

EXHIBIT D

SUBCHAPTER A—PROCEDURES AND PRACTICE

PART 1—APPLICABILITY OF RULES OF THE BUREAU OF INDIAN AFFAIRS

Sec.

- 1.1 [Reserved]
- 1.2 Applicability of regulations and reserved authority of the Secretary of the Interior.
- 1.3 Scope.
- 1.4 State and local regulation of the use of Indian property.
- 1.10 Availability of forms.

AUTHORITY: 5 U.S.C. 301; R.S. 463, 25 U.S.C. 2.

§ 1.1 [Reserved]

§ 1.2 Applicability of regulations and reserved authority of the Secretary of the Interior.

The regulations in chapter I of title 25 of the Code of Federal Regulations are of general application. Notwithstanding any limitations contained in the regulations of this chapter, the Secretary retains the power to waive or make exceptions to his regulations as found in chapter I of title 25 CFR in all cases where permitted by law and the Secretary finds that such waiver or exception is in the best interest of the Indians.

[25 FR 3124, Apr. 12, 1960]

§ 1.3 Scope.

Chapters I and II of this title contain the bulk of the regulations of the Department of the Interior of general application relating to Indian affairs. Subtitle B, chapter I, title 43 of the Code of Federal Regulations contains rules relating to the relationship of Indians to public lands and townsites. Subtitle A of title 43 CFR has application to certain aspects of Indian affairs and, among other things, contains procedural rules for appellate and other administrative review and for practice before the Department of the Interior, of which the Bureau of Indian Affairs is a part. Indian health matters are covered in 42 CFR part 36. Title 30 CFR contains regulations on oil and gas and other mining operations, which, under

certain circumstances, may be applicable to Indian resources.

[25 FR 3124, Apr. 12, 1960, as amended at 40 FR 20625, May 12, 1975; 48 FR 13414, Mar. 31, 1983]

§ 1.4 State and local regulation of the use of Indian property.

(a) Except as provided in paragraph (b) of this section, none of the laws, ordinances, codes, resolutions, rules or other regulations of any State or political subdivision thereof limiting, zoning or otherwise governing, regulating, or controlling the use or development of any real or personal property, including water rights, shall be applicable to any such property leased from or held or used under agreement with and belonging to any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

(b) The Secretary of the Interior or his authorized representative may in specific cases or in specific geographic areas adopt or make applicable to Indian lands all or any part of such laws, ordinances, codes, resolutions, rules or other regulations referred to in paragraph (a) of this section as he shall determine to be in the best interest of the Indian owner or owners in achieving the highest and best use of such property. In determining whether, or to what extent, such laws, ordinances, codes, resolutions, rules or other regulations shall be adopted or made applicable, the Secretary or his authorized representative may consult with the Indian owner or owners and may consider the use of, and restrictions or limitations on the use of, other property in the vicinity, and such other factors as he shall deem appropriate.

[30 FR 7520, June 9, 1965]

§ 1.10 Availability of forms.

Forms upon which applications and related documents may be filed and upon which rights and privileges may be granted may be inspected and procured at the Bureau of Indian Affairs, Washington, DC, and at the office of

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(c) Where a discrepancy might appear to exist between these regulations and a specific requirement of the statute governing the reorganization of a tribe or ratification and amendment of charters, the regulations shall be interpreted to conform with the statute.

(d) As much as possible, Secretarial elections shall be scheduled so as to avoid their being held at the same time as *tribal* elections in order to avoid the confusion that results from different requirements for each kind of election.

§ 81.3 Group eligibility.

(a) No tribe which has voted to exclude itself from the provisions of the Indian Reorganization Act, or is otherwise precluded by law, may be reorganized under a Federal Statute. Tribes wishing to reorganize or a reorganized tribe seeking to amend its constitution and bylaws or wishing to vote to revoke such document shall do so under the regulations in this part.

(b) Charters issued to reorganized tribes shall be ratified or amended under the regulations in this part.

§ 81.4 Assistance from the Department of the Interior.

Representatives of the Department of the Interior will cooperate with and offer advice and assistance (including the proposing of amendments), to any tribe in drafting a constitution and bylaws, an amendment, a charter or charter amendment, or in revocation of constitutions. Any payments that might be necessary to non-Bureau staff assisting in the conduct of the election shall be made from tribal funds.

§ 81.5 Request to call election.

(a) The Secretary shall authorize the calling of an election to adopt a constitution and bylaws or to revoke a constitution and bylaws, upon a request from the tribal government.

(b) The Secretary shall authorize the calling of an election to adopt a constitution and bylaws pursuant to a Federal Statute upon receipt of a petition bearing the signatures of at least 60 percent of the tribe's adult members.

(c) The Secretary shall authorize the calling of an election to ratify a charter at the time the charter is issued, but he/she may issue a charter to a res-

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ervation-based tribe only upon petition by at least one-third of the adult members of the tribe. No ratification, however, shall be valid unless the tribe has a constitution adopted and approved pursuant to the relevant Federal Statute.

(d) The Secretary shall authorize the calling of an election on the adoption of amendments to a constitution and bylaws or a charter when requested pursuant to the amendment article of those documents. The election shall be conducted as prescribed in this part unless the amendment article of the constitution and bylaws or the charter provides otherwise, in which case the provisions of those documents shall rule where applicable.

(e) If the amendment provisions of a tribal constitution or charter have become outdated and amendment can not be effected pursuant to them, the Secretary may authorize an election under this part to amend the documents when the recognized tribal government so requests.

(f) Any authorization not acted upon within 90 days (tribes in Alaska shall be granted 120 days) from the date of issuance will be considered void. Notification of the election date as provided for in § 81.14 shall constitute the action envisioned in this section. Extension of an authorization may be granted upon a valid and reasonable request from the election board. Copies of authorizations shall be furnished the requesting tribe or petitioners.

(g) In those instances where conflicting proposals to amend a single constitutional or charter provision are submitted, that proposal first received by the officer in charge, if found valid, shall be placed before the voters before any consideration is given other proposals. Other proposals shall be considered in order of their receipt; provided, they are resubmitted following final action on the initial submission. This procedure shall also apply in those instances where new or revised constitutions are at issue.

§ 81.6 Entitlement to vote.

(a) If the group is a tribe, or tribes, of a reservation and is acting to effect reorganization under a Federal Statute for the first time:

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(1) Any duly registered adult member regardless of residence shall be entitled to vote on the adoption of a constitution and bylaws.

(2) Duly registered adult nonresident members and ill or physically disabled registered adult resident members may vote by absentee ballot (see §81.19).

(b) If the group is composed of the adult Indian residents of a reservation:

(1) Any adult duly registered member physically residing on the reservation shall be entitled to vote.

(2) Absentee voting shall be permitted only for duly registered residents temporarily absent from the reservation, ill, or physically disabled.

(c) If the group is a tribe, or tribes, without a reservation as defined in this part, any duly registered member shall be entitled to vote on the adoption of a constitution and bylaws by either arriving at a polling place or by requesting, properly completing, and timely casting an absentee ballot as determined by the election board pursuant to the relevant Federal Statute; provided, that outside of Alaska and Oklahoma, a reservation shall be established for the tribe before it becomes entitled to vote on the adoption of a constitution.

(d) For a reorganized tribe to amend its constitution and bylaws, only members who have duly registered shall be entitled to vote; provided, that registration is open to the same class of voters that was entitled to vote in the Secretarial election that effected its reorganization, unless the amendment article of the existing constitution provides otherwise.

(e) For a reorganized tribe to revoke its constitution and bylaws, only members who have duly registered shall be entitled to vote; provided, that registration is open to the same class of voters as was entitled to vote in the Secretarial election that effected its reorganization, unless the amendment article of the existing constitution provides otherwise.

(f) For a reorganized tribe to ratify a charter or to adopt a charter amendment, any adult member who has duly registered shall be entitled to vote, provided that if the tribe is of a reservation, only duly registered members

physically residing on the reservation shall be entitled to vote.

§81.7 Adoption, ratification, or revocation by majority vote.

Except as it may be further limited by this part, a constitution and bylaws, amendments thereto, or charter and charter amendments shall be considered adopted, ratified, or revoked if a majority of those actually voting are in favor of adoption, ratification, or revocation. The total vote cast, however, must be at least 30 percent of those entitled to vote, unless, with regard to amendments, the constitution provides otherwise. The names of persons appearing on the registration list who have not reached eighteen years of age by the date of the election, shall be removed from the list of registered voters when determining whether the required percentage of participation has been achieved. Unless the existing constitution or charter provides otherwise, none of the actions cited in this section shall become effective until they are approved by the Secretary. The validity of any charter ratification shall be dependent upon the tribe first having reorganized. Duly ratified charters shall be revoked or surrendered only by Act of Congress.

§81.8 Election board.

(a) There shall be an election board consisting of the officer in charge acting as chairman and at least two representatives of the tribal governing body or an authorized representative committee. Where such persons may be unwilling or unable to serve, the chairman shall select at least two adult members of the tribe to serve. In addition, the officer in charge may appoint an interpreter and as many clerks and poll watchers as he/she deems necessary, but they shall not be members of the board.

(b) It shall be the duty of the board to conduct elections in compliance with the procedures described in this part and in particular:

(1) To see that the name of each person offering to vote is on the official list of registered voters;

(2) To keep the ballot boxes locked at all times except when ballots are being counted;

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(3) To see that ballots are cast only by registered voters and that the voting list is checked to indicate this;

(4) To begin to count the regularly cast ballots immediately after the close of the polls and then the absentee ballots, pursuant to § 81.21;

(5) To post and certify the election returns;

(6) To return the following to the officer in charge:

(1) The ballots (in marked and locked boxes);

(i) All unused ballots; and

(ii) The completed Certificate of Results of Election. The officer in charge shall retain the ballots and other material among official records for at least one year. At the end of one year, the officer in charge shall forward the contents of the boxes and other related material to the appropriate Federal Records Center.

§ 81.9 Voting districts.

If: (a) Voting districts have not already been designated for tribal elections in the tribal constitution or by tribal election ordinance or resolution; and (b) in the election board's judgment voting districts are needed, the board shall establish them and designate a polling place for each district. Where a reservation exists, no voting district may be established beyond its boundaries.

§ 81.10 District Election Boards.

(a) Where voting districts have been established by the tribal constitution, ordinance, resolution, or by the election board, the election board shall appoint district election boards for each district, which shall have the duties prescribed above for the election board except that they shall return to the election board:

(1) The ballots (in marked and locked boxes),

(2) All unused ballots, and

(3) Their certifications of the district election results on the certification forms prescribed by the election board.

(b) The board will compile the election results for the entire reservation and transmit them together with the aforementioned ballots and ballot boxes to the officer in charge.

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§ 81.11 Registration.

(a) Only registered voters will be entitled to vote, and all determinations of the sufficiency of the number of ballots cast will be based upon the number of registered voters. The election board, upon receipt of authorization to conduct an election, shall notify by regular mail all adult members of the tribe, who to its knowledge are eligible to vote pursuant to § 81.6 of the need to register if they intend to vote. Any tribal member who, to the election board's knowledge, will become 18 years of age within 150 days (180 days for Alaska tribes) from the date of authorization and who is otherwise eligible to vote shall also be notified and shall be eligible to register, provided that such a person shall not be entitled to vote if election day falls before the individual's 18th birthday. This notice shall be sent to an individual's last known address as it appears on the records of the local unit of the Bureau of Indian Affairs having jurisdiction. Each notice addressed to a tribal member not residing on the reservation shall be accompanied by a preaddressed registration form (BIA Form 8302) which shall set forth the following information in the upper right corner:

(1) OMB Clearance Number 1076-003, Expires June 30, 1983;

(2) The name and address of the person desiring to register;

(3) A statement with a signature line attesting that the individual is a tribal member and is at least 18 years of age, or will be within 150 days, (180 days for Alaska tribes) from the date of authorization; and

(4) The three following statements: "Completion of and return of this registration form is necessary if you desire to become qualified to vote in the forthcoming constitutional or charter election." "This form, upon completion and return to the election board, shall be the basis for determining whether you qualify to have your name placed upon the list of registered voters and receive a ballot" and "completion and return of this form is voluntary." Members who qualify as absentee voters and wish to cast an absentee ballot must complete and return the above

PASCUA YAQUI TRIBE

RESOLUTION NO. C03-38-08



RESOLUTION OF THE PASCUA YAQUI TRIBE APPROVING EXTENSION OF BOUNDARIES FOR RECOGNIZED YAQUI COMMUNITIES FOR PURPOSES OF ENROLLMENT DEMOGRAPHICS AND FOR DEFINING COMMUNITY BOUNDARIES AND SERVICE AREAS.

WHEREAS, the Tribal Council is vested with the power to develop and adopt ordinances, resolutions, rules and regulations to protect and promote the peace, health, safety and general welfare of the Pascua Yaqui people and to facilitate the conduct and operation of the tribal government (Article VI, Section 1 (o) of the Constitution of the Pascua Yaqui Tribe); and

WHEREAS, for the purposes of maintaining accurate demographics and reporting accurate data to Pascua Yaqui Tribe Departments, and for determining boundaries for areas that the Tribe considers to be Tribal communities to which the Tribe wishes to offer services, the Tribal Council feels that it is necessary to re-define the boundaries for the recognized Pascua Yaqui tribal communities of Barrio Libre, Coolidge, Eloy, Guadalupe, High Town, Old Pascua, Penjamo, and Yoem Pueblo; and

WHEREAS, the Enrollment Department and the Land Department have developed a series of maps (the proposed "2008 Pascua Yaqui Tribe Recognized Communities and Demographics Maps"), which are incorporated by reference, which outline the community boundaries for Barrio Libre, Coolidge, Eloy, Guadalupe, High Town, Old Pascua, Penjamo, and Yoem Pueblo; and

WHEREAS, the Tribal Council has reviewed the 2008 Pascua Yaqui Tribe Recognized Communities and Demographics Maps, with their proposed changes to the current community boundaries for areas that the Tribe considers to be Tribal communities for service purposes, and proposed changes to the areas upon which the Tribe reports for demographic purposes, and finds it in the best interest of the Pascua Yaqui Tribe to approve the boundaries of the recognized communities for both establishing service areas and Enrollment Demographic purposes as recommended in the proposed 2008 Pascua Yaqui Tribe Recognized Communities and Demographics Maps.

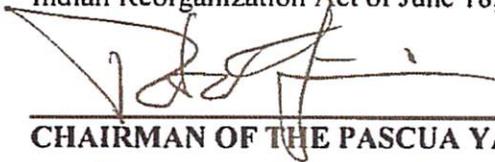
NOW THEREFORE BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE PASCUA YAQUI TRIBE that the Tribal Council hereby (1) approves the extension of boundaries for recognized Yaqui communities to those boundaries as set forth in the 2008 Pascua Yaqui Tribe Recognized Communities and Demographics Maps for purposes of both establishing Community boundaries for services purposes and for enrollment demographics, and (2) adopts the 2008

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RESOLUTION NO. C03-38-08
EXTEND YAQUI BOUNDARIES

Pascua Yaqui Tribe Recognized Communities and Demographics Maps as the official Tribal designation of those areas that are officially recognized as Pascua Yaqui Tribal Communities, to which the Tribe may authorize services, and about which the Tribe will keep or use demographic information, and (3) authorizes the Chairman to sign all documents and take any necessary and proper action to execute, implement, and enforce the designations on the 2008 Pascua Yaqui Tribe Recognized Communities and Demographics Maps and this Resolution.

CERTIFICATION

THE FOREGOING RESOLUTION was on **March 12, 2008**, duly adopted by a vote of **NINE** in favor, **ZERO** opposed, and **ZERO** abstained, by the Tribal Council of the Pascua Yaqui Tribe pursuant to the authority vested in it by Article VI, Section 1(o) of the Constitution of the Pascua Yaqui Tribe adopted on January 26, 1988 and approved by the Secretary of the Interior on February 8, 1988, pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).



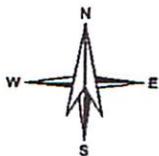
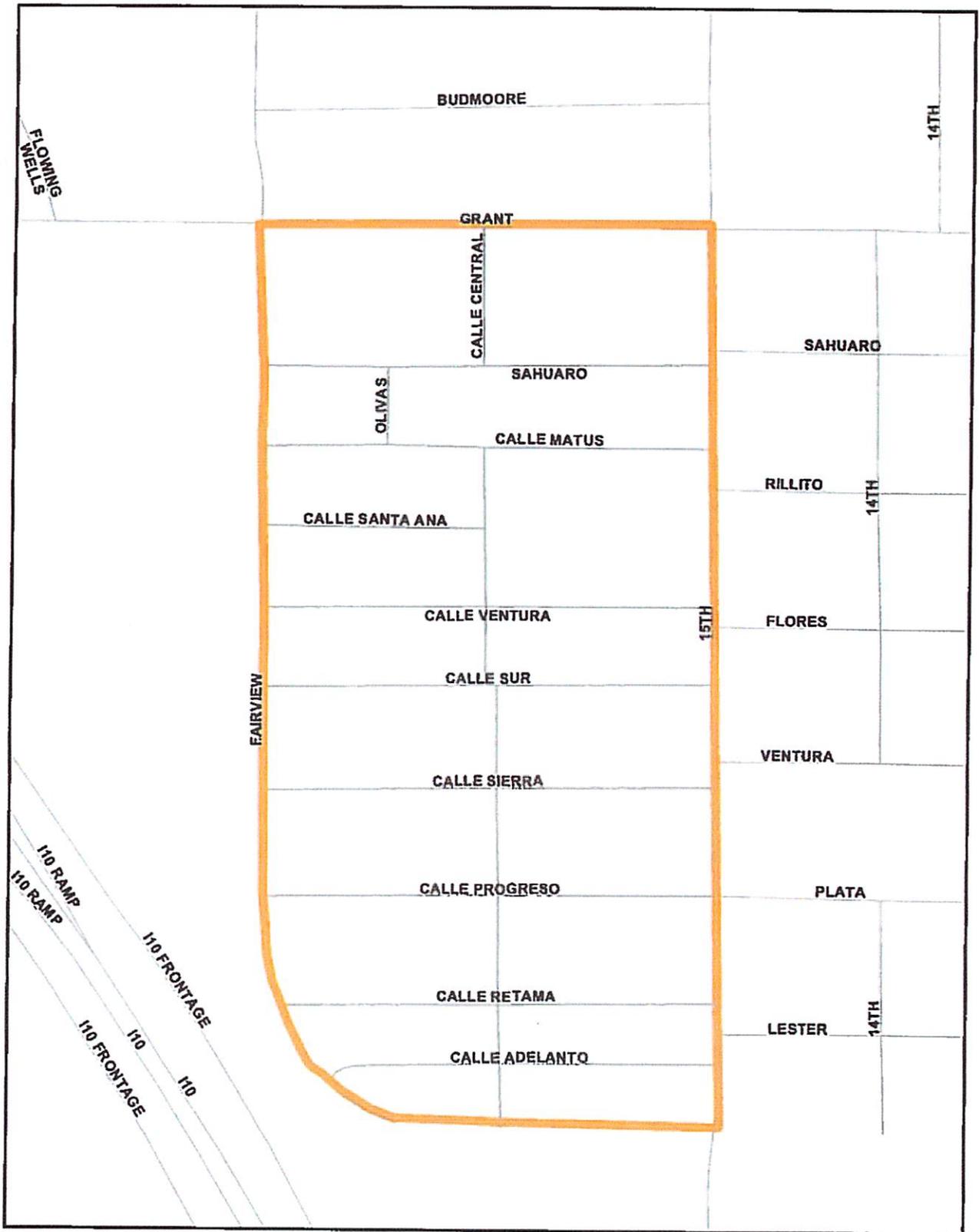
CHAIRMAN OF THE PASCUA YAQUI TRIBE



SECRETARY OF THE PASCUA YAQUI TRIBE

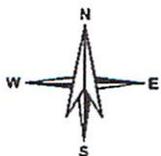
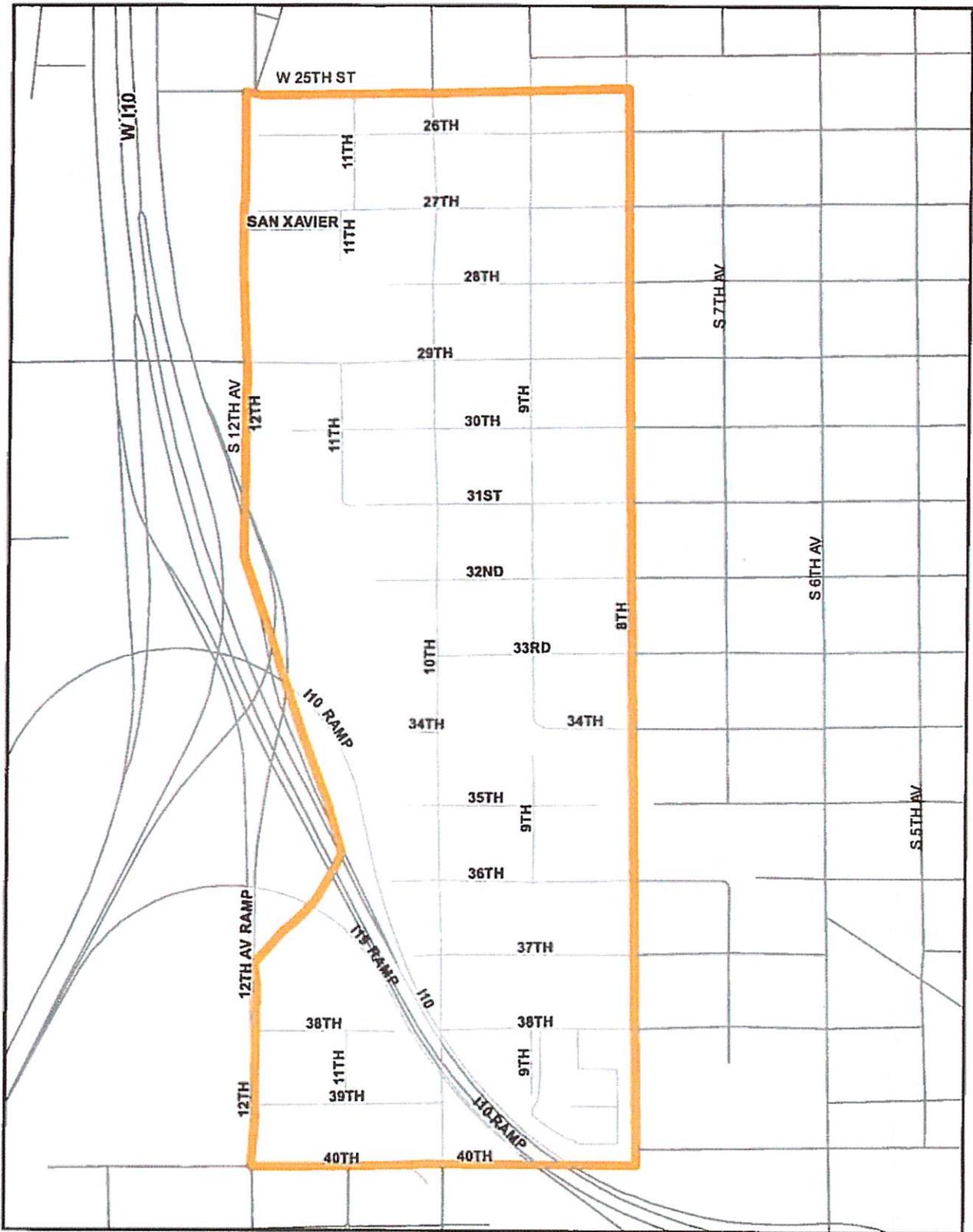


Old Pascua



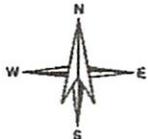
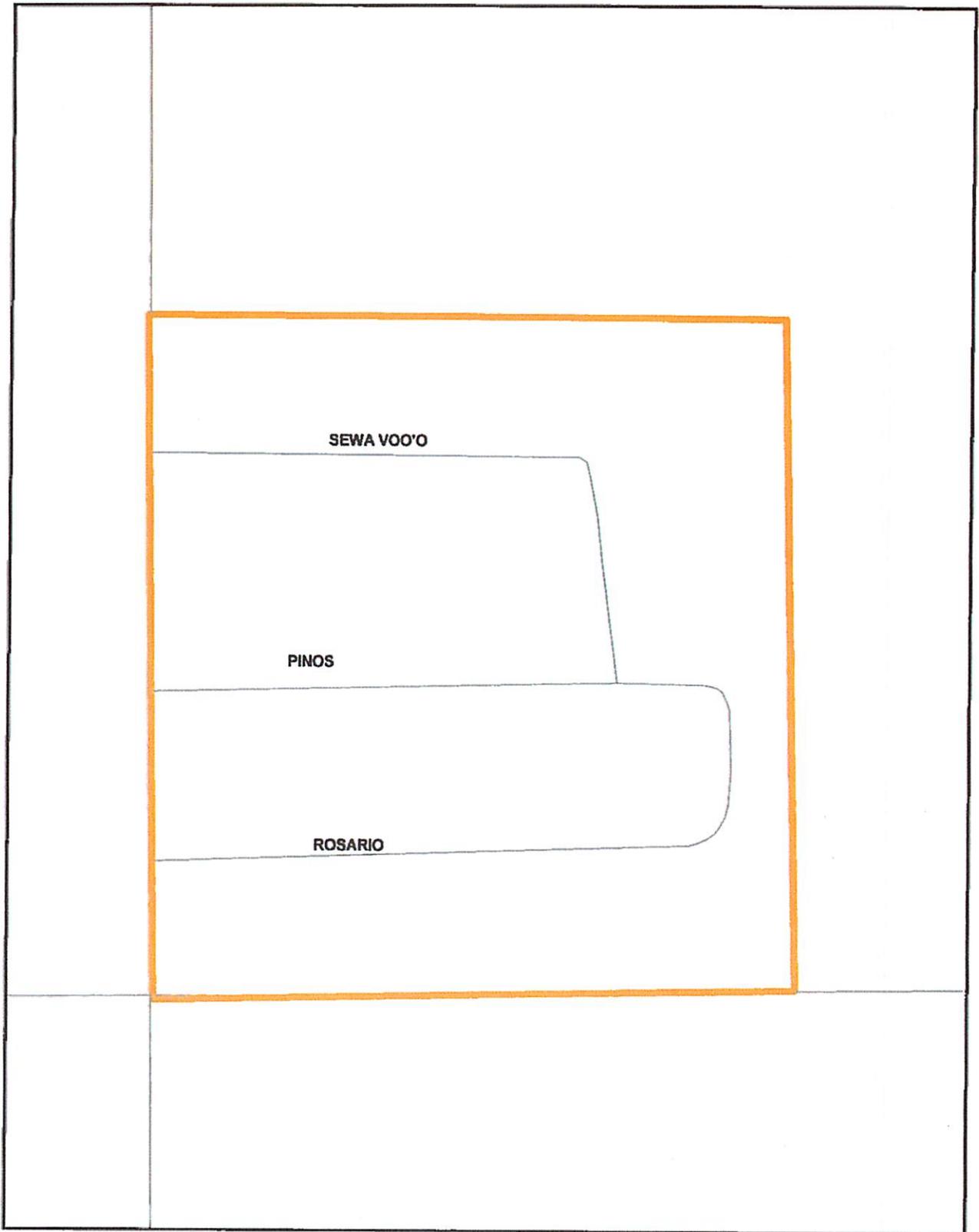
 Enrollment Recognized Community Boundary

Barrio Libre



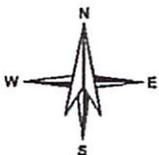
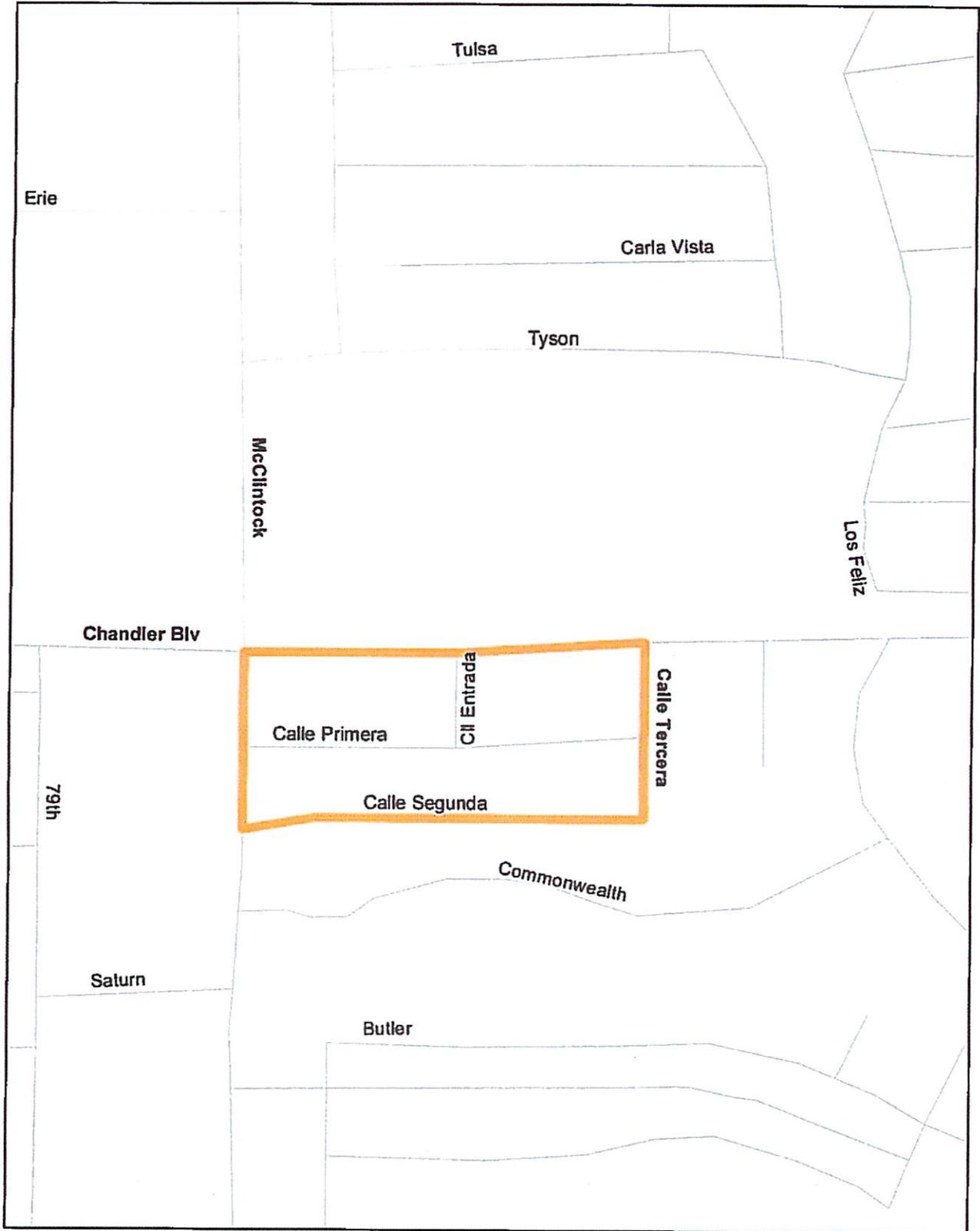
 Enrollment Recognized Community Boundary

Yoem Pueblo



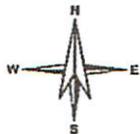
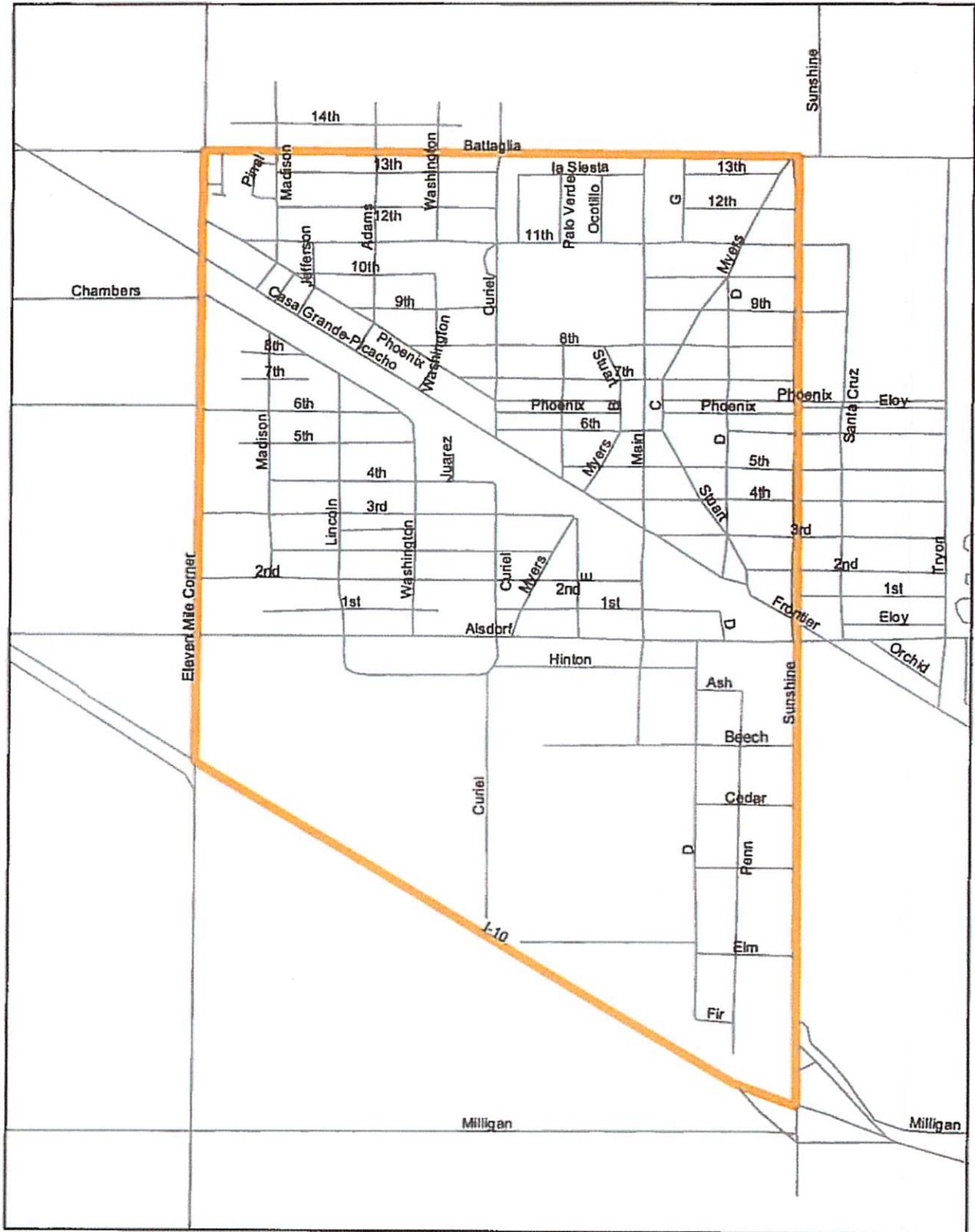
 Enrollment Recognized Community Boundary

Chandler



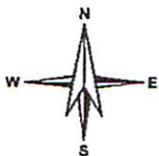
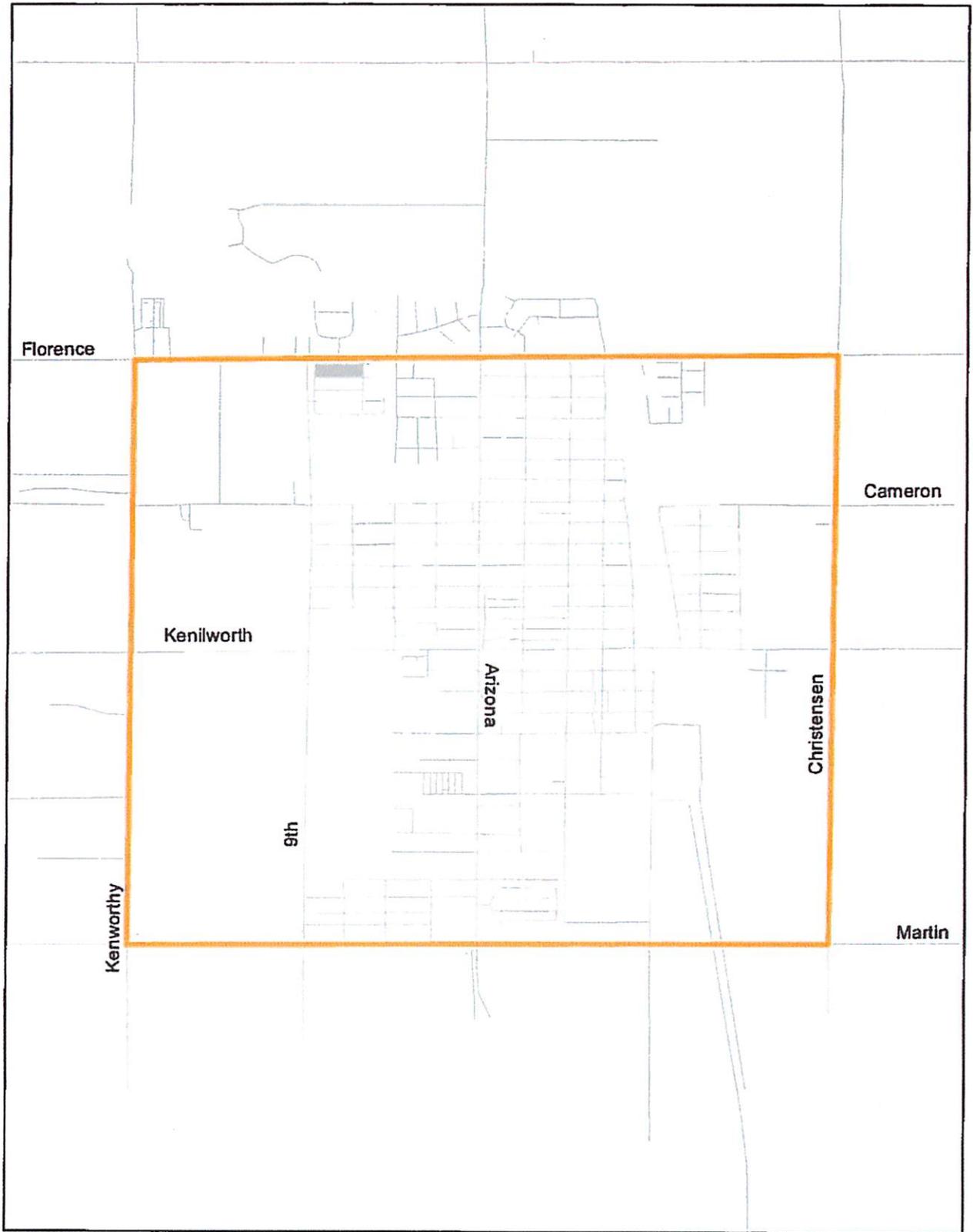
 Enrollment Recognized Community Boundary

Eloy



 Enrollment Recognized Community Boundary

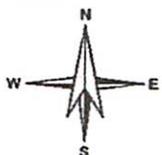
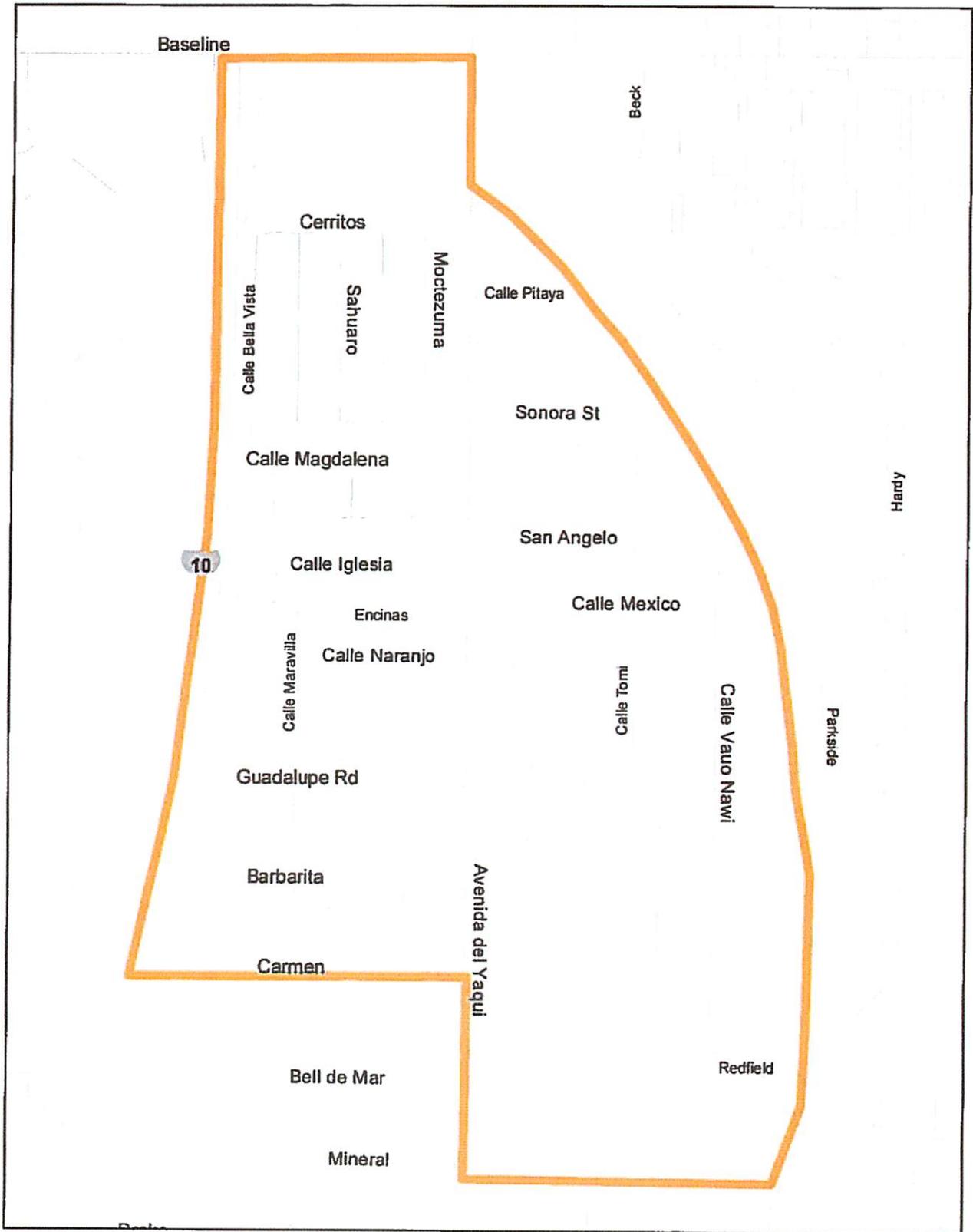
Coolidge



 Enrollment Recognized Community Boundary

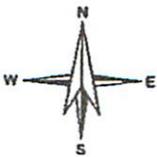
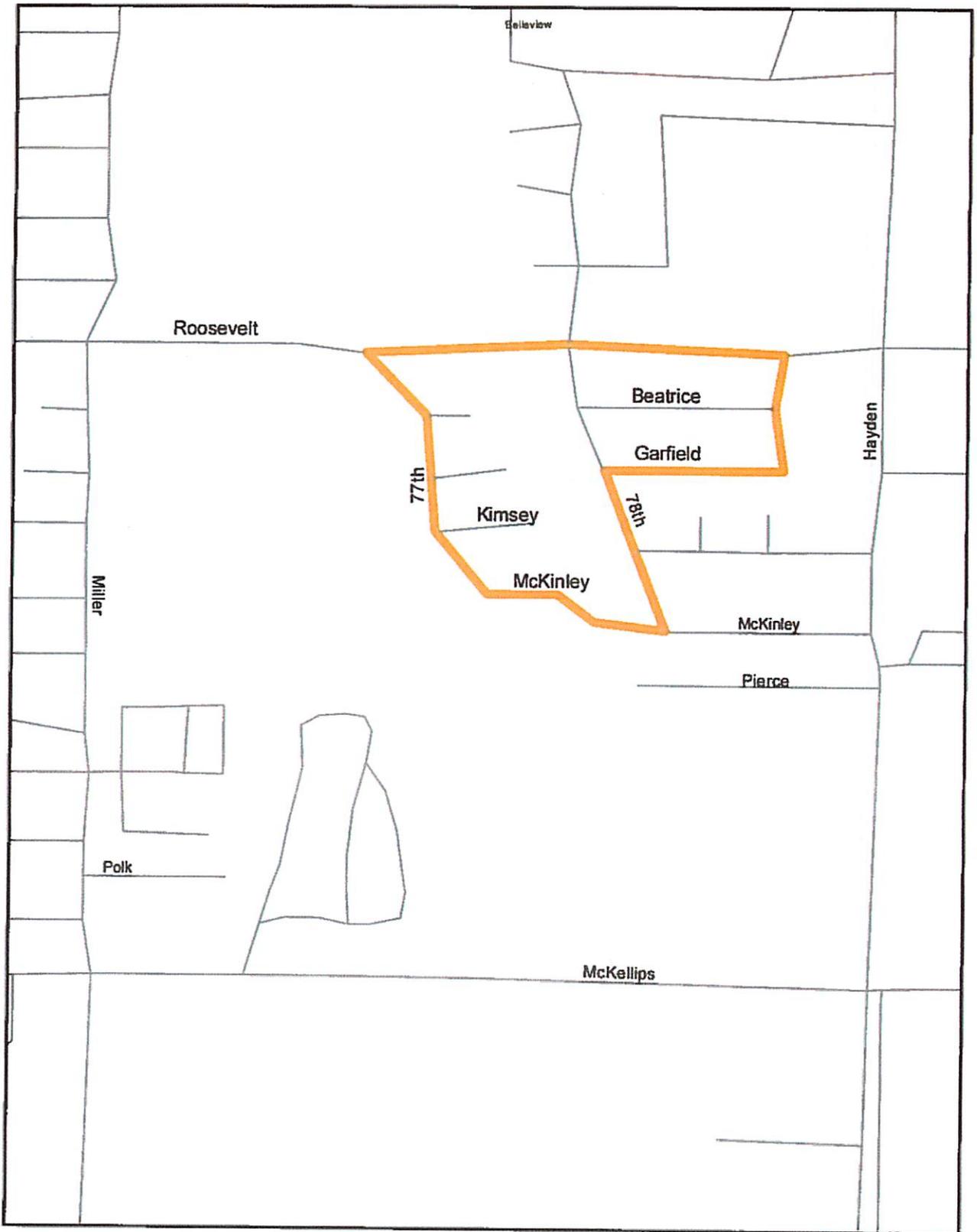
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Guadalupe



 Enrollment Recognized Community Boundary

Penjamo



 Enrollment Recognized Community Boundary

2009 Mail Outs

	CONSTITUTIONAL SURVEY	YES	NO	NO RESPONSE
1)	Do you think the constitution needs to be amended?	110	22	11
2)	What Changes would you like to see?			
	a) Direct Election of the Executive?	105	19	19
	b) Staggered Terms?	82	37	24
	c) Removal of the BIA from the approval processes	65	53	25
	d) Changes to the membership requirements?	101	35	7
	e) Are there any other changes that you are interest in?			

2013 RECOGNITION EVENT

CONSTITUTIONAL SURVEY		YES	NO	NO RESPONSE
1)	Are you familiar with the Pascua Yaqui Tribal Constitution?	34	23	3
2)	Do you feel the current Tribal Constitution needs to be amended?	42	6	12
3)	What changes are most important to you?			
	a) Voting directly for Tribal Chair and Vice-Chair?	52	8	0
	b) Removal of BIA from the approval process?	45	9	6
	c) Staggered Terms?	35	16	9
	d) Increasing the safety of Tribal members from Non-members?	49	7	4
	e) Any other changes you feel are important to the Pascua Yaqui Tribe?			

COMMUNITY SESSION SURVEY		Very Important	Not Important	NR
1)	Background and history of Tribal Constitution	57	3	0
2)	Understanding our own Tribal Constitution and history?	59	1	0
3)	What other Tribes are doing in Indian Country in amending their Constitution?	43	16	1
4)	What are the different types of amendment process?	55	4	1

COMMENTS:

- 1) Change Tribal membership to include 1/8
- 2) Changes to enrollment process & blood quantum
- 3) Term limits
- 4) Preamble
- 5) Primary elections
- 6) Some education background for Chair & Vice-chair
- 7) To many to mention
- 8) Awareness of laws
- 9) More info to all communities & possible update of website

2014 COMMUNITY RESULTS

CONSTITUTION SURVEY		YES	NO	NO RESPONSE
1)	Are you familiar with the Pascua Yaqui Tribe Constitution?	40	26	0
2)	Do you feel the current Tribal Constitution needs to be amended?	57	1	8
3)	What changes are important to you?			
	g) Voting directly for Tribal Chair and Vice-Chair?	48	7	11
	h) Removal of BIA from the approval process?	42	6	14
	i) Staggered Terms?	48	11	19
	j) Increasing the safety of Tribal members from Non-members?	61	1	4
	k) Any other changes you feel are important to the Pascua Yaqui Tribe?	18	12	28

COMMUNITY SESSION SURVEY		Very Important	Not Important	NR
1)	Background and history of Tribal Constitution	56	3	9
2)	Understanding our own Tribal Constitution and history?	59	1	7
3)	What other Tribes are doing in Indian Country in amending their Constitution?	55	5	6
4)	What are the different types of amendment process?	52	5	7

COMMENTS:

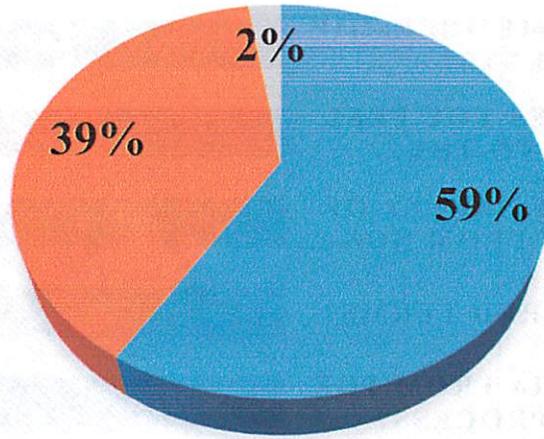
- 1) Council to have 2 year term limit, instead of term after term
- 2) Doing a great job! Thanks for taking time to come out and visit with us
- 3) Number 1 problem is alcohol & drug use and unemployment
- 4) It's important to change for a new law with all new ways. Most people don't know the law
- 5) Get homes for homeless
- 6) Pay attention to Tribal members outside of Pascua & Guadalupe
- 7) Background & education for qualifications of Council members.
- 8) Great informational session answered all my questions
- 9) I feel that VAWA Act is very important and needs to be addressed
- 10) Elderly abuse
- 11) Required representation from all Yaqui communities (Penjamo, Guad etc) in Council elections
- 12) Need to make out I.D. use for banks for underage children
- 13) Blood quantum issues
- 14) Having a representative from all communities on Council
- 15) We have an election to learn of the amount of people running
- 16) Lots

RESULTS

CONSTITUTION SURVEY		YES	NO	NO RESPONSE
1)	Are you familiar with the Pascua Yaqui Tribe Constitution?	74	49	3
2)	Do you feel the current Tribal Constitution needs to be amended?	99	7	20
3)	What changes are important to you?			
	a) Voting directly for Tribal Chair and Vice-Chair?	205	34	17
	b) Removal of BIA from the approval process?	144	67	74
	c) Staggered Terms?	163	63	111
	d) Increasing the safety of Tribal members from Non-members?	110	8	8
	e) Any other changes you feel are important to the Pascua Yaqui Tribe?	18	12	28
	f) Changes to the membership requirements?	101	35	7

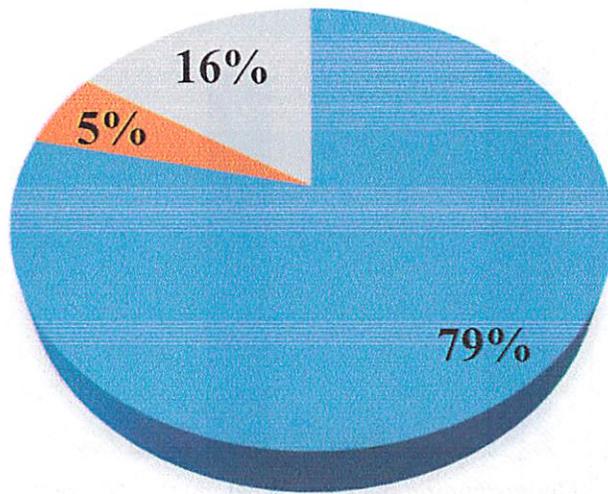
COMMUNITY SESSION SURVEY		Very Important	Not Important	NR
1)	Background and history of Tribal Constitution	113	6	9
2)	Understanding our own Tribal Constitution and history?	118	2	7
3)	What other Tribes are doing in Indian Country in amending their Constitution?	98	21	7
4)	What are the different types of amendment process?	107	9	8

Are you familiar with the Pascua Yaqui Tribe Constitution?



■ YES ■ NO ■ NO RESPONSE

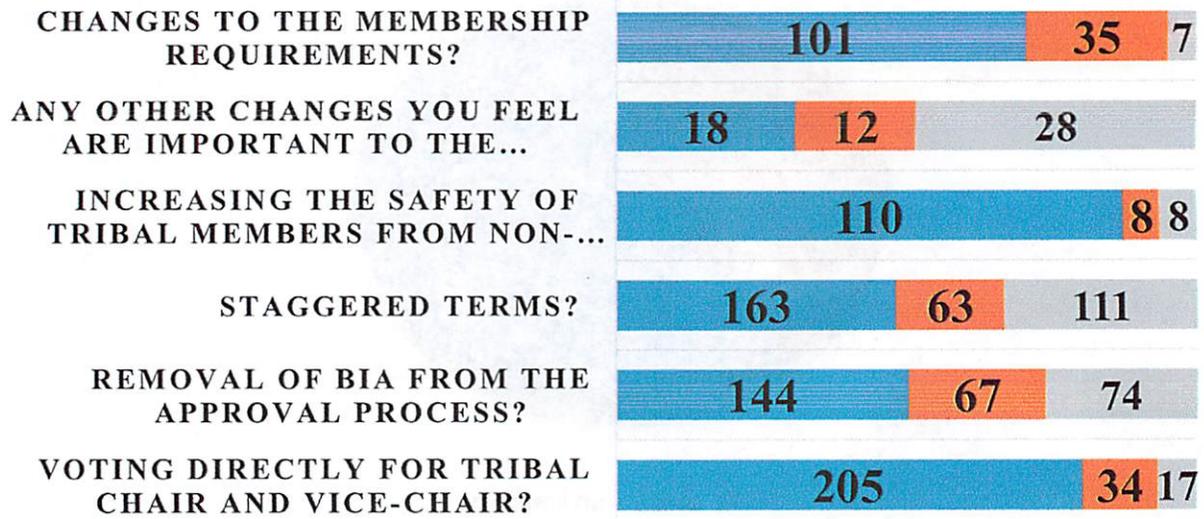
Do you feel the current Tribal Constitution needs to be amended?



■ YES ■ NO ■ NO RESPONSE

WHAT CHANGES ARE IMPORTANT TO YOU?

■ Yes ■ No ■ No Response



Community Session Survey

