bicameral system. Election was by
district.

19 19. In 1906, the City of San Diego form of government
20 was changed to a commission system with a City Council
21 consisting of nine members, one member elected from each
22

1 ward of the city, by the voters of their respective wards
2 for 2-year terms.

3 **D. Election at Large (1909)**

4 20. In 1909, the City Council system was changed for
5 the first time to an at-large system with five members to
6 be elected at-large to serve four year terms.

7 21. The applicable part of the revised charter of the
8 City of San Diego provided:

9 SECTION 2(a) The common council shall con-
10 sist of five members to be nominated and elected
11 at large by the electors of the City of San Di-
12 ego, and shall hold office for four years . . ."
(emphasis added)

12 **E. Mayor-Council (1915): Election at Large**

13 . 22. In 1915 a Mayor-Council form of government was
14 adopted by San Diego Voters which provided for five members
15 of the City Council to be elected at-large to serve terms
16 of four years. This system was abandoned in 1931.

17 **F. Manager-Council (1931): Election at Large**

18 23. In 1931 the City Council system was changed to
19 six members from each of six districts elected by general
20 election to serve 4-year terms. The system provided for
21 district primaries and at-large general elections.

22 24. In 1963 voters approved increasing the number of
23 Council members (and Council districts) from six to eight.
24 The City Council has been reapportioned by Ordinances No.
25 9984 adopted 27 February 1969, No. 10990 adopted 6 February

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1 1973 and again by Ordinance No. 15370 adopted 24 September
2 1980.

3 IV

4 CITY OF SAN DIEGO ELECTION AND
5 CURRENT CHARTER PROVISIONS

6 25. Article I of The San Diego City Charter provides
7 for the creation of the City of San Diego as follows:

8 SECTION 1 - INCORPORATION AND CORPORATE POWERS.

9 The municipal corporation now existing and known
10 as "The City of San Diego" shall continue to be a
11 municipal corporation under the same name, with
12 the boundaries as now established or as any here-
13 after be legally established.

14 26. The relevant section of the San Diego City Char-
15 ter, Article II, provides for the election of City Council
16 persons as follows:

17 SECTION 4. - DISTRICTS ESTABLISHED.

18 For the purpose of electing members of the Coun-
19 cil the City shall be divided into eight Dis-
20 tricts as nearly equal in registered voter popula-
21 tion as practicable.

22 SECTION 10. - ELECTIONS.

23 The regular municipal primary election shall be
24 held on the third Tuesday in September in each
25 odd-numbered year, and the general municipal
26 election shall be held on the first Tuesday after
27 the first Monday in November of the same year,
28 or, if either of these days falls on a legal
holiday, then the election shall be held on the
next succeeding day which is not a legal holi-
day; . . .

* * *

At the municipal primary election there shall be
chosen by the electors of each Council district
two candidates for the office of any Councilman
from a district whose term expires the succeeding
December.

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At the general municipal election the electors of the whole City shall select from among the candidates chosen at the primary election in each district one candidate for the office of Councilman whose term expires the succeeding December, and there shall be chosen by all of the electors of the whole City from among the candidates chosen at the primary one candidate to succeed any other elective officer whose term expires in December succeeding the election. (emphasis added)

27. The City of San Diego has experienced one of the fastest growth rates of any city in the United States. The population of San Diego was 17,700 in 1900. It was 144,000 at the time the current City Charter was adopted. It was 334,387 in 1950; 573,224 in 1960; 696,769 in 1970; 875,504 in 1980. It is currently estimated to be in excess of 1,025,000.

V

NO SAN DIEGO HISPANIC AMERICAN HAS EVER BEEN ELECTED OUTRIGHT UNDER THE SAN DIEGO CITY COUNCIL ELECTION SYSTEM

28. No SAN DIEGO HISPANIC AMERICAN has ever been elected outright to the San Diego City Council in any of the eight council districts. In District Eight, 2 SAN DIEGO HISPANIC AMERICANS have been elected but only after having first been appointed. The following individuals have been elected to and held City Council seats in the following respective San Diego City Council Districts from 1932 to present:

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TERM

NAME

DISTRICT ONE

1932 - 1937	Albert W. Bennett
1937 - 1939	Wesley C. Crandall
1939 - 1944	Frederick W. Simpson
1944 - 1949	Gerald C. Crary
1949 - 1953	Franklin F. Swan
1953 - 1957	Clair W. Burgener
1957 - 1961	Ross F. Tharp
1961 - 1971	Helen R. Cobb
1971 - 1977	Gil Johnson
1977 - 1985	Bill Mitchell
1985 - present	Abbe Wolfsheimer

DISTRICT TWO

1932 - 1934	Leroy E. Goodbody
1934 - 1935	Will H. Cameron
1935 - 1939	Raymond M. Wansley
1939 - 1942	Louis F. Weggenman
1942 - 1945	H. DeGraff Austin
1945 - 1955	Charles G. Wincote
1955 - 1961	Dudley D. Williams
1961	William R. Hartley
1961 - 1967	Ivor DeKirby
1967 - 1971	Sam T. Loftin
1971 - 1979	Maureen F. O'Connor
1979 - 1987	Bill Cleator
1987 - present	Ron Roberts

DISTRICT THREE

1933 - 1934	Wayne A. Hood
1934 - 1935	Alva S. Davis
1935 - 1937	Walter C. Wurfel
1937 - 1941	Addison E. Housh
1941 - 1946	Paul J. Hartley
1946 - 1949	Elmer H. Blase
1949 - 1961	Chester E. Schneider
1961 - 1968	Harry F. Scheidle
1968 - 1973	Henry Landt
1973 - 1977	Lee R. Hubbard
1977 - 1981	Bill Lowrey
1981 - 1983	Susan Golding
1983 - present	Gloria D. McColl

1 DISTRICT FOUR

2	1932	John R. Balkiston
	1933 - 1937	Harry Warburton
3	1937 - 1941	Herbert E. Fish
	1941 - 1947	Ernest J. Boud
4	1947 - 1949	Chester L. Dorman
	1949 - 1961	George Kerrigan
5	1961 - 1967	Allen Hitch
	1967 - 1969	Tom Hom
6	1969 - 1982	Leon L. Williams
	1982 - 1987	William Jones
7	1987 - present	Wes Pratt

8 DISTRICT FIVE

9	1932 - 1935	Dan Rossi
	1935 - 1939	Bruce R. Stannard
10	1939 - 1943	Harley E. Know
	1943 - 1955	Charles C. Dail
11	1955 - 1963	Frank E. Curran
	1963 - 1965	Tom Hom
12	1965 - 1977	Floyd L. Morrow
	1977 - 1981	Fred Schnaubelt
13	1981 - present	Ed Struikisma

14 DISTRICT SIX

15	1932 - 1934	Charles E. Anderson
	1934 - 1935	Richard J. Scollin
16	1935 - 1939	John S. Siebert
	1939 - 1943	Albert E. Flowers
17	1943 - 1947	Walter W. Austin
	1947 - 1955	Vincent T. Godfrey
18	1955 - 1963	Justin C. Evenson
	1963 - 1969	Jack Walsh
19	1969 - 1975	Bob Martinet
	1975 - 1979	Tom Gade
20	1979 - 1987	Mike Gotch
	1987 - present	Bruce Henderson

21 DISTRICT SEVEN

22	1967 - 1973	Allen Hitch
	1973 - 1976	Jim Ellis
23	1976 - 1977	Joel M. Strobl
	1977 - 1980	Larry Stirling
24	1980 - 1985	Dick Murphy
25	1985 - present	Judy McCarty

26 DISTRICT EIGHT

27	1965 - 1971	Mike Schaefer
	1971 - 1975	Jim Bates

1 1975 - 1978 Jess Haro (appointed then elected)
1978 - 1982 Lucy Killea
2 1982 - 1986 Uvaldo Martinez (appointed then elected)
1987 - present Bob Filner

3 VI

4 THE CITY OF SAN DIEGO HAS USED UNUSUALLY LARGE ELECTION
5 DISTRICTS, MAJORITY VOTE REQUIREMENTS, ANTI-SINGLE SHOT
6 VOTING PROVISIONS AND OTHER VOTING PRACTICES AND
7 PROCEDURES THAT HAVE ENHANCED THE OPPORTUNITY FOR
8 DISCRIMINATION AGAINST SAN DIEGO HISPANIC AMERICANS

9 29. The eight members of the San Diego City Council
10 are currently elected in the general election on a at-large
11 basis, by the electors of the whole City of San Diego, as
12 provided for in Article II of the San Diego City Charter.

13 30. In 1965 the City of San Diego was divided into the
14 eight districts when its population was approximately
15 633,000. The current population of the City of San Diego
16 is approximately 1,022,000, thus it is approximately 39%
17 larger than when the eight districts were created in 1965.
18 The sheer size of the districts used in the San Diego City
19 at-large voting system has made it more difficult for SAN
20 DIEGO HISPANIC AMERICANS to vote and be elected to office.
21 The large districts, at-large system and no opportunity for
22 bullet (single shot) voting has served to submerge the vote
23 of SAN DIEGO HISPANIC AMERICANS to dilute the vote of SAN
24 DIEGO HISPANIC AMERICANS and thereby deny them constitution-
25 ally protected access to the political system.

26 31. Defendant CITY OF SAN DIEGO has intentionally
27 used the at-large San Diego City Council general election
28 system set forth in Article II of the San Diego City Char-
ter as a device to further discrimination against SAN DIEGO

1 HISPANIC AMERICANS by minimizing, cancelling out and dilut-
2 ing the voting strength of SAN DIEGO HISPANIC AMERICANS.
3 This intentional conduct by Defendant CITY OF SAN DIEGO has
4 resulted in the denial and abridgement of the right of SAN
5 DIEGO HISPANIC AMERICANS to vote. It has further resulted
6 in the closing to SAN DIEGO HISPANIC AMERICANS of the polit-
7 ical processes leading to the nomination and election of
8 San Diego City Councilmembers. Upon these premises SAN
9 DIEGO HISPANIC AMERICANS have less opportunity, than do
10 other members of the electorate, to participate in the
11 political process and to elect a representative of their
12 choice.

13 32. Defendant CITY OF SAN DIEGO has and is maintain-
14 ing the at-large general election system in order to mini-
15 mize and dilute the voting power of the SAN DIEGO HISPANIC
16 AMERICANS. The San Diego City Councilpersons purportedly
17 are elected in a general election by the voters of the
18 whole city to represent the entire City of San Diego. In
19 fact, City Council representatives under the current system
20 are elected to represent the district from which they are
21 nominated. Each council person is more the representative
22 of his or her own district than the city as a whole. Defen-
23 dant CITY OF SAN DIEGO is precluded from contesting these
24 facts in that they were fully litigated and resolved
25 against the city in D'Adamo v. Cobb 27 Cal.App.3d 448
26 (1972).

27 33. The San Diego City Council has intentionally
28 reapportioned the city council districts so as to divide

1 the SAN DIEGO HISPANIC AMERICAN AREAS #1 and #2 neighbor-
2 hoods between the Fourth and Eighth Councilmatic Districts
3 with the intent of fragmenting or fracturing the voting
4 power of SAN DIEGO HISPANIC AMERICANS. By way of example
5 and not limitation, census tracts 36.00, 39.00, 47.00 and
6 49.00 population is predominantly SAN DIEGO HISPANIC AMERI-
7 CANS and are contiguous to those of District Eight. These
8 census tracts were intentionally placed into District
9 Four. At the same time census tracts 3.00, 7.00, and 8.00
10 were included in District Eight even though they were not
11 contiguous and are non SAN DIEGO HISPANIC AMERICAN in popu-
12 lation.

13 34. The fracturing of the SAN DIEGO HISPANIC AMERICAN
14 communities was effectuated notwithstanding requests from
15 SAN DIEGO HISPANIC AMERICANS that their communities be
16 respected during the redistricting process. There were and
17 are redistricting alternatives that more accurately reflect
18 the SAN DIEGO HISPANIC AMERICAN population increases and
19 that adhere to a nondiscriminatory redistricting criteria.

20 35. The fragmentation of the SAN DIEGO HISPANIC AMERI-
21 CAN population described in the preceding paragraphs was
22 effectuated for the purpose and with the result of avoiding
23 the higher Hispanic percentages in District Eight that
24 would be the result of drawing district boundaries on a
25 logical basis.

1 the city at large. Each councilman then, is
2 more the representative of his own district than
3 the city as a whole. (citations omitted) (empha-
4 sis added)

5 37. Defendant CITY OF SAN DIEGO, following the
6 D'Adamo decision, did not remedy or attempt to remedy
7 the impact of the unconstitutional reapportionment practic-
8 es they had engaged in for the 42 years between 1931, when
9 the current charter was adopted, and the 1973 reapportion-
10 ment date.

11 38. Defendant CITY OF SAN DIEGO on 25 February 1980
12 created a Task Force consisting of the Planning Director,
13 City Clerk, Assistant City Attorney and the Rules Committee
14 Consultant to prepare a plan for the redistricting of the
15 Councilmatic district in order to equalize the population
16 within each district.

17 39. The Task Force reported back by way of a memoran-
18 dum of 9 April 1980 to the City Council Rules Committee
19 entitled "City Council REDISTRICTING PROPOSALS". The re-
20 port in summary contained a recommendation which would:

- 21 1. Equalize the population in each district to
22 within 2.5 percent of the 105,600 people
23 each district should contain;
- 24 2. Affect as few people as possible; and
- 25 3. Maintain the residence of each incumbent
26 within his/her district.

27 40. The Task Force recommended, what it entitled
28 Alternative #1, which provided for no changes in District
Eight and for moving census tract 30.02 into District Four.

1 of one district today is almost the size of entire popula-
2 tion of the City in 1931, when the total city population
3 was 144,000.

4 44. Other voting practices and procedures of Defen-
5 dant CITY OF SAN DIEGO which apply to elections for
6 councilpersons tend to compound and multiply the racially
7 discriminatory effect of the at-large scheme of elections
8 for San Diego City Councilmembers.

9 45. The at-large election scheme currently employed
10 by the San Diego City Council, particularly in combination
11 with the above-described formal and informal practices,
12 effectively excludes the Hispanic community from participa-
13 tion in the political process of electing City
14 Councilmembers in a reliable and meaningful manner.

15 46. Defendant CITY OF SAN DIEGO has made extensive
16 use of unusually large districts, majority vote require-
17 ments, anti-single shot provisions and other voting practic-
18 es and procedures, including the manipulation of the ap-
19 pointment process to fill vacancies that have enhanced the
20 opportunity for discrimination against SAN DIEGO HISPANIC
21 AMERICANS.

22 VII

23 VOTING IN SAN DIEGO ELECTIONS IS RACIALLY POLARIZED

24 A. San Diego Hispanic Residents Are A Geographically Insular Minority Group

25 47. SAN DIEGO HISPANIC AMERICANS are able to demon-
26 strate that they are sufficiently large and geographically
27

1 compact to constitute a majority in a single-member dis-
 2 trict. By way of example, using the 1980 census data, a
 3 single-member district plan drawn to create twelve dis-
 4 tricts would yield an approximate population of 73,000 per
 5 district. The following table of census tracts would have
 6 a majority population of SAN DIEGO HISPANIC AMERICANS:

7	CENSUS TRACT	POPULATION	HISPANICS	PERCENT
8	100.01	2745	926	33%
9	100.02	6912	2120	30%
10	100.03	5985	2067	34%
11	100.04	5003	2663	53%
12	100.05	6724	5494	81%
13	100.06	5935	5202	87%
14	101.03	4249	1412	33%
15	101.04	3631	728	20%
16	101.05	7627	2510	32%
17	101.06	4872	2436	50%
18	101.07	3711	1492	40%
19	SUBTOTALS	57,394	27,050	47%
20	39	6055	3287	54%
21	49	2217	1831	82%
22	48	3573	2564	71%
23	49	4159	3097	74%
24	50	1578	1430	90%
25	SUBTOTALS	17,582	12,209	71%
26	TOTALS	74,976	39,259	52%

26 48. A full, true and correct copy of the map of the
 27 purported majority SAN DIEGO HISPANIC AMERICAN district is

1 attached hereto as Exhibit "A". The census tracts included
2 are designated by a circle drawn around their respective
3 number.

4 49. The SAN DIEGO HISPANIC AMERICANS constitute a
5 geographically insular minority group. SAN DIEGO HISPANIC
6 AMERICANS are sufficiently large and geographically compact
7 to constitute a majority in a single member district. But
8 for Defendant CITY OF SAN DIEGO's unlawful and unconstitu-
9 tional at-large general election system SAN DIEGO HISPANIC
10 AMERICAN citizens would be able to elect candidates of
11 their choice to the San Diego City Council.

12 B. SAN DIEGO HISPANIC AMERICANS Are a Politically Cohe-
13 sive Minority Group.

14 50. SAN DIEGO HISPANIC AMERICANS are a politically
15 cohesive minority group. They have historically voted as a
16 group for the same local, state and federal candidates.

17 51. SAN DIEGO HISPANIC AMERICANS possess the poten-
18 tial to elect representatives in the absence of the elec-
19 tion structure challenged in this action. SAN DIEGO
20 HISPANIC AMERICANS are sufficiently concentrated and politi-
21 cally cohesive that a putative district plan would result
22 in districts in which SAN DIEGO HISPANIC AMERICANS would
23 constitute a majority of the voters.

24 C. White Majority Vote Is Usually Sufficient As A Block
25 To Defeat The SAN DIEGO HISPANIC AMERICANS' Preferred
26 Candidate

27 52. A white block vote in the San Diego City Council
28 elections normally will defeat the combined strength of SAN

1 DIEGO HISPANIC AMERICANS together with white "cross over"
2 votes. This results in a substantial loss of political
3 power through voter dilution of SAN DIEGO HISPANIC AMERI-
4 CANS.

5 53. The existence of block voting has resulted in the
6 polarization of the City of San Diego electorate. This has
7 resulted from a pattern of racial block voting, extending
8 over a long period of time which has emerged in connection
9 with San Diego City Council elections in which white block
10 voters and SAN DIEGO HISPANIC AMERICANS vote in blocks for
11 different candidates. This has resulted in the dilution of
12 SAN DIEGO HISPANIC AMERICANS votes and the denial of equal
13 access to San Diego politics.

14 54. SAN DIEGO HISPANIC AMERICANS have and do prefer
15 certain candidates, whom they could elect, were it not for
16 the interaction of the challenged electoral law with the
17 white majority block voting.

18 55. Defendant CITY OF SAN DIEGO has intentionally
19 tried to manufacture a false historical record to conceal
20 its discriminatory practices by the manipulative appoint-
21 ment to vacancies power. The defendants have thereby de-
22 prived plaintiffs of the representatives of their choice.

VIII

**POLITICAL CAMPAIGNS HAVE BEEN CHARACTERIZED
BY OVERT AND SUBTLE RACIAL APPEALS**

56. Political campaigns have been characterized by both overt and subtle racial appeals. This has included derogatory racist remarks against Hispanic candidates.

57. For example, candidates have appealed to voters to vote for them because they are not Hispanic. In the context of political campaigns, opposition candidates have attempted to appeal to bigotry by blaming social and economic problems of San Diego on Hispanics, for which they were not the cause.

IX

**SAN DIEGO HISPANIC AMERICANS BEAR THE EFFECTS OF
DISCRIMINATION IN EDUCATION, EMPLOYMENT, AND HEALTH
WHICH HINDERS THEIR ABILITY TO PARTICIPATE EFFECTIVELY
IN THE POLITICAL PROCESS**

58. There has been a history of official discrimination by the State of California and Defendant CITY OF SAN DIEGO against SAN DIEGO HISPANIC AMERICANS. This discrimination has included discrimination touching on the right of the Spanish-speaking and other language minorities to register, to vote, or otherwise to participate in the democratic process.

59. Past and present discrimination has been a direct and proximate result of SAN DIEGO HISPANIC AMERICANS not having equal access to the political, professional and

1 educational positions of authority. For example, no SAN
2 DIEGO HISPANIC AMERICAN has served in any of the following
3 positions among others:

- 4 A. Mayor of San Diego;
- 5 B. San Diego City Manager;
- 6 C. Chief of Police of the City of San Diego;
- 7 D. Sheriff of the County of San Diego;
- 8 E. District Attorney of the County of San Diego;
- 9 F. San Diego City Clerk;
- 10 G. Member of the Board of Supervisors;
- 11 H. U.S. Congressman;
- 12 I. California State Senator;
- 13 J. President of the San Diego County Bar Association;
- 14 K. San Diego Board of Education Member;
- 15 L. San Diego Community College District;
- 16 M. Chief Administration Officer of the County of
17 San Diego;
- 18 N. President of the San Diego County Bar Association;
- 19 O. Chief of the Fire Department of the City of San
20 Diego; or
- 21 P. Presiding Judge of the San Diego Superior Court.

22 60. Past and present discrimination against SAN DIEGO
23 HISPANIC AMERICANS has resulted in a lack of responsiveness
24 on the part of elected City Councilmembers, the Mayor and
25 the City Attorney to the particularized needs of SAN DIEGO
26 HISPANIC AMERICANS, without fear of political consequences.

1
2 **IN THE CONTEXT OF THE TOTAL CIRCUMSTANCES SAN**
3 **DIEGO HISPANIC AMERICANS HAVE BEEN DENIED AN EQUAL**
4 **CHANCE TO PARTICIPATE IN THE POLITICAL LIFE OF SAN DIEGO**

5 63. The challenged election law and procedure, in the
6 context of the total circumstances, has had and now has the
7 result of denying SAN DIEGO HISPANIC AMERICANS an equal
8 chance to participate in the electoral process. The cur-
9 rent Defendant CITY OF SAN DIEGO at-large general election
10 scheme of electing district representatives ensures that
11 the white block vote majority will continue to elect all
12 members to the City Council, while plaintiffs and their
13 class will continue to have neither the opportunity to be
14 elected, nor elect a representative of their choice, all in
15 violation of 42 U.S.C. 1973, et seq., 1983 and the Four-
16 teenth and Fifteenth Amendments to the United States Consti-
17 tution and, otherwise, in deprivation of their rights under
18 State and Federal law.

19 64. The stated rationale for Defendant CITY OF SAN
20 DIEGO's current at-large general election voting system is
21 tenuous, and was so found in D'Adamo v. Cobb, 27 Cal.
22 App.3d 448 (1972). The system is in fact maintained for
23 the purpose of keeping the status quo power structure in
24 control of San Diego City government.

25 65. It is entirely feasible to devise a single-member
26 election by district-only plan for electing City
27 Councilmembers in the City of San Diego, under which the
28 rights of plaintiffs would not be violated.

1 of the Class and the relief sought herein is common to the
2 entire Class.

3 71. The claims of the representative plaintiffs iden-
4 tified above and incorporated herein by reference, are typi-
5 cal of the claims of the Class in that the claims of all
6 members of the Class, including plaintiffs, have been de-
7 nied fair and adequate representation within the City of
8 San Diego based upon the voting procedures utilized by
9 Defendant CITY OF SAN DIEGO.

10 72. The representative plaintiffs can and will fairly
11 and adequately protect the interests of the Class and sub-
12 classes.

13 73. This action is properly maintained as a class
14 action inasmuch as the questions of law and fact common to
15 the members of the Class predominate over questions affect-
16 ing individual class and subclass members. A class action
17 is superior to other available methods for the fair and
18 efficient adjudication of this controversy. Moreover, in
19 order for plaintiffs to proceed against defendants in an
20 economical manner, and to prevent the massive duplication
21 of discovery and other similar proceedings which would
22 occur if there were a multiplicity of actions, plaintiffs
23 request the benefits of Rule 23(d).

24 XII

25 CLAIMS FOR RELIEF

26 74. The present at-large election scheme of Defendant
27 CITY OF SAN DIEGO has the purpose and the effect of abridg-

1 ing the right to vote on account of race, and operates to
2 minimize or cancel out the voting strength of racial ele-
3 ments in the City, which deprives plaintiffs of their
4 rights under the Fourteenth and Fifteenth Amendments to the
5 United States Constitution.

6 75. The present at-large election scheme of Defendant
7 CITY OF SAN DIEGO deprives plaintiffs and their class of
8 the opportunity to elect Hispanics to the San Diego City
9 Council, even though Hispanics comprise a large portion of
10 the total population of the City of San Diego, and deprives
11 plaintiffs and their class as potential Hispanic candidates
12 of the opportunity to meaningfully run for positions on the
13 San Diego City Council, because the design and effect of
14 the at-large plan relegate Hispanic electors to a permanent
15 minority status with no voice or influence upon the defen-
16 dants, all of which deprives plaintiffs of their rights
17 under the Fourteenth and Fifteenth Amendments to the United
18 States Constitution.

19 76. There is a real and actual controversy between
20 the parties. Plaintiffs have no adequate remedy at law.
21 Plaintiffs are suffering irreparable injury as a result of
22 the at-large election scheme challenged herein, and that
23 scheme will be continued unless enjoined by this Court.

24 77. The at-large scheme of elections described in the
25 above paragraphs is maintained by the individual defendants
26 under the color of law of the State of California, Defen-

1 dant CITY OF SAN DIEGO, and under the color of the defen-
2 dants' respective offices as officers and agents of the
3 State. Only a judicial order and the retention of jurisdic-
4 tion by this Court pursuant to 42 U.S.C. 1973a(c) will stop
5 the voting discriminatory practices engaged in by Defendant
6 CITY OF SAN DIEGO.

7 XIII

8 PRAYER

9 WHEREFORE, plaintiffs respectfully pray that the Court
10 enter a judgment:

11 (a) Declaring that the present at-large general elec-
12 tion plan of electing District Councilpersons to the San
13 Diego City Council is violative of Section 2 of the Voting
14 Rights Act, 42 U.S.C. Sections 1973, et seq. and the Four-
15 teenth and Fifteenth Amendments to the United States Consti-
16 tution.

17 (b) Enjoining defendants, their agents and successors
18 in office, and all other persons acting in concert with
19 them, from administering, implementing or conducting any
20 election for members of the San Diego City Council pursuant
21 to the statutory and constitutionally invalid at-large
22 election plan;

23 (c) Ordering defendants to devise a new election plan
24 which meets the requirements of federal law. If the defen-
25 dants fail to devise such a plan the Court should put a
26 single member district only plan into effect.

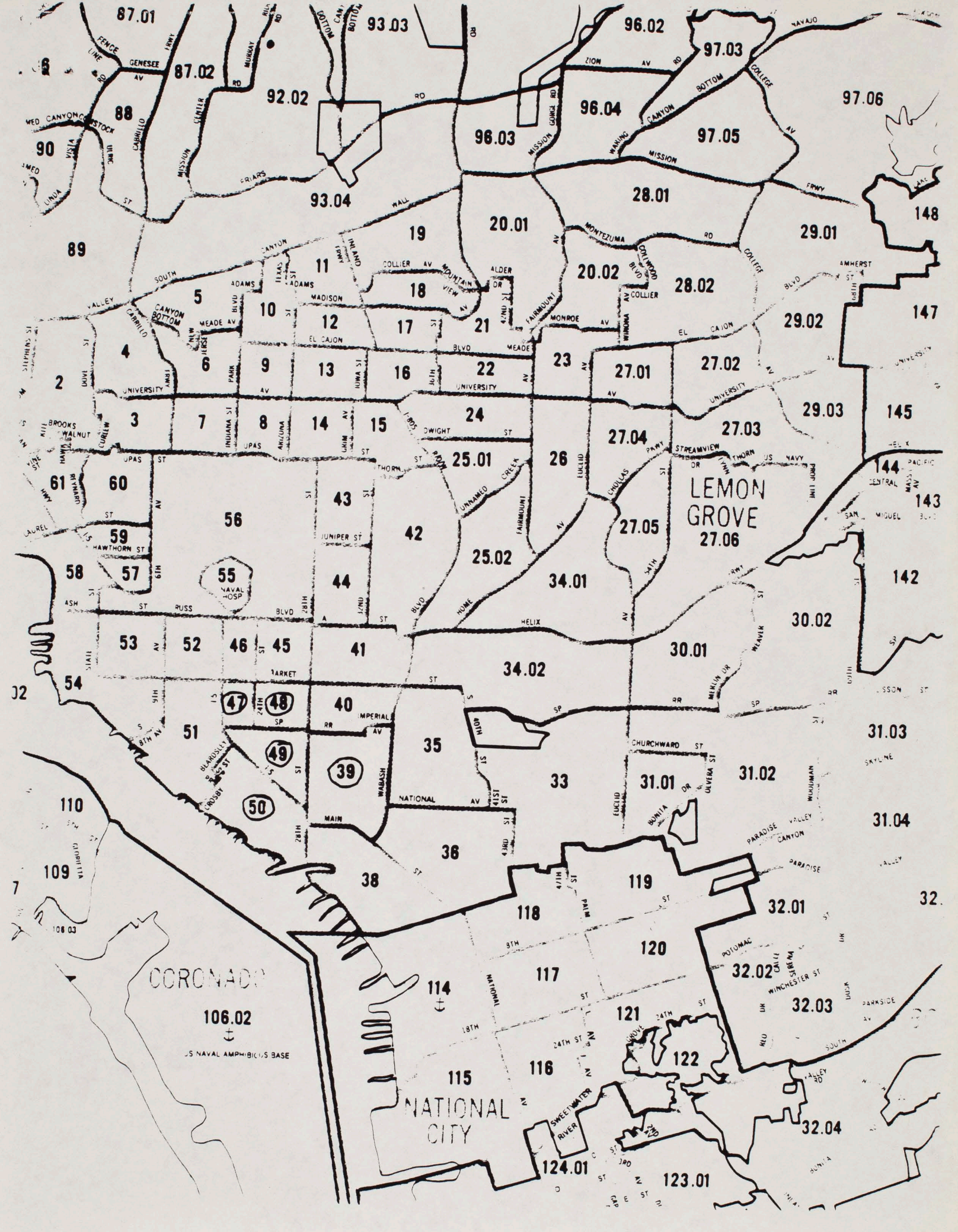
1 (d) Designating Defendant CITY OF SAN DIEGO for cover-
2 age pursuant to Section 3(c) of the Voting Rights Act, 42
3 U.S.C. 1973(a)(c), for a period of 10 years and requiring
4 that during that period no alteration of the City Council
5 redistricting revised plan may be implemented without prior
6 preclearance from the Attorney General of the United States.

7 Plaintiffs further pray that the Court grant all fur-
8 ther relief as the interests of justice may require togeth-
9 er with disbursements and additionally, attorneys fees and
10 costs as permitted pursuant to 42 U.S.C. Section 1973 1(e)
11 and Section 1988.

12 LAW OFFICES OF MICHAEL J. AGUIRRE
13 A Professional Corporation

14 Date 25 January 1988

Michael J. Aguirre
15 Michael J. Aguirre
16 Attorneys for Plaintiffs
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90 93.04 28.01 29.01 148
89 19 20.01 29.02 147
5 11 20.02 28.02 29.02 147
10 12 17 21 23 27.01 27.02 29.02 147
9 13 16 22 27.01 27.02 29.02 147
3 7 8 14 15 24 27.01 27.02 29.02 147
61 60 56 43 42 25.01 26 27.04 27.03 29.03 145
58 57 55 44 25.02 34.01 27.05 27.06 144 143
53 52 46 45 41 34.02 30.01 30.02 142
54 47 48 40 35 34.02 30.01 30.02 142
51 49 39 35 33 31.01 31.02 31.03 142
110 109 50 38 36 33 31.01 31.02 31.04 142
106.02 114 118 120 32.01 32.02 32.03 32.04
106.02
US NAVAL AMPHIBIOUS BASE
115 116 121 122 32.01 32.02 32.03 32.04
NATIONAL CITY
124.01 123.01

STATE BEACH BOY

125 CHULA VISTA

124.02

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CASTLE PARK-OTAY

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PALM AV DONAX AV

PALM AV SAN DIEGO

PALM AV

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104

CORONADO AV

CORONADO AV

100.02

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101.04

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101.06

100.04

NAVAL AIR STATION AUXILIARY BODY

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SUNSET AV

101.05

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SAN DIEGO

