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12 **UNITED STATES OF AMERICA**

13 **IN THE UNITED STATES DISTRICT COURT**
14 **FOR THE DISTRICT OF MONTANA**
15 **BILLINGS DIVISION**

16 **UNITED STATES OF AMERICA,**

17 **Plaintiff,**

18 **vs.**

19 **ROOSEVELT COUNTY, MONTANA;**
20 **DEAN HARMON, FERRIS A. TOAVS,**
21 **and GARY A. MACDONALD, in their**
22 **official capacities as members of the**
23 **Roosevelt County Board of**
Commissioners; and CHERYL
HANSEN, in her official capacity as
Clerk and Recorder and
Superintendent of Elections
for Roosevelt County, Montana,

Defendants.

CV 00- BLG-

COMPLAINT

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The United States of America, plaintiff herein, alleges:

1. This action is brought by the Attorney General on behalf of the United States pursuant to Sections 2 and 12(d) of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973 and 1973j(d), and pursuant to 28 U.S.C. 2201.

2. This Court has jurisdiction over this action pursuant to 42 U.S.C. 1973j(f) and 28 U.S.C. 1345.

3. Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, prohibits the enforcement of any voting qualification or prerequisite to voting or any standard, practice or procedure that results in the denial or abridgement of the right to vote on account of race or color.

4. Defendant Roosevelt County, Montana, is a political and geographical subdivision of the State of Montana.

5. The official governing authority of Roosevelt County established under the laws of the State of Montana consists of the Roosevelt County Board of Commissioners, which exercises the legislative and executive powers of the county.

6. Defendants DEAN HARMON, FERRIS A. TOAVS, and GARY A. MACDONALD are members of the Roosevelt County Board of Commissioners. Each of these defendants is a resident of Roosevelt County and is sued in their official capacity.

7. Defendant CHERYL HANSEN is the Clerk and Recorder of Roosevelt County and in that capacity is the superintendent of elections for the county. Defendant HANSEN is a resident of Roosevelt County and is sued in her official capacity.

1 8. According to the 1990 Census of Population, the total population of
2 Roosevelt County is 10,999, of whom 5,545 (50.4%) are white people and 5,355
3 (48.6%) are American Indian people.

4 9. According to the 1990 Census of Population, the voting age population of
5 Roosevelt County is 7,123, of whom 4,025 (56.5% percent) are white people and 3,023
6 (42.4% percent) are American Indian people.

7 10. The Roosevelt County Board of Commissioners is composed of three
8 members who qualify to run from one of three residential districts but are elected at
9 large by all of the voters in the county. The terms of the members of the Board are for
10 six years and are staggered so that only one position on the county commission is open
11 for election every two years.

12 11. The Indian population of Roosevelt County is sufficiently numerous and
13 geographically compact so that, if members of the Board of Commissioners were
14 elected from three properly apportioned single-member districts, Indian voters would
15 constitute a voting age majority in one of the voting districts.

16 12. Racially polarized voting patterns prevail in elections in Roosevelt County.
17 Indian voters in the county are politically cohesive, and white voters vote sufficiently as
18 a bloc usually to defeat the Indian voters' candidate of choice.

19 13. Social, civic and political life in Roosevelt County is divided along racial
20 lines. This racial polarization results in Indian candidates having less opportunity to
21 solicit the votes of the majority of voters, who are white, than the opportunity available
22 to white candidates to solicit the votes of those white voters.

1 14. Indian people in Roosevelt have suffered from a history of official
2 discrimination and continue to bear the effects of past discrimination in voting and other
3 areas, such as education, employment and housing.

4 15. The socioeconomic status of the Indian citizens of Roosevelt County is
5 markedly lower than the socioeconomic status of the white citizens of the county. The
6 depressed socioeconomic status of the Indian population of the county is related to the
7 effects of past racial discrimination. These effects of past discrimination hinder the
8 current ability of Indian citizens to participate effectively in the political process in
9 Roosevelt County.

10 16. During political campaigns in Roosevelt County, there have been instances
11 of overt or subtle racial appeals by white candidates.

12 17. In elections for the Board of Commissioners, a partisan primary is held to
13 determine which candidates qualify for the general election. In the primary elections,
14 the top finisher in each party primary advances to the general election. In the general
15 election the top finisher is elected to the Board of Commissioners. This partisan
16 primary feature of the electoral process, coupled with the procedure for having only one
17 position on the Board open at any election, narrows the field of candidates, thereby
18 increasing the chances for a head-to-head race in the general election and enhancing
19 the opportunity for discrimination against Indians.

20 18. No Indian has ever been elected to serve as a member of the Roosevelt
21 County Board of Commissioners in the eighty year history of the county.

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1 19. The legitimate interests of Roosevelt County would not be undermined in the
2 event party nomination for and selection of the members of the Roosevelt County
3 Board of Commissioners were done on the basis of single-member district elections in
4 lieu of at-large countywide elections.

5 20. The present method of electing the members of the Roosevelt County Board
6 of Commissioners, as implemented in the totality of the circumstances, results in Indian
7 citizens having less opportunity than white citizens to participate in the political process
8 and to elect representatives of their choice in violation of Section 2 of the Act.

9 21. Unless enjoined by an order of this Court, the Defendants will continue to
10 administer, implement and conduct future elections for the Roosevelt County Board of
11 Commissioners under the present method of election that denies Indian citizens the
12 opportunity to participate equally with white citizens in the local political process and to
13 elect candidates of their choice in violation of Section 2 of the Voting Rights Act.

14 WHEREFORE, the United States of America prays that this Court enter an order:

15 (1) Declaring that the existing at-large, staggered-term method of electing the
16 Roosevelt County Board of Commissioners violates Section 2 of the Voting Rights
17 Act;

18 (2) Enjoining the defendants, their agents and successors in office, and all
19 persons acting in concert with any of them, from administering, implementing, or
20 conducting any future elections for the Roosevelt County Commissioners under the at-
21 large, staggered-term method of election;

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1 (3) Ordering the defendants promptly to develop and present a district election
2 plan that remedies the Section 2 violation. If the defendants fail to develop and present
3 such a plan, the Court should order into effect a districting and election plan of its own
4 design to remedy the Section 2 violation;

5 (4) Ordering the defendants to set a qualifying time for candidates immediately
6 and hold special elections soon thereafter for the Roosevelt County Board of
7 Commissioners under a lawful redistricting plan;

8 (5) Granting such additional relief as the interests of justice may require, together
9 with the costs and disbursements in maintaining this action.

10 JANET RENO
11 Attorney General

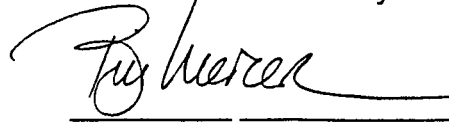
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