

Colorado Secretary of State Scott Gessler

Elections Division



October 11, 2011

Election Report: Saguache County Election Review and Hand Verification - August 29-30, 2011

Background

Saguache County held its general election on November 2, 2010. Voters cast approximately 2,400 ballots in the District 3 County Commissioner and County Clerk and Recorder races.

The Saguache County Clerk released inaccurate election night results. The release of the incorrect results ultimately put the election's integrity in question.

Although representatives from the Secretary of State's office reviewed the election results, many Saguache County citizens remained uncertain about the final vote tabulation. A District Court Judge authorized the Secretary of State to conduct a public review of the final tabulation to remove doubt about the election results. That review was conducted August 29-31, 2011.

Review Teams

Secretary of State Scott Gessler asked Saguache County voters to assist in the review. Seventeen community members volunteered to participate in the three-day process. Additional interested parties were present including affected candidates, the public, and media. Deputy Elections Director Wayne Munster and Special Projects Coordinator Christi Heppard attended on behalf of Secretary Gessler and were continuously available to answer questions. Three additional staff members provided support to review teams.

Community volunteers provided an unprecedented level of transparency throughout the review. The entire review was conducted by Saguache County volunteers and was attended and observed by members of the public.

The Honorable Martin A. Gonzales administered oaths to reviewers on Tuesday, August 30. Reviewers worked on Monday, August 29 after completing a self-affirmation.

Public Observation

Secretary of State staff recorded review activities on four video cameras. They also welcomed observers to film, tape, or otherwise record the process without restriction once a review determined there were no personal identifying features of the ballots.

Security

Verification teams followed appropriate security protocols during the verification process to ensure election integrity. Secretary of State staff transported ballots daily from the Clerk and Recorder's office for processing. Verification teams securely sealed ballots and other election materials before returning to the clerk's office and verified their integrity before unsealing materials the next day. Reviewers confirmed that seals were intact throughout the verification process. These reviews of the seals were recorded by the cameras.

Verification Process

The following outlines and describes the review verification process:

1. Setup

Teams arrived on Monday, August 29, 2011, beginning at 2:00 p.m. Secretary of State staff set up video cameras in front of observers to capture all aspects of the review.

2. Ballot Inspection and Batching

To begin the review, teams opened all ballot boxes and containers to inventory available items. While the county clerk provided seal logs in a container, reviewers could not verify initial seal integrity because the logs were unorganized and not in any discernible order. To compensate, review teams recorded seal numbers before opening each box. Overall, the county clerk stored ballots and other election materials haphazardly with no information or inventory lists indicating box contents.

Verification teams separated ballots into batches of 30 and assigned batch numbers to each bundle. Teams also inspected every ballot to locate identifying marks that could compromise voter secrecy. They found two ballots containing initials, but determined the markings were insufficient to identify a specific voter.

3. Ballot Review

Verification teams hand-tabulated each ballot, including those cast on electronic equipment. They counted ballots by precinct, including Precinct 5, and tabulated mail-in ballots and early voting ballots as separate precincts. Approximately 13 provisional ballots could not be counted because the voters' qualifications to vote in Saguache County, typically residence, could not be established.

Reviewers counted every ballot, including those separated by the county into batches for duplicated ballots and ballots with write-in votes and over-votes. While there is speculation that Saguache County Clerk and Recorder Melinda Myers did not include these ballots in the initial vote count, staff found no evidence to support that conclusion. The final review results, which include duplicated, write-in, and over-voted ballots, closely match those certified by the county clerk on the Abstract and Amended Abstract, indicating the ballots were included in the initial count. While the staff cannot definitively establish that these particular ballots were included in the initial results, staff is confident the election outcome is correct.

4. Results Verification

Beginning August 30, 2011, teams counted votes in the races for Commissioner District 3, Clerk and Recorder, and CU Regent (control race). In addition, teams counted the number of mail-in ballot envelopes, poll book signatures, and undeliverable, provisional, duplicated, and rejected ballots.

Each ballot verification team consisted of three members: one member served as the "caller," audibly announcing the candidate receiving the vote, and two individuals served as "talliers." Each tallier made hash marks on batch sheets to record the number of votes cast for candidates announced by the caller. Talliers tallied at each five-vote interval. If talliers did not agree on five-vote intervals or at batch conclusion, the entire batch was reprocessed. Callers and talliers rotated duties for each batch.

After tallying each precinct, reviewers counted the number of signatures in the corresponding poll book to verify the correct number of ballots had been tallied. Review teams found that in the polling place for precincts 7, 8, and 9, it appeared that election judges inadvertently issued one ballot from the wrong precinct inventory. Because ballot styles are identical for these three precincts, this error did not affect the election outcome.

Once the verification team completed tabulation for its precinct, reviewers provided tally sheets to Secretary of State staff who compiled results into a spreadsheet and compared them against those reported on the Abstract of Votes Cast and the Amended Abstract of Votes Cast.

5. Ballots Requiring Determination of Voter Intent

During the election when a voter cast an over-vote or unreadable mark, Saguache County election judges darkened marks or placed white stickers over target areas to make the ballots machine-readable. Ballots were not duplicated as required by law. During the review, teams inspected these ballots, to the extent possible, to verify voter intent. After consulting the Secretary's Voter Intent Guide, review teams often resolved voter intent differently than the original election judges, indicating that the original judges did not consult the official guide. As a result, every candidate received fewer votes than originally certified by the county clerk.

The original judges incorrectly covered marks where the voter made an error to make ballots machine-readable and also made obvious errors when determining voter intent. But staff concluded during the hand review that the small number of ballots requiring determination of voter intent ultimately did not affect the election outcome.

6. Ballot Inventory

At the request of Secretary of State staff, the county clerk produced unused ballot stock. Review teams counted unused ballots and ballots returned by the post office as undeliverable. The county clerk did not provide ballot reconciliation logs or ballot supply orders. Because these materials were unavailable, staff could not conduct a comprehensive ballot inventory review. As a result, review teams relied on the number of signatures in each poll book and the number of mail-in ballots received for verification.

Results Comparison

The table below shows votes tabulated during the review compared to those certified by Clerk Myers in the initial November 19, 2010 Abstract of Votes Cast and the December 2, 2010 Amended Abstract of Votes Cast. The small difference in votes primarily results from review teams resolving voter intent differently than election judges, as mentioned above.

Comparison of Results from Saguache County November 2010 Election					
Races Reviewed	Hand Review Total* 08-30-11	County Certified Total**		County Amended Total***	
		11-19-10	Diff	11-19-10	Diff
CU Regent					
Melissa Hart	1309	1317	+8	1317	+8
Steve Bosley	820	826	+6	826	+6
Jesse Wallace	122	124	+2	124	+2
Commissioner					
Linda Joseph	1193	1204	+11	1205	+12
Steven M. Carlson	1169	1178	+9	1167	+2
Clerk and Recorder					
Melinda Myers	1217	1227	+10	1222	+5
Carla V. Gomez	1155	1166	+11	1156	+1

* Hand Review Total shows results as tabulated by hand during the review conducted August 29 - 30, 2011.

** County Certified Total results as shown on the Abstract of Votes Cast dated November 19, 2010.

***County Certified Total results as shown on the Amended Abstract of Votes Cast dated December 2, 2010. The reason an Amended Abstract was submitted to the Secretary of State was not reported.

Conclusion

Through first-hand observation during the review and previous visits, the Secretary of State's office has identified multiple procedural issues related to the conduct of the 2010 General Election in Saguache County. In addition, a Grand Jury issued a report outlining procedural problems. Our review found similar election irregularities.

In order to ensure that Clerk Myers avoids similar errors and irregularities in the future, Secretary Gessler has instructed his staff to closely monitor Saguache County elections. Staff will be onsite during the 2011 election to observe the Logic and Accuracy test and election judge training. In addition, staff will also be in Saguache on Election Day and during the post-election audit.

The hand review confirmed that while final vote totals varied within expected margins from the original machine count, all three vote-counts show that commissioner candidate Linda Joseph and clerk and recorder candidate Myers prevailed. This manual hand review conducted by Saguache County citizens confirms that Joseph and Myers won their respective elections.

With Appreciation

Our office extends a special thank you to the volunteers for taking time out of their schedules to help in this review. This could not have been accomplished without them and those witnessing the ballot processing. We appreciate your interest and civic engagement and hope you continue to be involved in your elections.