

EXHIBIT 8

SUBPOENA COMPILATION

UNITED STATES DISTRICT COURT

for the

District of North Dakota

Turtle Mountain Band of Chippewa Indians, et al.

Plaintiff

v.

Alvin Jaeger, in his official capacity as Secretary of
State of North Dakota*Defendant*

Civil Action No. 3:22-cv-00022

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

William R. Devlin

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A

Place: Robins Kaplan LLP, Attn: Timothy Q. Purdon
1207 West Divide Avenue, Ste. 200 Bismarck, ND 58501
OR
Spirit Lake Nation C/O Chairman Doug Yankton, Attn: Tim Purdon
PO Box 359, Fort Totten, ND 58335

Date and Time:
October 29, 2022

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/29/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Molly E. Danahy

*Attorney's signature*The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* **Plaintiffs**

, who issues or requests this subpoena, are:

Molly Danahy, Campaign Legal Center, 1101 14th St. NW, Ste. 400, Washington, D.C. 20005, 202-736-2200
mdanahy@campaignlegalcenter.org

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:22-cv-00022

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

DEFINITIONS

1. “You,” “Your,” and refers to William R. Devlin, whether in your official capacity as a legislator, your capacity as a candidate, or your capacity as an individual, and all past and present agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on your behalf or subject to your control.
2. “Legislature” refers to the North Dakota Legislative Assembly and all past and present members, committees, agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
3. “Redistricting Committee” refers to the interim Redistricting Committee of the 67th Legislature of the State of North Dakota convened for the purpose of developing a legislative redistricting plan and all past and present committee members, agents, advisors, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
4. “2021 State Legislative Maps” or “Maps” refer to the Statewide Redistricting Plan for Legislative Districts in the State of North Dakota, adopted in House Bill 1504, H.B. 1504, 67th Leg., Spec. Sess. (N.D. 2021).
5. “2021 Redistricting Process” refers to the legislative process leading up to and during the placement of district lines in the 2021 State Legislative Maps.
6. “Communication(s)” shall mean any exchange or transfer of information between two or more persons or entities, including, but not limited to documents, audio recordings, photographs, data, or in any other form including electronic forms such as e-mails or text messages.
7. “Concern,” “concerning,” or “regarding” shall mean having any connection, relation, or reference to and include, by way of example and without limitation, discussing, identifying, containing, showing, evidencing, describing, reflecting, dealing with, regarding, pertaining to, analyzing, evaluating, estimating, constituting, comprising, studying, surveying, projecting, recording, relating to, summarizing, assessing, criticizing, reporting, commenting on, referring to in any way, either directly or indirectly, or otherwise involving, in whole or in part.
8. “Document” shall mean all documents, electronically stored information, and tangible things within the broadest possible interpretation of writing, as contained within Rule 1001 of the Federal Rules of Evidence, and/or within the broadest possible interpretation of “document,” “electronically stored information,” or “tangible thing,” as contained in Rule 34 of the Federal Rules of Civil Procedure.

9. “Item” is defined as documents, communications, electronically stored information, and tangible things. See, e.g., Fed. R. Civ. P. 34.
10. “Person” means any natural person, firm, association, partnership, joint venture, corporation, business trust, banking institution, unincorporated association, government agency or any other entity, its officers, directors, partners, employees, agents, and representatives.
11. “And” and “or” mean and include both the conjunctive and the disjunctive, and shall be construed as necessary to bring within the scope of this production request all responses that might otherwise be construed to be outside their scope.
12. In these definitions and in the Requests below, the singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

INSTRUCTIONS

1. This subpoena requires You to produce all responsive, non-privileged Documents that are in Your actual or constructive possession, custody, or control under Federal Rule of Civil Procedure 45. Unless otherwise requested, your responses to this subpoena shall comprise all information in Your possession, custody, or control; these requests are not limited to Documents within your physical possession. You shall make a diligent, reasonable, good-faith effort to produce any and all requested documents that are readily ascertainable and in Your possession, or that are readily ascertainable and otherwise within Your “control,” meaning documents that You have the “legal right to obtain” within the meaning of the local rules of this Court and binding Eighth Circuit precedent.
2. Your response must provide each Document or category of Documents requested in electronic form. Where an electronic copy of a particular Document cannot be obtained, You must produce copies of the Document or state with specificity the grounds for objecting to the request. See Fed. R. Civ. P. Rule 45(a)(1), (d)(2)(B).
3. To the extent that Your responses to this subpoena may be enlarged, diminished, or otherwise modified by information acquired subsequent to Your initial responses hereto, Plaintiffs request that You promptly supplement Your responses with Documents reflecting such changes.
4. In providing the Documents called for by this subpoena, You shall produce them as they are kept in the usual course of business, including all file folders, envelopes, labels, indices, or other identifying or organizing material in which such Documents are stored or filed, under which they are organized, or which accompany such Documents or organize and label them to correspond with the specific request(s) to which they relate.

5. In the event that any Document called for by this subpoena has since been destroyed, discarded or otherwise disposed of, identify each such Document by stating: (i) the author, addressor or addressee; (ii) the addressee or recipient of any indicated or blind copies; (iii) the date, subject matter and number of pages of the Document; (iv) the identity of any attachments or appendices to the Document; (v) all persons to whom the Document was distributed, shown or explained; (vi) the date, reason and circumstances of disposal of the Document; and (vii) the person authorizing and carrying out such disposal and each and every person with knowledge concerning the circumstances under which such Document was destroyed or disposed of.
6. This subpoena contemplates production of each requested Document in its entirety, without abbreviation or expurgation, except as justified by claims of attorney-client privilege or attorney work product protection. Any redacted material must be clearly identified on the Document.
7. If You claim any portion of any responsive Document is privileged or otherwise excludable from production or disclosure, You are requested to produce the non-privileged portion of the Document, with the privileged portion thereof redacted, and provide information that adequately describes the nature of the redacted portion in a manner that allows Plaintiffs to assess each claim of privilege or exclusion. Examples of information that adequately describes the nature of each redacted portion include: (i) the type of Document; (ii) the author, addressor, or addressee; (iii) the addressee or recipient of any indicated or blind copies; (iv) the date, subject matter, and number of pages of the document; (v) the identity of any attachments or appendices to the Document; (vi) all persons to whom the Document was distributed, shown, or explained; and (vii) the custodian and location of the Document. For each portion of any responsive Document redacted, You must expressly state the type of privilege claimed or other reason for withholding the information and the circumstances upon which You base Your claim of privilege or exclusion. *See* Fed. R. Civ. P. 45(e)(2)(A).
8. If You claim that you are unable to provide certain responses to this subpoena on the basis of the “undue burden or expense” requirement under Federal Rule of Civil Procedure 45(d)(1), please identify the documents You are unable to provide and the basis for Your determination that providing them would result in “undue burden or expense.”
9. Unless otherwise indicated, all requests refer to Items created between January 1, 2020 and the present.

DOCUMENTS TO BE PRODUCED

1. All Documents and Communications regarding Native Americans and/or Indian Reservations and the 2021 Redistricting Process or Maps.

2. All Documents and Communications regarding tribal input, including regarding written submissions or verbal testimony from tribal representatives, with respect to the 2021 Redistricting Process or Maps.
3. All Documents and Communications regarding redistricting criteria for the 2021 Redistricting Process or Maps.
4. All Documents and Communications regarding District 4, District 9, or District 15, and, where applicable, any subdistricts of these districts, including documents and communications regarding the applicability of the Voting Rights Act to these districts and subdistricts.
5. All Documents and Communications regarding trainings provided to legislators in preparation for or as a part of the 2021 Redistricting Process.
6. All Documents and Communications reflecting the identity of map drawers in the 2021 Redistricting Process.
7. All Documents and Communications related to racial polarization or demographic studies conducted by the Redistricting Committee or Legislature as a part of or in preparation for the 2021 Redistricting Process.

UNITED STATES DISTRICT COURT

for the

District of North Dakota

Turtle Mountain Band of Chippewa Indians, et al.

Plaintiff

v.

Alvin Jaeger, in his official capacity as Secretary of
State of North Dakota*Defendant*

Civil Action No. 3:22-cv-00022

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Ray Holmberg

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A

Place: Robins Kaplan LLP, Attn: Timothy Q. Purdon
1207 West Divide Avenue, Ste. 200 Bismarck, ND 58501
OR
Spirit Lake Nation C/O Chairman Doug Yankton, Attn: Tim Purdon
PO Box 359, Fort Totten, ND 58335

Date and Time:
October 29, 2022

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/29/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Molly E. Danahy

*Attorney's signature*The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* **Plaintiffs**

, who issues or requests this subpoena, are:

Molly Danahy, Campaign Legal Center, 1101 14th St. NW, Ste. 400, Washington, D.C. 20005, 202-736-2200
mdanahy@campaignlegalcenter.org

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:22-cv-00022

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

DEFINITIONS

1. “You,” “Your,” and refers to Ray Holmberg, whether in your official capacity as a legislator, your capacity as a candidate, or your capacity as an individual, and all past and present agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on your behalf or subject to your control.
2. “Legislature” refers to the North Dakota Legislative Assembly and all past and present members, committees, agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
3. “Redistricting Committee” refers to the interim Redistricting Committee of the 67th Legislature of the State of North Dakota convened for the purpose of developing a legislative redistricting plan and all past and present committee members, agents, advisors, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
4. “2021 State Legislative Maps” or “Maps” refer to the Statewide Redistricting Plan for Legislative Districts in the State of North Dakota, adopted in House Bill 1504, H.B. 1504, 67th Leg., Spec. Sess. (N.D. 2021).
5. “2021 Redistricting Process” refers to the legislative process leading up to and during the placement of district lines in the 2021 State Legislative Maps.
6. “Communication(s)” shall mean any exchange or transfer of information between two or more persons or entities, including, but not limited to documents, audio recordings, photographs, data, or in any other form including electronic forms such as e-mails or text messages.
7. “Concern,” “concerning,” or “regarding” shall mean having any connection, relation, or reference to and include, by way of example and without limitation, discussing, identifying, containing, showing, evidencing, describing, reflecting, dealing with, regarding, pertaining to, analyzing, evaluating, estimating, constituting, comprising, studying, surveying, projecting, recording, relating to, summarizing, assessing, criticizing, reporting, commenting on, referring to in any way, either directly or indirectly, or otherwise involving, in whole or in part.
8. “Document” shall mean all documents, electronically stored information, and tangible things within the broadest possible interpretation of writing, as contained within Rule 1001 of the Federal Rules of Evidence, and/or within the broadest possible interpretation of “document,” “electronically stored information,” or “tangible thing,” as contained in Rule 34 of the Federal Rules of Civil Procedure.

9. “Item” is defined as documents, communications, electronically stored information, and tangible things. See, e.g., Fed. R. Civ. P. 34.
10. “Person” means any natural person, firm, association, partnership, joint venture, corporation, business trust, banking institution, unincorporated association, government agency or any other entity, its officers, directors, partners, employees, agents, and representatives.
11. “And” and “or” mean and include both the conjunctive and the disjunctive, and shall be construed as necessary to bring within the scope of this production request all responses that might otherwise be construed to be outside their scope.
12. In these definitions and in the Requests below, the singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

INSTRUCTIONS

1. This subpoena requires You to produce all responsive, non-privileged Documents that are in Your actual or constructive possession, custody, or control under Federal Rule of Civil Procedure 45. Unless otherwise requested, your responses to this subpoena shall comprise all information in Your possession, custody, or control; these requests are not limited to Documents within your physical possession. You shall make a diligent, reasonable, good-faith effort to produce any and all requested documents that are readily ascertainable and in Your possession, or that are readily ascertainable and otherwise within Your “control,” meaning documents that You have the “legal right to obtain” within the meaning of the local rules of this Court and binding Eighth Circuit precedent.
2. Your response must provide each Document or category of Documents requested in electronic form. Where an electronic copy of a particular Document cannot be obtained, You must produce copies of the Document or state with specificity the grounds for objecting to the request. See Fed. R. Civ. P. Rule 45(a)(1), (d)(2)(B).
3. To the extent that Your responses to this subpoena may be enlarged, diminished, or otherwise modified by information acquired subsequent to Your initial responses hereto, Plaintiffs request that You promptly supplement Your responses with Documents reflecting such changes.
4. In providing the Documents called for by this subpoena, You shall produce them as they are kept in the usual course of business, including all file folders, envelopes, labels, indices, or other identifying or organizing material in which such Documents are stored or filed, under which they are organized, or which accompany such Documents or organize and label them to correspond with the specific request(s) to which they relate.

5. In the event that any Document called for by this subpoena has since been destroyed, discarded or otherwise disposed of, identify each such Document by stating: (i) the author, addressor or addressee; (ii) the addressee or recipient of any indicated or blind copies; (iii) the date, subject matter and number of pages of the Document; (iv) the identity of any attachments or appendices to the Document; (v) all persons to whom the Document was distributed, shown or explained; (vi) the date, reason and circumstances of disposal of the Document; and (vii) the person authorizing and carrying out such disposal and each and every person with knowledge concerning the circumstances under which such Document was destroyed or disposed of.
6. This subpoena contemplates production of each requested Document in its entirety, without abbreviation or expurgation, except as justified by claims of attorney-client privilege or attorney work product protection. Any redacted material must be clearly identified on the Document.
7. If You claim any portion of any responsive Document is privileged or otherwise excludable from production or disclosure, You are requested to produce the non-privileged portion of the Document, with the privileged portion thereof redacted, and provide information that adequately describes the nature of the redacted portion in a manner that allows Plaintiffs to assess each claim of privilege or exclusion. Examples of information that adequately describes the nature of each redacted portion include: (i) the type of Document; (ii) the author, addressor, or addressee; (iii) the addressee or recipient of any indicated or blind copies; (iv) the date, subject matter, and number of pages of the document; (v) the identity of any attachments or appendices to the Document; (vi) all persons to whom the Document was distributed, shown, or explained; and (vii) the custodian and location of the Document. For each portion of any responsive Document redacted, You must expressly state the type of privilege claimed or other reason for withholding the information and the circumstances upon which You base Your claim of privilege or exclusion. *See* Fed. R. Civ. P. 45(e)(2)(A).
8. If You claim that you are unable to provide certain responses to this subpoena on the basis of the “undue burden or expense” requirement under Federal Rule of Civil Procedure 45(d)(1), please identify the documents You are unable to provide and the basis for Your determination that providing them would result in “undue burden or expense.”
9. Unless otherwise indicated, all requests refer to Items created between January 1, 2020 and the present.

DOCUMENTS TO BE PRODUCED

1. All Documents and Communications regarding Native Americans and/or Indian Reservations and the 2021 Redistricting Process or Maps.

2. All Documents and Communications regarding tribal input, including regarding written submissions or verbal testimony from tribal representatives, with respect to the 2021 Redistricting Process or Maps.
3. All Documents and Communications regarding redistricting criteria for the 2021 Redistricting Process or Maps.
4. All Documents and Communications regarding District 4, District 9, or District 15, and, where applicable, any subdistricts of these districts, including documents and communications regarding the applicability of the Voting Rights Act to these districts and subdistricts.
5. All Documents and Communications regarding trainings provided to legislators in preparation for or as a part of the 2021 Redistricting Process.
6. All Documents and Communications reflecting the identity of map drawers in the 2021 Redistricting Process.
7. All Documents and Communications related to racial polarization or demographic studies conducted by the Redistricting Committee or Legislature as a part of or in preparation for the 2021 Redistricting Process.

UNITED STATES DISTRICT COURT

for the

District of North Dakota

Turtle Mountain Band of Chippewa Indians, et al.

Plaintiff

v.

Alvin Jaeger, in his official capacity as Secretary of
State of North Dakota*Defendant*

Civil Action No. 3:22-cv-00022

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Terry B. Jones

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A

Place: Robins Kaplan LLP
Attn: Timothy Q. Purdon
1207 West Divide Avenue, Ste. 200
Bismarck, ND 58501

Date and Time:
October 29, 2022

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/29/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Molly E. Danahy

*Attorney's signature*The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* **Plaintiffs**

, who issues or requests this subpoena, are:

Molly Danahy, Campaign Legal Center, 1101 14th St. NW, Ste. 400, Washington, D.C. 20005, 202-736-2200
mdanahy@campaignlegalcenter.org

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:22-cv-00022

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

DEFINITIONS

1. “You,” “Your,” and refers to Terry B. Jones, whether in your official capacity as a legislator, your capacity as a candidate, or your capacity as an individual, and all past and present agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on your behalf or subject to your control.
2. “Legislature” refers to the North Dakota Legislative Assembly and all past and present members, committees, agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
3. “Redistricting Committee” refers to the interim Redistricting Committee of the 67th Legislature of the State of North Dakota convened for the purpose of developing a legislative redistricting plan and all past and present committee members, agents, advisors, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
4. “2021 State Legislative Maps” or “Maps” refer to the Statewide Redistricting Plan for Legislative Districts in the State of North Dakota, adopted in House Bill 1504, H.B. 1504, 67th Leg., Spec. Sess. (N.D. 2021).
5. “2021 Redistricting Process” refers to the legislative process leading up to and during the placement of district lines in the 2021 State Legislative Maps.
6. “Communication(s)” shall mean any exchange or transfer of information between two or more persons or entities, including, but not limited to documents, audio recordings, photographs, data, or in any other form including electronic forms such as e-mails or text messages.
7. “Concern,” “concerning,” or “regarding” shall mean having any connection, relation, or reference to and include, by way of example and without limitation, discussing, identifying, containing, showing, evidencing, describing, reflecting, dealing with, regarding, pertaining to, analyzing, evaluating, estimating, constituting, comprising, studying, surveying, projecting, recording, relating to, summarizing, assessing, criticizing, reporting, commenting on, referring to in any way, either directly or indirectly, or otherwise involving, in whole or in part.
8. “Document” shall mean all documents, electronically stored information, and tangible things within the broadest possible interpretation of writing, as contained within Rule 1001 of the Federal Rules of Evidence, and/or within the broadest possible interpretation of “document,” “electronically stored information,” or “tangible thing,” as contained in Rule 34 of the Federal Rules of Civil Procedure.

9. “Item” is defined as documents, communications, electronically stored information, and tangible things. See, e.g., Fed. R. Civ. P. 34.
10. “Person” means any natural person, firm, association, partnership, joint venture, corporation, business trust, banking institution, unincorporated association, government agency or any other entity, its officers, directors, partners, employees, agents, and representatives.
11. “And” and “or” mean and include both the conjunctive and the disjunctive, and shall be construed as necessary to bring within the scope of this production request all responses that might otherwise be construed to be outside their scope.
12. In these definitions and in the Requests below, the singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

INSTRUCTIONS

1. This subpoena requires You to produce all responsive, non-privileged Documents that are in Your actual or constructive possession, custody, or control under Federal Rule of Civil Procedure 45. Unless otherwise requested, your responses to this subpoena shall comprise all information in Your possession, custody, or control; these requests are not limited to Documents within your physical possession. You shall make a diligent, reasonable, good-faith effort to produce any and all requested documents that are readily ascertainable and in Your possession, or that are readily ascertainable and otherwise within Your “control,” meaning documents that You have the “legal right to obtain” within the meaning of the local rules of this Court and binding Eighth Circuit precedent.
2. Your response must provide each Document or category of Documents requested in electronic form. Where an electronic copy of a particular Document cannot be obtained, You must produce copies of the Document or state with specificity the grounds for objecting to the request. See Fed. R. Civ. P. Rule 45(a)(1), (d)(2)(B).
3. To the extent that Your responses to this subpoena may be enlarged, diminished, or otherwise modified by information acquired subsequent to Your initial responses hereto, Plaintiffs request that You promptly supplement Your responses with Documents reflecting such changes.
4. In providing the Documents called for by this subpoena, You shall produce them as they are kept in the usual course of business, including all file folders, envelopes, labels, indices, or other identifying or organizing material in which such Documents are stored or filed, under which they are organized, or which accompany such Documents or organize and label them to correspond with the specific request(s) to which they relate.

5. In the event that any Document called for by this subpoena has since been destroyed, discarded or otherwise disposed of, identify each such Document by stating: (i) the author, addressor or addressee; (ii) the addressee or recipient of any indicated or blind copies; (iii) the date, subject matter and number of pages of the Document; (iv) the identity of any attachments or appendices to the Document; (v) all persons to whom the Document was distributed, shown or explained; (vi) the date, reason and circumstances of disposal of the Document; and (vii) the person authorizing and carrying out such disposal and each and every person with knowledge concerning the circumstances under which such Document was destroyed or disposed of.
6. This subpoena contemplates production of each requested Document in its entirety, without abbreviation or expurgation, except as justified by claims of attorney-client privilege or attorney work product protection. Any redacted material must be clearly identified on the Document.
7. If You claim any portion of any responsive Document is privileged or otherwise excludable from production or disclosure, You are requested to produce the non-privileged portion of the Document, with the privileged portion thereof redacted, and provide information that adequately describes the nature of the redacted portion in a manner that allows Plaintiffs to assess each claim of privilege or exclusion. Examples of information that adequately describes the nature of each redacted portion include: (i) the type of Document; (ii) the author, addressor, or addressee; (iii) the addressee or recipient of any indicated or blind copies; (iv) the date, subject matter, and number of pages of the document; (v) the identity of any attachments or appendices to the Document; (vi) all persons to whom the Document was distributed, shown, or explained; and (vii) the custodian and location of the Document. For each portion of any responsive Document redacted, You must expressly state the type of privilege claimed or other reason for withholding the information and the circumstances upon which You base Your claim of privilege or exclusion. *See* Fed. R. Civ. P. 45(e)(2)(A).
8. If You claim that you are unable to provide certain responses to this subpoena on the basis of the “undue burden or expense” requirement under Federal Rule of Civil Procedure 45(d)(1), please identify the documents You are unable to provide and the basis for Your determination that providing them would result in “undue burden or expense.”
9. Unless otherwise indicated, all requests refer to Items created between January 1, 2020 and the present.

DOCUMENTS TO BE PRODUCED

1. All Documents and Communications regarding Native Americans and/or Indian Reservations and the 2021 Redistricting Process or Maps.

2. All Documents and Communications regarding tribal input, including regarding written submissions or verbal testimony from tribal representatives, with respect to the 2021 Redistricting Process or Maps.
3. All Documents and Communications regarding redistricting criteria for the 2021 Redistricting Process or Maps.
4. All Documents and Communications regarding District 4, District 9, or District 15, and, where applicable, any subdistricts of these districts, including documents and communications regarding the applicability of the Voting Rights Act to these districts and subdistricts.
5. All Documents and Communications regarding trainings provided to legislators in preparation for or as a part of the 2021 Redistricting Process.
6. All Documents and Communications reflecting the identity of map drawers in the 2021 Redistricting Process.
7. All Documents and Communications related to racial polarization or demographic studies conducted by the Redistricting Committee or Legislature as a part of or in preparation for the 2021 Redistricting Process.

UNITED STATES DISTRICT COURT

for the

District of North Dakota

Turtle Mountain Band of Chippewa Indians, et al.

Plaintiff

v.

Alvin Jaeger, in his official capacity as Secretary of
State of North Dakota*Defendant*

Civil Action No. 3:22-cv-00022

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To:

Michael Nathe

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A

Place: Robins Kaplan LLP
Attn: Timothy Q. Purdon
1207 West Divide Avenue, Ste. 200
Bismarck, ND 58501

Date and Time:
October 29, 2022

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/29/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Molly E. Danahy

*Attorney's signature*The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* **Plaintiffs**

, who issues or requests this subpoena, are:

Molly Danahy, Campaign Legal Center, 1101 14th St. NW, Ste. 400, Washington, D.C. 20005, 202-736-2200
mdanahy@campaignlegalcenter.org

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:22-cv-00022

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

DEFINITIONS

1. “You,” “Your,” and refers to Michael Nathe, whether in your official capacity as a legislator, your capacity as a candidate, or your capacity as an individual, and all past and present agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on your behalf or subject to your control.
2. “Legislature” refers to the North Dakota Legislative Assembly and all past and present members, committees, agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
3. “Redistricting Committee” refers to the interim Redistricting Committee of the 67th Legislature of the State of North Dakota convened for the purpose of developing a legislative redistricting plan and all past and present committee members, agents, advisors, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
4. “2021 State Legislative Maps” or “Maps” refer to the Statewide Redistricting Plan for Legislative Districts in the State of North Dakota, adopted in House Bill 1504, H.B. 1504, 67th Leg., Spec. Sess. (N.D. 2021).
5. “2021 Redistricting Process” refers to the legislative process leading up to and during the placement of district lines in the 2021 State Legislative Maps.
6. “Communication(s)” shall mean any exchange or transfer of information between two or more persons or entities, including, but not limited to documents, audio recordings, photographs, data, or in any other form including electronic forms such as e-mails or text messages.
7. “Concern,” “concerning,” or “regarding” shall mean having any connection, relation, or reference to and include, by way of example and without limitation, discussing, identifying, containing, showing, evidencing, describing, reflecting, dealing with, regarding, pertaining to, analyzing, evaluating, estimating, constituting, comprising, studying, surveying, projecting, recording, relating to, summarizing, assessing, criticizing, reporting, commenting on, referring to in any way, either directly or indirectly, or otherwise involving, in whole or in part.
8. “Document” shall mean all documents, electronically stored information, and tangible things within the broadest possible interpretation of writing, as contained within Rule 1001 of the Federal Rules of Evidence, and/or within the broadest possible interpretation of “document,” “electronically stored information,” or “tangible thing,” as contained in Rule 34 of the Federal Rules of Civil Procedure.

9. “Item” is defined as documents, communications, electronically stored information, and tangible things. See, e.g., Fed. R. Civ. P. 34.
10. “Person” means any natural person, firm, association, partnership, joint venture, corporation, business trust, banking institution, unincorporated association, government agency or any other entity, its officers, directors, partners, employees, agents, and representatives.
11. “And” and “or” mean and include both the conjunctive and the disjunctive, and shall be construed as necessary to bring within the scope of this production request all responses that might otherwise be construed to be outside their scope.
12. In these definitions and in the Requests below, the singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

INSTRUCTIONS

1. This subpoena requires You to produce all responsive, non-privileged Documents that are in Your actual or constructive possession, custody, or control under Federal Rule of Civil Procedure 45. Unless otherwise requested, your responses to this subpoena shall comprise all information in Your possession, custody, or control; these requests are not limited to Documents within your physical possession. You shall make a diligent, reasonable, good-faith effort to produce any and all requested documents that are readily ascertainable and in Your possession, or that are readily ascertainable and otherwise within Your “control,” meaning documents that You have the “legal right to obtain” within the meaning of the local rules of this Court and binding Eighth Circuit precedent.
2. Your response must provide each Document or category of Documents requested in electronic form. Where an electronic copy of a particular Document cannot be obtained, You must produce copies of the Document or state with specificity the grounds for objecting to the request. See Fed. R. Civ. P. Rule 45(a)(1), (d)(2)(B).
3. To the extent that Your responses to this subpoena may be enlarged, diminished, or otherwise modified by information acquired subsequent to Your initial responses hereto, Plaintiffs request that You promptly supplement Your responses with Documents reflecting such changes.
4. In providing the Documents called for by this subpoena, You shall produce them as they are kept in the usual course of business, including all file folders, envelopes, labels, indices, or other identifying or organizing material in which such Documents are stored or filed, under which they are organized, or which accompany such Documents or organize and label them to correspond with the specific request(s) to which they relate.

5. In the event that any Document called for by this subpoena has since been destroyed, discarded or otherwise disposed of, identify each such Document by stating: (i) the author, addressor or addressee; (ii) the addressee or recipient of any indicated or blind copies; (iii) the date, subject matter and number of pages of the Document; (iv) the identity of any attachments or appendices to the Document; (v) all persons to whom the Document was distributed, shown or explained; (vi) the date, reason and circumstances of disposal of the Document; and (vii) the person authorizing and carrying out such disposal and each and every person with knowledge concerning the circumstances under which such Document was destroyed or disposed of.
6. This subpoena contemplates production of each requested Document in its entirety, without abbreviation or expurgation, except as justified by claims of attorney-client privilege or attorney work product protection. Any redacted material must be clearly identified on the Document.
7. If You claim any portion of any responsive Document is privileged or otherwise excludable from production or disclosure, You are requested to produce the non-privileged portion of the Document, with the privileged portion thereof redacted, and provide information that adequately describes the nature of the redacted portion in a manner that allows Plaintiffs to assess each claim of privilege or exclusion. Examples of information that adequately describes the nature of each redacted portion include: (i) the type of Document; (ii) the author, addressor, or addressee; (iii) the addressee or recipient of any indicated or blind copies; (iv) the date, subject matter, and number of pages of the document; (v) the identity of any attachments or appendices to the Document; (vi) all persons to whom the Document was distributed, shown, or explained; and (vii) the custodian and location of the Document. For each portion of any responsive Document redacted, You must expressly state the type of privilege claimed or other reason for withholding the information and the circumstances upon which You base Your claim of privilege or exclusion. *See* Fed. R. Civ. P. 45(e)(2)(A).
8. If You claim that you are unable to provide certain responses to this subpoena on the basis of the “undue burden or expense” requirement under Federal Rule of Civil Procedure 45(d)(1), please identify the documents You are unable to provide and the basis for Your determination that providing them would result in “undue burden or expense.”
9. Unless otherwise indicated, all requests refer to Items created between January 1, 2020 and the present.

DOCUMENTS TO BE PRODUCED

1. All Documents and Communications regarding Native Americans and/or Indian Reservations and the 2021 Redistricting Process or Maps.

2. All Documents and Communications regarding tribal input, including regarding written submissions or verbal testimony from tribal representatives, with respect to the 2021 Redistricting Process or Maps.
3. All Documents and Communications regarding redistricting criteria for the 2021 Redistricting Process or Maps.
4. All Documents and Communications regarding District 4, District 9, or District 15, and, where applicable, any subdistricts of these districts, including documents and communications regarding the applicability of the Voting Rights Act to these districts and subdistricts.
5. All Documents and Communications regarding trainings provided to legislators in preparation for or as a part of the 2021 Redistricting Process.
6. All Documents and Communications reflecting the identity of map drawers in the 2021 Redistricting Process.
7. All Documents and Communications related to racial polarization or demographic studies conducted by the Redistricting Committee or Legislature as a part of or in preparation for the 2021 Redistricting Process.

UNITED STATES DISTRICT COURT

for the

District of North Dakota

Turtle Mountain Band of Chippewa Indians, et al.

Plaintiff

v.

Alvin Jaeger, in his official capacity as Secretary of
State of North Dakota*Defendant*

Civil Action No. 3:22-cv-00022

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Claire Ness

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A

Place: Robins Kaplan LLP
Attn: Timothy Q. Purdon
1207 West Divide Avenue, Ste. 200
Bismarck, ND 58501

Date and Time:
October 29, 2022

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/29/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Molly E. Danahy

*Attorney's signature*The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* **Plaintiffs**

, who issues or requests this subpoena, are:

Molly Danahy, Campaign Legal Center, 1101 14th St. NW, Ste. 400, Washington, D.C. 20005, 202-736-2200
mdanahy@campaignlegalcenter.org

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:22-cv-00022

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

DEFINITIONS

1. “You,” “Your,” and refers to Claire Ness, whether in your official capacity or as an individual, and all past and present agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on your behalf or subject to your control.
2. “Legislature” refers to the North Dakota Legislative Assembly and all past and present members, committees, agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
3. “Redistricting Committee” refers to the interim Redistricting Committee of the 67th Legislature of the State of North Dakota convened for the purpose of developing a legislative redistricting plan and all past and present committee members, agents, advisors, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
4. “2021 State Legislative Maps” or “Maps” refer to the Statewide Redistricting Plan for Legislative Districts in the State of North Dakota, adopted in House Bill 1504, H.B. 1504, 67th Leg., Spec. Sess. (N.D. 2021).
5. “2021 Redistricting Process” refers to the legislative process leading up to and during the placement of district lines in the 2021 State Legislative Maps.
6. “Communication(s)” shall mean any exchange or transfer of information between two or more persons or entities, including, but not limited to documents, audio recordings, photographs, data, or in any other form including electronic forms such as e-mails or text messages.
7. “Concern,” “concerning,” or “regarding” shall mean having any connection, relation, or reference to and include, by way of example and without limitation, discussing, identifying, containing, showing, evidencing, describing, reflecting, dealing with, regarding, pertaining to, analyzing, evaluating, estimating, constituting, comprising, studying, surveying, projecting, recording, relating to, summarizing, assessing, criticizing, reporting, commenting on, referring to in any way, either directly or indirectly, or otherwise involving, in whole or in part.
8. “Document” shall mean all documents, electronically stored information, and tangible things within the broadest possible interpretation of writing, as contained within Rule 1001 of the Federal Rules of Evidence, and/or within the broadest possible interpretation of “document,” “electronically stored information,” or “tangible thing,” as contained in Rule 34 of the Federal Rules of Civil Procedure.

9. “Item” is defined as documents, communications, electronically stored information, and tangible things. See, e.g., Fed. R. Civ. P. 34.
10. “Person” means any natural person, firm, association, partnership, joint venture, corporation, business trust, banking institution, unincorporated association, government agency or any other entity, its officers, directors, partners, employees, agents, and representatives.
11. “And” and “or” mean and include both the conjunctive and the disjunctive, and shall be construed as necessary to bring within the scope of this production request all responses that might otherwise be construed to be outside their scope.
12. In these definitions and in the Requests below, the singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

INSTRUCTIONS

1. This subpoena requires You to produce all responsive, non-privileged Documents that are in Your actual or constructive possession, custody, or control under Federal Rule of Civil Procedure 45. Unless otherwise requested, your responses to this subpoena shall comprise all information in Your possession, custody, or control; these requests are not limited to Documents within your physical possession. You shall make a diligent, reasonable, good-faith effort to produce any and all requested documents that are readily ascertainable and in Your possession, or that are readily ascertainable and otherwise within Your “control,” meaning documents that You have the “legal right to obtain” within the meaning of the local rules of this Court and binding Eighth Circuit precedent.
2. Your response must provide each Document or category of Documents requested in electronic form. Where an electronic copy of a particular Document cannot be obtained, You must produce copies of the Document or state with specificity the grounds for objecting to the request. See Fed. R. Civ. P. Rule 45(a)(1), (d)(2)(B).
3. To the extent that Your responses to this subpoena may be enlarged, diminished, or otherwise modified by information acquired subsequent to Your initial responses hereto, Plaintiffs request that You promptly supplement Your responses with Documents reflecting such changes.
4. In providing the Documents called for by this subpoena, You shall produce them as they are kept in the usual course of business, including all file folders, envelopes, labels, indices, or other identifying or organizing material in which such Documents are stored or filed, under which they are organized, or which accompany such Documents or organize and label them to correspond with the specific request(s) to which they relate.

5. In the event that any Document called for by this subpoena has since been destroyed, discarded or otherwise disposed of, identify each such Document by stating: (i) the author, addressor or addressee; (ii) the addressee or recipient of any indicated or blind copies; (iii) the date, subject matter and number of pages of the Document; (iv) the identity of any attachments or appendices to the Document; (v) all persons to whom the Document was distributed, shown or explained; (vi) the date, reason and circumstances of disposal of the Document; and (vii) the person authorizing and carrying out such disposal and each and every person with knowledge concerning the circumstances under which such Document was destroyed or disposed of.
6. This subpoena contemplates production of each requested Document in its entirety, without abbreviation or expurgation, except as justified by claims of attorney-client privilege or attorney work product protection. Any redacted material must be clearly identified on the Document.
7. If You claim any portion of any responsive Document is privileged or otherwise excludable from production or disclosure, You are requested to produce the non-privileged portion of the Document, with the privileged portion thereof redacted, and provide information that adequately describes the nature of the redacted portion in a manner that allows Plaintiffs to assess each claim of privilege or exclusion. Examples of information that adequately describes the nature of each redacted portion include: (i) the type of Document; (ii) the author, addressor, or addressee; (iii) the addressee or recipient of any indicated or blind copies; (iv) the date, subject matter, and number of pages of the document; (v) the identity of any attachments or appendices to the Document; (vi) all persons to whom the Document was distributed, shown, or explained; and (vii) the custodian and location of the Document. For each portion of any responsive Document redacted, You must expressly state the type of privilege claimed or other reason for withholding the information and the circumstances upon which You base Your claim of privilege or exclusion. *See* Fed. R. Civ. P. 45(e)(2)(A).
8. If You claim that you are unable to provide certain responses to this subpoena on the basis of the “undue burden or expense” requirement under Federal Rule of Civil Procedure 45(d)(1), please identify the documents You are unable to provide and the basis for Your determination that providing them would result in “undue burden or expense.”
9. Unless otherwise indicated, all requests refer to Items created between January 1, 2020 and the present.

DOCUMENTS TO BE PRODUCED

1. All Documents and Communications regarding Native Americans and/or Indian Reservations and the 2021 Redistricting Process or Maps.

2. All Documents and Communications regarding tribal input, including regarding written submissions or verbal testimony from tribal representatives, with respect to the 2021 Redistricting Process or Maps.
3. All Documents and Communications regarding redistricting criteria for the 2021 Redistricting Process or Maps.
4. All Documents and Communications regarding District 4, District 9, or District 15, and, where applicable, any subdistricts of these districts, including documents and communications regarding the applicability of the Voting Rights Act to these districts and subdistricts.
5. All Documents and Communications regarding trainings provided to legislators in preparation for or as a part of the 2021 Redistricting Process.
6. All Documents and Communications reflecting the identity of map drawers in the 2021 Redistricting Process.
7. All Documents and Communications related to racial polarization or demographic studies conducted by the Redistricting Committee or Legislature as a part of or in preparation for the 2021 Redistricting Process.

UNITED STATES DISTRICT COURT

for the

District of North Dakota

Turtle Mountain Band of Chippewa Indians, et al.

Plaintiff

v.

Alvin Jaeger, in his official capacity as Secretary of
State of North Dakota*Defendant*

Civil Action No. 3:22-cv-00022

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Nicole Poolman

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A

Place: Robins Kaplan LLP
Attn: Timothy Q. Purdon
1207 West Divide Avenue, Ste. 200
Bismarck, ND 58501

Date and Time:
October 29, 2022

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/29/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Molly E. Danahy

*Attorney's signature*The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* **Plaintiffs**

, who issues or requests this subpoena, are:

Molly Danahy, Campaign Legal Center, 1101 14th St. NW, Ste. 400, Washington, D.C. 20005, 202-736-2200
mdanahy@campaignlegalcenter.org

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:22-cv-00022

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

DEFINITIONS

1. “You,” “Your,” and refers to Nicole Poolman, whether in your official capacity as a legislator, your capacity as a candidate, or your capacity as an individual, and all past and present agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on your behalf or subject to your control.
2. “Legislature” refers to the North Dakota Legislative Assembly and all past and present members, committees, agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
3. “Redistricting Committee” refers to the interim Redistricting Committee of the 67th Legislature of the State of North Dakota convened for the purpose of developing a legislative redistricting plan and all past and present committee members, agents, advisors, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
4. “2021 State Legislative Maps” or “Maps” refer to the Statewide Redistricting Plan for Legislative Districts in the State of North Dakota, adopted in House Bill 1504, H.B. 1504, 67th Leg., Spec. Sess. (N.D. 2021).
5. “2021 Redistricting Process” refers to the legislative process leading up to and during the placement of district lines in the 2021 State Legislative Maps.
6. “Communication(s)” shall mean any exchange or transfer of information between two or more persons or entities, including, but not limited to documents, audio recordings, photographs, data, or in any other form including electronic forms such as e-mails or text messages.
7. “Concern,” “concerning,” or “regarding” shall mean having any connection, relation, or reference to and include, by way of example and without limitation, discussing, identifying, containing, showing, evidencing, describing, reflecting, dealing with, regarding, pertaining to, analyzing, evaluating, estimating, constituting, comprising, studying, surveying, projecting, recording, relating to, summarizing, assessing, criticizing, reporting, commenting on, referring to in any way, either directly or indirectly, or otherwise involving, in whole or in part.
8. “Document” shall mean all documents, electronically stored information, and tangible things within the broadest possible interpretation of writing, as contained within Rule 1001 of the Federal Rules of Evidence, and/or within the broadest possible interpretation of “document,” “electronically stored information,” or “tangible thing,” as contained in Rule 34 of the Federal Rules of Civil Procedure.

9. “Item” is defined as documents, communications, electronically stored information, and tangible things. See, e.g., Fed. R. Civ. P. 34.
10. “Person” means any natural person, firm, association, partnership, joint venture, corporation, business trust, banking institution, unincorporated association, government agency or any other entity, its officers, directors, partners, employees, agents, and representatives.
11. “And” and “or” mean and include both the conjunctive and the disjunctive, and shall be construed as necessary to bring within the scope of this production request all responses that might otherwise be construed to be outside their scope.
12. In these definitions and in the Requests below, the singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

INSTRUCTIONS

1. This subpoena requires You to produce all responsive, non-privileged Documents that are in Your actual or constructive possession, custody, or control under Federal Rule of Civil Procedure 45. Unless otherwise requested, your responses to this subpoena shall comprise all information in Your possession, custody, or control; these requests are not limited to Documents within your physical possession. You shall make a diligent, reasonable, good-faith effort to produce any and all requested documents that are readily ascertainable and in Your possession, or that are readily ascertainable and otherwise within Your “control,” meaning documents that You have the “legal right to obtain” within the meaning of the local rules of this Court and binding Eighth Circuit precedent.
2. Your response must provide each Document or category of Documents requested in electronic form. Where an electronic copy of a particular Document cannot be obtained, You must produce copies of the Document or state with specificity the grounds for objecting to the request. See Fed. R. Civ. P. Rule 45(a)(1), (d)(2)(B).
3. To the extent that Your responses to this subpoena may be enlarged, diminished, or otherwise modified by information acquired subsequent to Your initial responses hereto, Plaintiffs request that You promptly supplement Your responses with Documents reflecting such changes.
4. In providing the Documents called for by this subpoena, You shall produce them as they are kept in the usual course of business, including all file folders, envelopes, labels, indices, or other identifying or organizing material in which such Documents are stored or filed, under which they are organized, or which accompany such Documents or organize and label them to correspond with the specific request(s) to which they relate.

5. In the event that any Document called for by this subpoena has since been destroyed, discarded or otherwise disposed of, identify each such Document by stating: (i) the author, addressor or addressee; (ii) the addressee or recipient of any indicated or blind copies; (iii) the date, subject matter and number of pages of the Document; (iv) the identity of any attachments or appendices to the Document; (v) all persons to whom the Document was distributed, shown or explained; (vi) the date, reason and circumstances of disposal of the Document; and (vii) the person authorizing and carrying out such disposal and each and every person with knowledge concerning the circumstances under which such Document was destroyed or disposed of.
6. This subpoena contemplates production of each requested Document in its entirety, without abbreviation or expurgation, except as justified by claims of attorney-client privilege or attorney work product protection. Any redacted material must be clearly identified on the Document.
7. If You claim any portion of any responsive Document is privileged or otherwise excludable from production or disclosure, You are requested to produce the non-privileged portion of the Document, with the privileged portion thereof redacted, and provide information that adequately describes the nature of the redacted portion in a manner that allows Plaintiffs to assess each claim of privilege or exclusion. Examples of information that adequately describes the nature of each redacted portion include: (i) the type of Document; (ii) the author, addressor, or addressee; (iii) the addressee or recipient of any indicated or blind copies; (iv) the date, subject matter, and number of pages of the document; (v) the identity of any attachments or appendices to the Document; (vi) all persons to whom the Document was distributed, shown, or explained; and (vii) the custodian and location of the Document. For each portion of any responsive Document redacted, You must expressly state the type of privilege claimed or other reason for withholding the information and the circumstances upon which You base Your claim of privilege or exclusion. *See* Fed. R. Civ. P. 45(e)(2)(A).
8. If You claim that you are unable to provide certain responses to this subpoena on the basis of the “undue burden or expense” requirement under Federal Rule of Civil Procedure 45(d)(1), please identify the documents You are unable to provide and the basis for Your determination that providing them would result in “undue burden or expense.”
9. Unless otherwise indicated, all requests refer to Items created between January 1, 2020 and the present.

DOCUMENTS TO BE PRODUCED

1. All Documents and Communications regarding Native Americans and/or Indian Reservations and the 2021 Redistricting Process or Maps.

2. All Documents and Communications regarding tribal input, including regarding written submissions or verbal testimony from tribal representatives, with respect to the 2021 Redistricting Process or Maps.
3. All Documents and Communications regarding redistricting criteria for the 2021 Redistricting Process or Maps.
4. All Documents and Communications regarding District 4, District 9, or District 15, and, where applicable, any subdistricts of these districts, including documents and communications regarding the applicability of the Voting Rights Act to these districts and subdistricts.
5. All Documents and Communications regarding trainings provided to legislators in preparation for or as a part of the 2021 Redistricting Process.
6. All Documents and Communications reflecting the identity of map drawers in the 2021 Redistricting Process.
7. All Documents and Communications related to racial polarization or demographic studies conducted by the Redistricting Committee or Legislature as a part of or in preparation for the 2021 Redistricting Process.

UNITED STATES DISTRICT COURT

for the

District of North Dakota

Turtle Mountain Band of Chippewa Indians, et al.

Plaintiff

v.

Alvin Jaeger, in his official capacity as Secretary of
State of North Dakota*Defendant*

Civil Action No. 3:22-cv-00022

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Richard Wardner

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A

Place: Robins Kaplan LLP
Attn: Timothy Q. Purdon
1207 West Divide Avenue, Ste. 200
Bismarck, ND 58501

Date and Time:
October 29, 2022

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/29/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Molly E. Danahy

*Attorney's signature*The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* **Plaintiffs**

, who issues or requests this subpoena, are:

Molly Danahy, Campaign Legal Center, 1101 14th St. NW, Ste. 400, Washington, D.C. 20005, 202-736-2200
mdanahy@campaignlegalcenter.org

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:22-cv-00022

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

DEFINITIONS

1. “You,” “Your,” and refers to Richard Wardner, whether in your official capacity as a legislator, your capacity as a candidate, or your capacity as an individual, and all past and present agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on your behalf or subject to your control.
2. “Legislature” refers to the North Dakota Legislative Assembly and all past and present members, committees, agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
3. “Redistricting Committee” refers to the interim Redistricting Committee of the 67th Legislature of the State of North Dakota convened for the purpose of developing a legislative redistricting plan and all past and present committee members, agents, advisors, representatives, attorneys, consultants, contractors, or other persons or entities acting on its behalf or subject to its control.
4. “2021 State Legislative Maps” or “Maps” refer to the Statewide Redistricting Plan for Legislative Districts in the State of North Dakota, adopted in House Bill 1504, H.B. 1504, 67th Leg., Spec. Sess. (N.D. 2021).
5. “2021 Redistricting Process” refers to the legislative process leading up to and during the placement of district lines in the 2021 State Legislative Maps.
6. “Communication(s)” shall mean any exchange or transfer of information between two or more persons or entities, including, but not limited to documents, audio recordings, photographs, data, or in any other form including electronic forms such as e-mails or text messages.
7. “Concern,” “concerning,” or “regarding” shall mean having any connection, relation, or reference to and include, by way of example and without limitation, discussing, identifying, containing, showing, evidencing, describing, reflecting, dealing with, regarding, pertaining to, analyzing, evaluating, estimating, constituting, comprising, studying, surveying, projecting, recording, relating to, summarizing, assessing, criticizing, reporting, commenting on, referring to in any way, either directly or indirectly, or otherwise involving, in whole or in part.
8. “Document” shall mean all documents, electronically stored information, and tangible things within the broadest possible interpretation of writing, as contained within Rule 1001 of the Federal Rules of Evidence, and/or within the broadest possible interpretation of “document,” “electronically stored information,” or “tangible thing,” as contained in Rule 34 of the Federal Rules of Civil Procedure.

9. “Item” is defined as documents, communications, electronically stored information, and tangible things. See, e.g., Fed. R. Civ. P. 34.
10. “Person” means any natural person, firm, association, partnership, joint venture, corporation, business trust, banking institution, unincorporated association, government agency or any other entity, its officers, directors, partners, employees, agents, and representatives.
11. “And” and “or” mean and include both the conjunctive and the disjunctive, and shall be construed as necessary to bring within the scope of this production request all responses that might otherwise be construed to be outside their scope.
12. In these definitions and in the Requests below, the singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

INSTRUCTIONS

1. This subpoena requires You to produce all responsive, non-privileged Documents that are in Your actual or constructive possession, custody, or control under Federal Rule of Civil Procedure 45. Unless otherwise requested, your responses to this subpoena shall comprise all information in Your possession, custody, or control; these requests are not limited to Documents within your physical possession. You shall make a diligent, reasonable, good-faith effort to produce any and all requested documents that are readily ascertainable and in Your possession, or that are readily ascertainable and otherwise within Your “control,” meaning documents that You have the “legal right to obtain” within the meaning of the local rules of this Court and binding Eighth Circuit precedent.
2. Your response must provide each Document or category of Documents requested in electronic form. Where an electronic copy of a particular Document cannot be obtained, You must produce copies of the Document or state with specificity the grounds for objecting to the request. See Fed. R. Civ. P. Rule 45(a)(1), (d)(2)(B).
3. To the extent that Your responses to this subpoena may be enlarged, diminished, or otherwise modified by information acquired subsequent to Your initial responses hereto, Plaintiffs request that You promptly supplement Your responses with Documents reflecting such changes.
4. In providing the Documents called for by this subpoena, You shall produce them as they are kept in the usual course of business, including all file folders, envelopes, labels, indices, or other identifying or organizing material in which such Documents are stored or filed, under which they are organized, or which accompany such Documents or organize and label them to correspond with the specific request(s) to which they relate.

5. In the event that any Document called for by this subpoena has since been destroyed, discarded or otherwise disposed of, identify each such Document by stating: (i) the author, addressor or addressee; (ii) the addressee or recipient of any indicated or blind copies; (iii) the date, subject matter and number of pages of the Document; (iv) the identity of any attachments or appendices to the Document; (v) all persons to whom the Document was distributed, shown or explained; (vi) the date, reason and circumstances of disposal of the Document; and (vii) the person authorizing and carrying out such disposal and each and every person with knowledge concerning the circumstances under which such Document was destroyed or disposed of.
6. This subpoena contemplates production of each requested Document in its entirety, without abbreviation or expurgation, except as justified by claims of attorney-client privilege or attorney work product protection. Any redacted material must be clearly identified on the Document.
7. If You claim any portion of any responsive Document is privileged or otherwise excludable from production or disclosure, You are requested to produce the non-privileged portion of the Document, with the privileged portion thereof redacted, and provide information that adequately describes the nature of the redacted portion in a manner that allows Plaintiffs to assess each claim of privilege or exclusion. Examples of information that adequately describes the nature of each redacted portion include: (i) the type of Document; (ii) the author, addressor, or addressee; (iii) the addressee or recipient of any indicated or blind copies; (iv) the date, subject matter, and number of pages of the document; (v) the identity of any attachments or appendices to the Document; (vi) all persons to whom the Document was distributed, shown, or explained; and (vii) the custodian and location of the Document. For each portion of any responsive Document redacted, You must expressly state the type of privilege claimed or other reason for withholding the information and the circumstances upon which You base Your claim of privilege or exclusion. *See* Fed. R. Civ. P. 45(e)(2)(A).
8. If You claim that you are unable to provide certain responses to this subpoena on the basis of the “undue burden or expense” requirement under Federal Rule of Civil Procedure 45(d)(1), please identify the documents You are unable to provide and the basis for Your determination that providing them would result in “undue burden or expense.”
9. Unless otherwise indicated, all requests refer to Items created between January 1, 2020 and the present.

DOCUMENTS TO BE PRODUCED

1. All Documents and Communications regarding Native Americans and/or Indian Reservations and the 2021 Redistricting Process or Maps.

2. All Documents and Communications regarding tribal input, including regarding written submissions or verbal testimony from tribal representatives, with respect to the 2021 Redistricting Process or Maps.
3. All Documents and Communications regarding redistricting criteria for the 2021 Redistricting Process or Maps.
4. All Documents and Communications regarding District 4, District 9, or District 15, and, where applicable, any subdistricts of these districts, including documents and communications regarding the applicability of the Voting Rights Act to these districts and subdistricts.
5. All Documents and Communications regarding trainings provided to legislators in preparation for or as a part of the 2021 Redistricting Process.
6. All Documents and Communications reflecting the identity of map drawers in the 2021 Redistricting Process.
7. All Documents and Communications related to racial polarization or demographic studies conducted by the Redistricting Committee or Legislature as a part of or in preparation for the 2021 Redistricting Process.