

APP NO. 24A262

IN THE SUPREME COURT OF THE UNITED STATES

Nevada Green Party, a Nevada Political Party Committee,

Applicant,

v.

Francisco V. Aguilar, in his official capacity as Nevada Secretary of State; *et al.*,

Respondents.

**ON EMERGENCY APPLICATION TO VACATE ORDERS OF THE SUPREME COURT OF
NEVADA AND DISTRICT COURT OF NEVADA**

APPENDIX OF RESPONDENT FRANCISCO V. AGUILAR

AARON D. FORD
ATTORNEY GENERAL
HEIDI PARRY STERN
SOLICITOR GENERAL
COUNSEL OF RECORD
JEFFREY M. CONNER
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APPENDIX

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AFFT
Pisanelli Bice, PLLC
Daniel R. Brady, Esq.
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Las Vegas, NV 89101
State Bar No.: 15508
Attorney(s) for: Plaintiff(s)

FIRST JUDICIAL DISTRICT COURT
CARSON CITY, NEVADA

Nevada State Democratic Party, a Nevada Political Party Committee
vs **Plaintiff(s)**
Nevada Green Party, a Nevada Political Party Committee, et al.
Defendant(s)

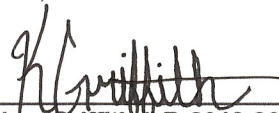
Case No.: **24OC 00107 1B**
Dept. No.: **II**
Date:
Time:

AFFIDAVIT OF SERVICE

I, Kisun Lee Griffith, being duly sworn deposes and says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #604, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received 1 copy(ies) of the: Summons; Complaint for Declaratory and Injunctive Relief Concerning Nevada Green Party's Ballot-Access Qualifications; Brief in Support of Complaint for Declaratory and Injunctive Relief Concerning Nevada Green Party's Ballot-Access Qualifications; Order Re Notice to Appear Telephonically with Judicial Assistant for Setting on the 11th day of June, 2024 and served the same on the 11th day of June, 2024 at 6:29pm by serving the Defendant(s), Nevada Green Party, a Nevada Political Party Committee by personally delivering and leaving a copy at c/o Margery Hanson, 3731 Windsong Ln., Pahrump NV 89048 with Margery Hanson as Co-Chair an agent lawfully designated by statute to accept service of process.

Pursuant to NRS 239B.030 this document does not contain the social security number of any person.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct. Executed on this 12th day of June, 2024.



Kisun Lee Griffith # R-2019-06218
Legal Process Service - License # 604

WorkOrderNo **2403292**



Legal Process Service, 724 S. 8th Street, Las Vegas, NV 89101 (702) 471-7255

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10 *Attorneys for Plaintiff*

11 **FIRST JUDICIAL DISTRICT COURT OF NEVADA**

12 **CARSON CITY**

13 NEVADA STATE DEMOCRATIC PARTY, a
14 Nevada Political Party Committee,

15 Plaintiff,

16 v.

17 NEVADA GREEN PARTY, a Nevada
18 Political Party Committee; and FRANCISCO
19 V. AGUILAR, in his official capacity as
20 Nevada Secretary of State,

21 Defendants.

Case No.: 24 OC 00107 1B
Dept. No.: II

**FIRST AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF CONCERNING NEVADA
GREEN PARTY'S BALLOT-ACCESS
QUALIFICATIONS**

(Priority Matter Under NRS 293.174)

**Arbitration Exemption: Declaratory and
Injunctive Relief**

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

22 Plaintiff Nevada State Democratic Party brings this First Amended Complaint for
23 declaratory and injunctive relief against Defendants Nevada Green Party and Francisco V. Aguilar,
24 in his official capacity as the Nevada Secretary of State, pursuant to NRS 293.171, NRS 30.030 and
25 NRS 33.010. Plaintiff alleges as follows:

26 **JURISDICTION AND VENUE**

27 1. This Court has jurisdiction pursuant to NRS 293.174 as this is a challenge to a minor
28 political party's qualifications to place a candidate on the general election ballot. Furthermore, the
Court has jurisdiction to grant declaratory and injunctive relief under NRS 30.030 and NRS 33.010.

2. Venue is proper under NRS 293.174, which specifies that this challenge shall be
filed in the First Judicial District Court.

REC'D & FILED
2024 JUL -1 AM 10:30
WILLIAM SCOTT HOEN
CLERK
BY: D. ORTIZ

PISANELLI BICE
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THE PARTIES

3. Plaintiff Nevada State Democratic Party is and was at all times relevant hereto a Nevada Political Party Committee with its principal place of business in Clark County, Nevada.

4. Defendant Nevada Green Party is, upon information and belief, a Nevada Political Party Committee with its principal place of business in Nye County, Nevada.

5. Defendant Francisco V. Aguilar is the Nevada Secretary of State and is named in his official capacity. As the Secretary, Mr. Aguilar is responsible for the execution and enforcement of Nevada's election laws. His duties include certifying minor political parties and placing the candidates of certified minor political parties on the Nevada general election ballot.

COMMON FACTUAL ALLEGATIONS

6. On January 10, 2024, Defendant Nevada Green Party ("Green Party") submitted a "Notice of Continued Existence Pursuant to NRS 293.171(5)" ("Notice") to the Nevada Secretary of State's Office. (Ex. 1 at 1.) This Notice included the "most current By-Laws of the Nevada Green Party" ("Bylaws"), which "govern the organization, operation, and functions" of the Green Party. (*Id.*) According to that filing, the Green Party had adopted/modified its current Bylaws as of that same date, January 10, 2024.

7. On January 16, 2024, Defendant Francisco V. Aguilar issued a "Certificate of Minor Party Organization" certifying the Nevada Green Party as a minor political party in Nevada. (Ex. 2.)

8. Upon information or belief, on or about May 15, 2024, the Green Party submitted several petitions purporting to qualify to several county clerks and registrars across Nevada. These petitions included, upon information and belief, signatures of purported voters and the petition circulator's affidavit.

9. On May 29, 2024, the Nevada Secretary of State's Office published a "Notice of Sufficiency of Raw Count" addressed to county clerks and registrars that stated the Green Party submitted 29,584 signatures for review. (Ex. 3.) Because the total number of submitted signatures exceeded the amount necessary to qualify as a minor political party, the Secretary of State's Office instructed the county clerks and registrars to begin verifying the signatures. (*Id.*) The Secretary of

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1 State's Office directed the county clerks and registrars to complete the verification of the petition
2 signatures no later than 11:59 p.m. on June 4, 2024. (*Id.*)

3 10. To determine whether the Green Party's petition complied with Nevada law, in light
4 of the statutory deadline to file suit no later than June 10, 2024, under NRS 293.174, the undersigned
5 counsel served a public records request with the Secretary of State's Office seeking the petition
6 signatures on May 22, 2024. (Ex. 4.) On June 5, 2024, the Secretary of State's Office provided
7 some of the petition signatures submitted by Esmerelda County, Nye County, and Eureka County,
8 but it did not provide all the signed petitions for all Nevada counties. The Secretary of State's Office
9 explained that it did not yet possess the signed petitions from the remaining Nevada counties at that
10 time.

11 11. In light of the approaching June 10, 2024 deadline for challenges, the undersigned
12 also submitted public records requests seeking the Green Party petitions from Clark County and
13 Washoe County on May 29, 2024. (Ex. 5; Ex. 6.) But despite the passage of the statutory deadline
14 for providing a response to these public records requests, neither Clark County nor Washoe County
15 had provided copies of signature petitions submitted by the Green Party.

16 12. The few signatures that were provided as of the deadline demonstrate that the
17 Green Party will not qualify for ballot access as a minor political party under Nevada law. For
18 instance, the signatures provided by Nye County demonstrate a lack of legal compliance and are
19 insufficient. Indeed, for Nye County, the Green Party submitted only 68 total signatures, with 48 of
20 those signatures purportedly being acquired on just one day, October 28, 2023, months before the
21 Green Party had even filed its Notice with the Secretary of State or had adopted its current Bylaws.
22 (Ex. 7.) On top of that, a number of the affidavits of circulators were altered, changing the county.

23 13. Similarly, for the signatures submitted to Esmerelda County (only three), the
24 affidavits of circulators were altered. (Ex. 8.)

25 14. Glaringly, the sole signature submitted to Eureka County is on a petition titled
26 "County of Humboldt" and was signed by a resident of Reno, which is in Washoe County. (Ex. 9.)
27 The circulator's affidavit was similarly altered. (*Id.*)
28

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1 15. Subsequently, on June 14, 2024, the Secretary of State was able to provide copies
2 of the petitions filed in Washoe County, the primary population center for Petition District 2. An
3 examination of the Washoe County petitions, along with those for Nye County, Esmerelda County,
4 and Eureka County confirm that the Green Party could not have qualified under Nevada law. For
5 instance, the circulator's affidavit attached to these petitions provides as follows:

6 I, [name of circulator], being first duly sworn under penalty of perjury, depose and
7 say: (1) that I reside at [circulator's address]; (2) that I am 18 years of age or older;
8 (3) that I personally circulated this document; (4) that all signatures were affixed in
9 my presence; (5) that the number of signatures affixed thereon is [number]; and
10 (6) that each person who signed had an opportunity before signing to read the full
11 text of the act or resolution on which the initiative or referendum is demanded.

12 (Ex. 7 at 51; Ex. 8 at 89; Ex. 9 at 96; Ex. 10 at 98.)

13 16. But the circulator's affidavit is improper under Nevada law, including
14 NRS 293.172(1)(b). Nowhere does the affidavit verify "that the signors are registered voters in this
15 State according to his or her best information or belief." The circulator's affidavit is thus deficient
16 under Nevada law.

17 17. On June 17, 2024, the Secretary of State provided Plaintiff access to the petitions
18 filed in Clark County. The petitions submitted to Clark County also contain the legally-deficient
19 circulator's affidavit. (Ex. 11 at 102.) Thus, those petitions are similarly invalid.

20 18. In examining the petitions that have now been provided, Plaintiff also discovered
21 that the Green Party was circulating a copy of the petition that is different than the one it filed with
22 the Nevada Secretary of State. Indeed, it appears that the Green Party was circulating a blank
23 petition and someone hand-wrote the incorrect party's name on the petition, again in violation of
24 Nevada law. (Ex. 10 at 97; Ex. 11 at 101.)

25 19. In other instances, the circulator's affidavit is further deficient because it has been
26 altered. (Ex. 10 at 99; Ex. 11 at 104.)
27
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1 20. Based upon the information that the Secretary of State and the counties have
 2 provided, it appears that many of these signatures were collected in 2023, well before the
 3 Green Party filed its certificate of continued existence with the Secretary of State's Office and that
 4 the signatures were therefore collected before the Green Party provided the Secretary of
 5 State's Office with a copy of the petition prior to its circulation as NRS 293.1715(4) mandates.

6 21. Upon information and belief, the Green Party did not and could not submit sufficient
 7 verified signatures from the petition districts to qualify as a minor political party with ballot access
 8 under Nevada law.

9 **FIRST CAUSE OF ACTION**

10 **(NRS 293.1715/NRS 293.172/NAC 293.182)**

11 22. Plaintiff incorporates the allegations in Paragraph 1 through 21 as though fully set
 12 herein.

13 23. NRS 293.1715(2) allows a minor political party to qualify to place its candidates on
 14 the general election ballot by filing a petition with the Secretary of State that "is signed by a number
 15 of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding
 16 general election for the offices of Representative in Congress which must be apportioned equally
 17 among the petition districts."

18 24. These signatures must be verified by the county clerk or registrar of the county in
 19 which the signer is a registered voter.

20 25. Upon information and belief, the Green Party did not submit sufficient verified
 21 signatures from each petition district. For example, the Green Party submitted 48 signatures from
 22 Nye County which were collected from various cities months before it submitted the statutorily
 23 required notice of continued existence with the Secretary of State's Office and before it submitted
 24 the petition prior to circulation with the Secretary of State's Office. And, several of the affidavits
 25 have been altered.

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1 26. Similarly, the petition signature submitted to Eureka County was on a petition for
2 Humboldt County and signed by a resident of Reno, which is in Washoe County.

3 27. Further, NRS 293.172(1)(b) requires the circulator's affidavit to "verify[] that the
4 signers are registered voters in this State according to his or her best information and belief." And
5 NAC 293.182(2) requires the affidavit to have the same or substantially similar language stating
6 that the circulator "believe[s] each person who signed was at the time of signing a registered voter
7 in the county of his or her residence."

8 28. Upon information and belief, the circulator's affidavit attached to the Green Party's
9 petition did not include the same or substantially similar language to that required by
10 NRS 293.172(1)(b) and NAC 293.182(2).

11 29. Furthermore, the Green Party circulated a blank petition, not the one it actually filed
12 with the Nevada Secretary of State's Office as mandated by NRS 293.1715(4).

13 30. Accordingly, the Green Party's petition did not satisfy NRS 293.1715, NRS 293.172,
14 or NAC 293.182 and is invalid, and the Secretary of State should be enjoined from taking any
15 further action upon it.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays for relief as follows:

18 1. A declaration that the Green Party's petition did not include sufficient verified
19 signatures from each petition district as required by NRS 293.172 and NRS 293.1715, and that the
20 Green Party's petition to qualify as a minor party with ballot access is invalid;

21 2. An injunction prohibiting the Secretary of State from taking further action on the
22 Petition to Qualify;

23 3. An injunction prohibiting the Secretary of State from placing the Green Party's
24 candidates on the general election ballot; and

25 4. Such further and additional relief that this Court deems appropriate.
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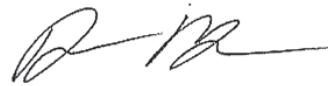
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AFFIRMATION

The undersigned does hereby affirm that this document does not contain personal information as defined in NRS 239B.030 and NRS 603A.040 and acknowledges that the affirmation will be provided in any additional documents only if the document does contain personal information.

DATED this 1st day of July 2024.

PISANELLI BICE PLLC

By: 

Todd L. Bice, Esq., #4534
Daniel R. Brady, Esq., #15508
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Attorneys for Plaintiff

PISANELLI BICE
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and that on this 1st day of July 2024, I caused to be served via U.S. Mail the above and foregoing FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF CONCERNING NEVADA GREEN PARTY'S BALLOT-ACCESS QUALIFICATIONS to the following:

Laena St. Jules, Esq.
OFFICE OF THE ATTORNEY GENERAL
100 N. Carson Street
Carson City, NV 89701
LStJules@ag.nv.gov

Attorney for Defendant Francisco V. Aguilar

Kevin Benson, Esq.
P. O. Box 4628
Carson City, NV 89702
Kbenson.esq@gmail.com

Attorney for Defendant Nevada Green Party

An employee of Pisanelli Bice PLLC

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1 KEVIN BENSON, ESQ.
2 Nevada State Bar No. 9970
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4 Carson City, NV 89702
5 Telephone: (775) 600-2119
6 Email: kbenson.esq@gmail.com
7 *Attorney for Defendant Nevada Green Party*

REC'D & FILED
2024 JUL 11 PM 1:43
WILLIAM SCOTT HOEN
CLERK
BY D. ORTIZ

8 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
9 **IN AND FOR CARSON CITY**

10 NEVADA STATE DEMOCRATIC PARTY,
11 a Nevada Political Party Committee,

12 Plaintiff,

13 v.

14 NEVADA GREEN PARTY, a Nevada
15 Political Party Committee; and,
16 FRANCISCO V. AGUILAR, in his official
17 capacity as Nevada Secretary of State,

18 Defendants.

Case No.: 24 OC 00107 1B

Dept. No.: II

**ANSWER TO FIRST AMENDED
COMPLAINT**

19 Defendant NEVADA GREEN PARTY ("Green Party"), by and through counsel, Kevin Benson,
20 Esq., files this Answer to the Plaintiff's First Amended Complaint.

JURISDICTION AND VENUE

- 21 1. Admit that this Court has jurisdiction pursuant to NRS 293.174, NRS 30.030 and NRS 33.010
22 to adjudicate the claims raised in the original Complaint and to grant declaratory and injunctive
23 relief on those claims. Deny that the Court has jurisdiction to adjudicate the new challenge
24 raised in the First Amended Complaint.
25 2. Admit.

THE PARTIES

- 26 3. Admit.
27 4. Admit.
28 5. Admit.

COMMON FACTUAL ALLEGATIONS

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6. Admit.

7. Admit.

8. Admit.

9. Admit.

10. Defendant Green Party lacks sufficient knowledge to form a belief as to the truth of these allegations, and therefore denies them.

11. Defendant Green Party lacks sufficient knowledge to form a belief as to the truth of these allegations, and therefore denies them.

12. Deny.

13. Admit that corrections were made to the circulator affidavit. Deny that the affidavit was “altered” in any way as to render it invalid.

14. Admit. Deny that the affidavit was “altered” in any way as to render it invalid.

15. Defendant Green Party lacks sufficient knowledge to form a belief as to the truth of the allegations in the first sentence of this paragraph, and therefore denies them. Admit that the petition documents contain a circulator affidavit in substantially that form. Deny the remainder of the allegations.

16. Admit that the circulator affidavit does not contain a statement to the effect “that the signors [sic] are registered voters in this State according to his or her best information or belief.” Deny the remainder of the allegations.

17. Defendant Green Party lacks sufficient knowledge to form a belief as to the truth of the allegations in the first sentence of this paragraph, and therefore denies them. Deny the remainder of the allegations.

18. Admit that it appears that on certain petition documents that someone hand-wrote “Nevada Green Party” at the top of the petition. Deny the remainder of the allegations.

19. Deny.

20. Admit that some signatures were collected in 2023. Deny the remainder of the allegations.

21. Deny.

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FIRST CAUSE OF ACTION

(NRS 293.1715 / NRS 293.172 / NAC 293.182)

22. Defendant Green Party incorporates its responses in Paragraphs 1 through 21 as though fully set forth herein.

23. Admit.

24. Admit that the signatures must be verified; deny that the verification must be done by the clerk or registrar in the county in which the signer is a registered voter. The signatures are verified by the county clerk or registrar in the county indicated at the top of the petition document. NRS 293.172(1)(c).

25. Deny.

26. Deny.

27. Admit.

28. Admit.

29. Deny.

30. Deny.

PRAYER FOR RELIEF

WHEREFORE, Defendant Green Party prays for relief as follows:

1. That the Court dismiss with prejudice all of Plaintiff's claims and enter judgment in favor of the Green Party;
2. For the costs of suit;
3. For such other and additional relief the Court deems appropriate.

Dated this 11th day of July, 2024.



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AFFIRMATION

(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that this document does not contain personal information as defined in NRS 239B.030 and NRS 603A.040 and acknowledges that the affirmation will be provided in any additional documents only if the document does contain personal information.

Dated this 11th day of July, 2024.



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CERTIFICATE OF SERVICE

Pursuant to NRCP Rule 5(b), I hereby certify that I am an employee of Benson Law, LLC, and that on this date, I caused the foregoing Answer to be served to all parties to this action by:


- Placing a true copy thereof in a sealed postage prepaid envelope in the United States Mail in Carson City, Nevada [NRCP 5(b)(2)(B)]
- Hand-delivery - via Reno/Carson Messenger Service [NRCP 5(b)(2)(A)]
- Facsimile
- E-Mail, pursuant to consent to electronic service [NRCP 5(b)(2)(D)]
- Federal Express, UPS, or other overnight delivery
- E-filing pursuant to Section IV of District of Nevada Electronic Filing Procedures [NRCP 5(b)(2)(D)]
- E-filing through the federal courts' CM / ECF filing and service system.

fully addressed as follows:

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 Las Vegas, NV 89101
TLB@pisanellibice.com
DRB@pisanellibice.com

Laena St. Jules, Esq.
 Senior Deputy Attorney General
 Office of the Attorney General
 100 N. Carson Street
 Carson City, Nevada 89701
LStJules@ag.nv.gov

Dated: July 11, 2024


 An employee of Benson Law, LLC

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DECLARATION OF MARK WLASCHIN

I, MARK WLASCHIN, declare as follows:

1. I am the Deputy Secretary of State for Elections. I make this declaration based on personal knowledge.

2. I have access to the "SOS Elections Division" email at nvelect@sos.nv.gov.

3. Attached as Exhibit 2 to the Secretary of State's Reply Brief in Opposition to Plaintiff's First Amended Complaint is a true and correct copy of an email sent by Heather Hardy, an employee of the Secretary of State, to the Nevada Green Party at nvgreenparty@gmail.com on July 10, 2023, and copied to the SOS Elections Division email.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 18 day of July, 2024.



Mark Wlaschin

EXHIBIT 2

Nevada State Democratic Party v. Nevada Green Party, et al., Case No. 24 OC
001017 1B (First Judicial Dist. Nev.), Exhibit to Secretary of State's Reply to Brief
in Opposition to Plaintiff's First Amended Complaint

From: [Heather Hardy](#)
To: nvgreenparty@gmail.com
Cc: [SOS Elections Division](#)
Subject: RE: Ballot Access Petition
Date: Monday, July 10, 2023 9:23:05 AM

Good morning,

We have received the Nevada Green Party's ballot access petition. You may now begin collecting signatures.

Please keep in mind:

- The petition must have **10,095** valid signatures, per NRS 293.1715(2)(c).
- Of those signatures collected, **2,524** must be from each of Nevada's four Congressional districts, per NRS 293.1715(5)
- The signatures must be submitted to each County Clerk no later than **May 18, 2024**.

For additional information you can locate the Secretary of State's Minor Party Qualification Guide [here](#).

If you have any question, please let me know.

Thank you,

Heather Hardy
Program Officer 3, CAPS – Elections Division
Office of Secretary of State Francisco V. Aguilar
101 North Carson Street, Suite 3
Carson City, NV 89701
(775) 684-7126
hardyh@sos.nv.gov

From: SOS Elections Division <nvelect@sos.nv.gov>
Sent: Monday, July 10, 2023 9:02 AM
To: Heather Hardy <hardyh@sos.nv.gov>
Subject: FW: Ballot Access Petition

Heather Hardy
Program Officer 3, CAPS – Elections Division
Office of Secretary of State Francisco V. Aguilar
101 North Carson Street, Suite 3
Carson City, NV 89701
(775) 684-7126
hardyh@sos.nv.gov

From: Nevada GreenParty <nvgreenparty@gmail.com>

Sent: Monday, July 10, 2023 8:57 AM

To: SOS Elections Division <nvelect@sos.nv.gov>

Subject: Ballot Access Petition

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

The Nevada Green Party is a recognized Minor Party in the state of Nevada, as proved by our "Notice of Continued Existence" and your receipt thereof.

We are seeking Ballot Access and have completed the Ballot Access Petition form, to the best of our ability.

Please review our "Ballot Access Petition" form and inform us as to whether or not it meets the Secretary of State's approval.

Our "Ballot Access Petition" is included in the attached document.

Thank you,

Nevada Green Party Co-Chairs

Margery Hanson

&

Daniel Alves

Historian/Co-Treasurer

Andrea Warzlow

Clark County At Large Member

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