IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:20-cv-02992-PAB

JUDICIAL WATCH, INC., *et al.*

Plaintiffs,

v.

JENA GRISWOLD, Colorado Secretary of State, in her official capacity, *et al.*,

Defendants.

PROPOSED INTERVENORS' OBJECTIONS TO THE MAGISTRATE JUDGE'S RECOMMENDATION ON MOTION TO INTERVENE AS DEFENDANTS

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Pursuant to Federal Rule of Civil Procedure 72(a), Proposed Intervenors, Voto Latino and Vote.org, respectfully object to Magistrate Judge Kathleen M. Tafoya's Recommendation that this Court deny their Motion to Intervene as Defendants ("Rec."), ECF No. 48. Pursuant to Local Rule 7.1, counsel for Proposed Intervenors has conferred with counsel for the parties. Plaintiffs oppose the relief requested in this Objection. Defendants do not oppose the filing of this Objection.

I. INTRODUCTION

The Tenth Circuit has historically taken a liberal approach to intervention that strongly favors granting motions to intervene, particularly in cases that implicate important public interests. The Magistrate Judge's Recommendation that intervention be denied here misapplied that standard and made several additional errors that led to its improper conclusion. This Court should reject the Recommendation and permit Proposed Intervenors to intervene to defend their interests and the interests of the Colorado voters who they work hard to enfranchise (and protect from disenfranchisement). Proposed Intervenors meet all requirements for intervention as of right under

Rule 24(a) and, at the very least, have established that they should be granted permissive intervention under Rule 24(b).

This case involves an effort by Plaintiffs (hereinafter, "Judicial Watch") to use the judiciary to require Colorado to engage in more aggressive voter list maintenance processes and procedures, significantly raising the risk that more eligible voters will be erroneously purged from the rolls. Most at risk of erroneous removal are voters in the Latinx, minority, and young voter communities that Proposed Intervenors—both voter registration organizations that focus on registering minority and young voters—serve. In fact, the Magistrate Judge recognized that Proposed Intervenors have an interest in ensuring that "eligible minority voters are registered to vote," and "eligible Colorado voters, some of whom [they] have helped to register to vote [] remain registered to vote in Colorado." Rec. at 8-9. These interests are unique, directly related to the subject of this case, and not adequately represented by any other party. The Magistrate Judge's finding to the contrary rests on an overly technical reading of Plaintiffs' complaint that is not only mistaken, but out of step with Rule 24's purpose and the Tenth Circuit's liberal approach to intervention.

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In their Complaint, Judicial Watch alleges that, despite removing nearly 300,000 voters from its registration rolls in a two-year period, Colorado's current voter registration list maintenance procedures are not "reasonable" under the National Voter Registration Act ("NVRA"). Why? Because Judicial Watch thinks that this number is too low. As a result, Judicial Watch seeks an order mandating that Colorado remove more voters, with greater frequency. Compl. ¶¶ 35, 42, 47, 48, 57, 73, ECF No. 1. If Judicial Watch succeeds, it is all but certain that more *eligible* (not just ineligible) voters will be removed from the rolls. These voters are far more likely to be Latinx and young, the precise constituencies that Proposed Intervenors serve.

The underlying assumption of the Recommendation, that this case is simply about the removal of ineligible voters, Rec. at 8, is incorrect, and ignores the allegations and evidence in Proposed Intervenors' papers showing that aggressive voter purge programs commonly remove eligible voters from the rolls, with disproportionately negative impacts on minority communities. *See* Mot. to Intervene 9-10, ECF No. 17; Reply ISO Mot. to Intervene 3-4, ECF No. 39. Moreover, as several courts considering motions to intervene by similar organizations in similar contexts have recognized, Proposed Intervenors' interests as zealous advocates on behalf of their Latinx and young constituencies are sufficiently distinct from the State's interests to warrant intervention. *See, e.g.*, *Pub. Int. Legal Found., Inc. v. Winfrey*, 463 F. Supp. 3d 795, 799 (E.D. Mich. 2020); *Bellitto v. Snipes*, No. 16-cv-61474, 2016 WL 5118568, at *2 (S.D. Fla. Sept. 21, 2016); *Kobach v. U.S. Election Assistance Comm'n*, No. 13-cv-4095, 2013 WL 6511874, at *4 (D. Kan. Dec. 12, 2013). The Magistrate Judge's conclusion to the contrary was incorrect. This Court should decline to adopt the Recommendation and grant Proposed Intervenors' Motion to Intervene.

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II. STATEMENT OF FACTS

A. Colorado's Voter Maintenance Program

To comply with Section 8 of the NVRA, Colorado enacted a comprehensive voter maintenance program. 8 C.C.R. § 1505-1:2.13 ("List Maintenance under section 8 of the National Voter Registration Act of 1993"). One of the functions of Colorado's list maintenance program is to remove ineligible voters, including those who have died and those who have moved out of the jurisdiction. Between 2017 and 2018, Colorado's list maintenance program removed 289,247 voters from its voter registration lists.[1] Despite this robust voter maintenance program, Judicial Watch remains unsatisfied. It claims that Colorado has "failed to fulfill [its] obligations under

[1] U.S. Election Assistance Commission, Election Administration and Voting Survey, 82 (2019), www.eac.gov/sites/default/files/eac_assets/1/6/2018_EAVS_Report.pdf.

Section 8(a)(4) of the NVRA to conduct a general program that makes a reasonable effort to cancel the registrations of registrants who are ineligible to vote in Colorado's federal elections." Compl. ¶ 73. Judicial Watch supports these allegations with opaque calculations based on the same EAC Report that details Colorado's success in removing hundreds of thousands of voters from its rolls.

B. Proposed Intervenors' Interest in The Action

1. Voto Latino

Voto Latino is a 501(c)(4) grassroots non-profit organization focused on educating and empowering a new generation of Latinx voters, as well as creating a more robust and inclusive democracy. Decl. of Danny Friedman ("Friedman Decl.") ¶¶ 2, 4, ECF No. 17-1. Voter registration efforts are a major part of Voto Latino's civic engagement campaigns. In 2020, Voto Latino registered over 500,000 new voters across the country, including over 12,000 Colorado voters. *Id.* ¶ 5. Since 2017, Voto Latino has registered more than 90,000 Colorado voters and has made special efforts in Colorado to engage and mobilize young Latinx voters. *Id.* As the Magistrate Judge found, Voto Latino has a demonstrated interest in "ensuring that eligible minority voters are registered to vote," and ensuring those voters "remain registered to vote in Colorado." Rec. at 8-9.

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2. Vote.org

Vote.org is the largest 501(c)(3) nonprofit, nonpartisan voter registration and get-out-the-vote technology platform in the country. Decl. of Andrea Hailey ("Hailey Decl.") ¶ 2, ECF No. 17-2. Vote.org works extensively to support low-propensity voters, including racial and ethnic minorities and younger voters who tend to have low voter-turnout rates. *Id.* ¶ 3. In total, Vote.org has registered more than 6.1 million new voters and verified more than 15 million voters' registration status. *Id.* ¶ 2. Since 2012, it has helped over 118,000 Coloradans register to vote, including more than 69,000 in 2020 alone. *Id.* ¶ 5. Additionally, since 2012, it has helped over

260,000 Coloradans verify their registration status. *Id.* As with Voto Latino, the Magistrate Judge found that Vote.org has a demonstrated interest in "ensuring that eligible minority voters are registered to vote," and in ensuring those voters "remain registered to vote . . . ." Rec. at 8-9.

3. More aggressive voter purges will hurt Proposed Intervenors' interests.

If Colorado is required to undertake more aggressive voter purges—the relief that Judicial Watch seeks—Voto Latino's and Vote.org's efforts to register voters will be undermined, as will their recognized interest in keeping those voters registered. This is because, as Proposed Intervenors have demonstrated, the more expansive or aggressive a list maintenance program is the more an eligible voter is at risk of being removed from the rolls due to flawed methodologies and unreliable data. Mot. to Intervene 9-10.

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For example, in 2013, Virginia incorrectly identified 39,000 eligible voters for removal after a voter maintenance program erroneously determined they had moved out of Virginia. *See* Johnathan Brater, et al. *Purges: A Growing Threat to the Right to Vote*, Brennan Center for Justice, 8 (July 20, 2018), https://www.brennancenter.org/our-work/research-reports/purges-growing-threat-right-vote (hereinafter, "Purge Rep."). In fact, *up to 17 percent* of the voters on Virginia's purge list were *eligible* voters who legally registered to vote after moving *to* Virginia from another state. *Id.* Thousands of eligible voters were removed from the rolls before these errors were discovered. *Id.* This is by no means an isolated incident. *See, e.g.*, *id.* at 5 (explaining that an Arkansas identification of 7,700 voters as ineligible based on a criminal conviction erroneously included eligible voters that had other involvement with the court system).

Almost uniformly, voters erroneously flagged for removal from the voter rolls under overly aggressive purge tactics are disproportionately likely to be from minority communities or to be young voters—the very constituencies that Proposed Intervenors serve. In 2016, for example, New

York deleted more than 200,000 names from its voter rolls before the primary elections, with 14 percent of voters in Hispanic-majority election districts being purged compared to just 9 percent of voters in other districts. *Id.* at 6. Similarly, in 2019, Texas demanded 100,000 registered voters—a significant percentage of whom were Latinx—provide proof of citizenship or be removed from the rolls. It was later confirmed that *at least 25,000* of those voters were included in error. *See* Alexa Ura, *Texas will end its botched voter citizenship review and rescind its list of flagged voters*, The Texas Tribune (Apr. 26, 2019), www.texastribune.org/2019/04/26/texasvoting-rights-groups-win-settlement-secretary-of-state. Young voters have been similarly affected. *See* Purge Rep. at 7 (explaining "frequent movers" like college students are more likely to be misidentified as having moved out of the state in which they vote); Erin McCormick, et al., *Revealed: Wisconsin's black and student populations at highest risk of voter purges*, The Guardian (Apr. 6, 2020), https://www.theguardian.com/us-news/2020/apr/06/wisconsin-voter-purges-black-student-populations-risk (explaining voters in zip codes with large populations of college students were nearly twice as likely to be flagged for removal by a common voter maintenance program).

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Even the design of voter maintenance programs makes it more likely that eligible Latinx voters will be flagged for erroneous removal. Purge Rep. at 7 (explaining that voter maintenance programs that use a name-matching methodology disproportionately misidentify eligibility Black, Asian, and Latinx voters for removal because they are more likely to have common shared name than white voters). There is no reason to believe that Colorado is or will be any different. *Id.* (noting one of the voter maintenance programs previously employed by Colorado used a name-matching methodology); Sara Burnett, *88% of challenged Colorado voters are U.S. Citizens, check shows*,

Denver Post (Aug. 12, 2012), www.denverpost.com/2012/08/29/88-of-challenged-colorado-voters-are-u-s-citizens-checkshows.

As a result, if Judicial Watch is successful Proposed Intervenors will need to do additional work to ensure that its voters are protected from such purges and to re-register those who are removed. Hailey Decl. ¶¶ 6-8; Friedman Decl. ¶ 9.

III. STANDARD OF REVIEW

This Court reviews orders issued by magistrate judges on dispositive matters *de novo* and orders issued on non-dispositive matters for clear error. In the Tenth Circuit, the question of whether an order is dispositive is a practical one, with motions that have a dispositive effect—even if not designated specifically as such—given *de novo* review. Here, the Recommendation completely bars Proposed Intervenors from defending their interests in this case and is therefore subject to *de novo* review. *Ocelot Oil Corp. v. Sparrow Indus.*, 847 F.2d 1458, 1461-63 (10th Cir. 1988); *see also* 12 Charles A. Wright et al., Federal Practice & Procedure § 3068.2 (2d ed. 2018) (explaining the Tenth Circuit "permits the courts to reach commonsense decisions rather than becoming mired in a game of labels"). Notwithstanding, even if this Court were to determine that the clear error standard applies, Proposed Intervenors would succeed under that standard as well.

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IV. OBJECTIONS AND ARGUMENT

Proposed Intervenors object to the Recommendation on several grounds. *First*, Proposed Intervenors object to the Magistrate Judge's improper application of the Tenth Circuit's liberal standard for intervention as a matter of right. Rec. at 4. Proposed Intervenors have exceeded the minimal showing necessary to demonstrate their interest in the litigation, the possible impairment of that interest, and the inability of the current parties to represent that interest.

Second, Proposed Intervenors object to the conclusion that their interests are not sufficiently related to this case because it only concerns the removal of *ineligible* voters from the rolls, not the removal of *eligible* voters. Rec. at 8. Proposed Intervenors provided ample evidence that there is more than a mere possibility that more aggressive list maintenance procedures will result in the removal of eligible voters, not merely ineligible voters. Mot. to Intervene 9-10. Proposed Intervenors further demonstrated that a disproportionate number of those voters will be Latinx and young—the exact constituencies Proposed Intervenors serve. *Id.*

Third, Proposed Intervenors object to the Magistrate Judge's conclusion that their interests are adequately represented. Rec. at 9. Proposed Intervenors' unique interest in ensuring the constituencies that they work with remain registered to vote diverge sharply from the State's general interests and should be separately protected. Mot. to Intervene 4-6, 11-13; Reply 5-8.

Finally, Proposed Intervenors object to the denial of permissive intervention on the basis of the Magistrate Judge's mistaken conclusion that Proposed Intervenors' interests do not share common questions of law and fact with this case. Rec. at 10. Proposed Intervenors interests in ensuring that lawful, eligible voters are not removed from the voter rolls is directly at issue here and should be a key question of both law and fact before the Court as this case proceeds. Mot. to Intervene 13-15; Reply 8-9.

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A. Legal Standard for Intervention

Federal Rule of Civil Procedure 24 allows non-parties to intervene as of right if: "(1) the application is timely; (2) the applicant[s] claim[] an interest relating to the property or transaction which is the subject of the action; (3) the applicant[s]' interest may as a practical matter be impaired or impeded; and (4) the applicant[s]' interest is [not] adequately represented by existing parties." *W. Energy All. v. Zinke*, 877 F.3d 1157, 1164 (10th Cir. 2017) (further citation omitted);

see also Fed. R. Civ. P. 24(a)(2). These factors are not "rigid technical requirements." *WildEarth Guardians v. Nat'l Park Serv.*, 604 F. 3d 1192, 1198 (10th Cir. 2010). Rather, they are intended to "capture the circumstances in which the practical effect on the prospective intervenor justifies its participation in the litigation." *Id.* The primary factor in determining the propriety of intervention "is the practical effect of the litigation on the applicant for intervention." *Barnes v. Sec. Life of Denver Ins. Co.*, 945 F.3d 1112, 1121 (10th Cir. 2019) (further citation omitted). For this reason, the Tenth Circuit "has historically taken a liberal approach to intervention and thus favors the granting of motions to intervene." *Kane Cnty., Utah v. United States*, 928 F.3d 877, 890 (10th Cir. 2019). This is especially so in cases that raise significant public interests. *Id.* at 896-97 (finding the environmental impact of a case about expanding two dirt roads raised "significant public interests" and was governed by "relaxed" intervention requirements).

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In the alternative, non-parties may intervene permissively if they raise a "claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B).

B. Proposed Intervenors should be granted intervention as of right.

Proposed Intervenors have a right to intervene in this action. Their motion was timely, they have a direct interest in this case that will be impaired by the relief Judicial Watch seeks, and their unique interests are not adequately represented by the current parties.[2] The Magistrate Judge erred in finding otherwise.

1. Proposed Intervenors have an interest in preventing a more aggressive list maintenance program.

Proposed Intervenors have a "direct, substantial, and legally protectable" interest in these proceedings, *Coal. of Ariz./N.M. Cntys. for Stable Econ. Growth v. Dep't of Interior*, 100 F.3d

[2] Judicial Watch conceded that Proposed Intervenors' request for intervention was timely. *See* Pls.' Opp. 3 n.1, ECF No. 36; *see also* Rec. at 5.

837, 840 (10th Cir. 1996), and easily meet the "minimal" burden of showing that "impairment of [their] substantial legal interest is *possible* if intervention is denied," *Utah Ass'n of Cntys. v. Clinton*, 255 F.3d 1246, 1253 (10th Cir. 2001) (emphasis added). As organizations dedicated to registering Colorado voters, the Magistrate Judge recognized that Proposed Intervenors have an "interest in ensuring that eligible Colorado voters, some of whom [they] have helped register to vote . . . remain registered to vote in Colorado." Rec. at 8. The Magistrate Judge's conclusion that these interests were insufficiently related to this case, however, is incorrect. Judicial Watch's complaint makes clear that they seek to remove more voters from Colorado's voter rolls, which is all but certain to lead to the removal of lawful, eligible voters, including the very voters Proposed Intervenors have registered. *See supra* Section II.B.3. As such, it is not only *possible*, but *likely* that the practical effect of Judicial Watch's requested relief will be the direct impairment of Proposed Intervenors' interests, warranting their right to intervene in this case.

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The Magistrate Judge's finding to the contrary rests on the assumption that "the claims at issue in this case . . . concern removing ineligible voters from the voter [rolls]," not eligible voters. Rec. at 8. That flawed assumption ignores the harsh reality that Proposed Intervenors demonstrated in their filings: increased voter purge efforts invariably remove *eligible* voters, including Latinx and young voters—the very constituencies that Proposed Intervenors represent. *See supra* Section II.B.3. Thus, Judicial Watch's claims and Proposed Intervenors' interests are inextricably linked.

It is also immaterial that Judicial Watch is not currently seeking to "impose any particular methodology" on Colorado concerning the enforcement of the NVRA. Rec. at 9. It is axiomatic that to remove more voters from the rolls, Colorado will have to undertake a more expansive, aggressive voter purge. That alone creates an increased risk that lawful, eligible voters will be removed, no matter how the program is implemented, directly threatening Proposed Intervenors'

recognized interest in keeping eligible voters on the rolls. As the Tenth Circuit has explained, "the interest of the intervenor is not measured by the particular issue before the court, but rather, by whether the interest is *related to the property [or transaction] that is the subject of the action*." *Utah Ass'n of Cntys.*, 255 F.3d at 1252. In *Utah Association of Counties*, for example, rather than narrowly construe the interests at issue in a case concerning the establishment of a national monument as to prevent intervention, the court defined the interests at issue broadly, including conservation concerns. *Id.* This provided a basis for environmental organizations to intervene. *Id.* So too here.

This case is not, as the Magistrate Judge held, simply about ensuring ineligible voters are removed from the rolls under the NVRA. It concerns Colorado's voter maintenance system as a whole, including the practical effect that changes to that system will have on eligible voters. This is precisely why other courts have granted intervention to voter-registration organizations in similar cases, reasoning that they have a distinct interest in ensuring that voter maintenance programs do not unintentionally purge voters. *See, e.g.*, *Bellitto*, 2016 WL 5118568, at *2 (finding a union had distinct interest in a list maintenance case where some of their members might be unintentionally purged from the voter rolls). If Judicial Watch obtains the relief it seeks—a more aggressive list maintenance program in Colorado—it is all but certain that eligible voters, including Proposed Intervenors' constituents, will be removed from the rolls. Proposed Intervenors should be permitted to intervene and defend their interests against that request and result.

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2. Proposed Intervenors' interests differ substantially from the State's interests.

Proposed Intervenors' interests are distinct from the State's interests, and they more than meet their "minimal" burden of showing that representation of those interests by the current parties "*may* be inadequate." *Sanguine, Ltd. v. U.S. Dep't of Interior*, 736 F.2d 1416, 1419 (10th Cir.

1984) (further citation omitted). The Magistrate Judge's finding that Proposed Intervenors' interests are "presumptively adequately represented by the existing parties" because both parties "acknowledge" the NVRA requires states to "ensure that any eligible applicant is registered to vote in an election," is erroneous. Rec. at 9. The mere acknowledgment that the requirement exists is insufficient to create a presumption that Proposed Intervenors' interests are adequately represented. A presumption of adequacy only exits where the proposed intervenors and the existing parties have identical objectives. *Tri-State Generation & Transmission Ass'n, Inc. v. N.M. Pub. Regul. Comm'n*, 787 F.3d 1068, 1072 (10th Cir. 2015). This is not the case here.

As an initial matter, regardless of Judicial Watch's acknowledgment of the plain language of the NVRA, it seeks to implement a list maintenance "program that makes a reasonable effort *to cancel [] registrations.*" Compl. ¶ 73, Prayer for Relief ¶ c (emphasis added). Any such program is highly likely to result in the cancellation of registrations for eligible voters. *See supra* Section II.B.3. Accordingly, Judicial Watch cannot represent Proposed Intervenors interests (presumptively or otherwise) as the relief they seek will impair those interests.

As for the State's interest, it stems from its duty to comply with the NVRA and related state laws. Proposed Intervenors seek to intervene to ensure that *their constituents*—including the thousands of Coloradans they registered—are protected from inadvertent removal from the rolls. *See supra* Section IV.B.1. Their interest is unique because Proposed Intervenors work with members of the very communities that Congress had in mind when it designed the NVRA to protect against overly aggressive voter purge efforts. *See, e.g.*, 52 U.S.C. § 20501(a)(2)-(3) (finding "discriminatory and unfair registration laws and procedures can . . . disproportionately harm voter participation by various groups, including racial minorities"). In fact, courts have repeatedly recognized that an interest in ensuring "no unreasonable measures are adopted that

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could pose an elevated risk" of removing eligible voters from the voter rolls is "sufficiently distinct" from the interests of a state to warrant intervention. *Winfrey*, 463 F. Supp. 3d at 799; *see also Bellitto*, 2016 WL 5118568, at *2; *Kobach*, 2013 WL 6511874, at *4 (holding registration organizations and the state had distinct, divergent interests).

Colorado must balance its own interest in avoiding removing eligible voters from the rolls against its administrative, budgetary, and policy needs. In so doing, as Proposed Intervenors explained to the Magistrate Judge, the State might make decisions that would not serve their objectives. Mot. to Intervene 12-13; Reply 7. It is entirely possible the State will make strategic calculations that undermine Proposed Intervenors' interests. The result would not only undermine Proposed Intervenors' work registering voters, but also their budgets—a subject in which the State clearly does not share the same interest. Friedman Decl. ¶¶ 9-10; Hailey Decl. ¶¶ 6-8. These differences alone are sufficient to distinguish Proposed Intervenors' interests from the State's. *See Nat. Res. Def. Council v. U.S. Nuclear Regul. Comm'n*, 578 F.2d 1341, 1346 (10th Cir. 1978) (the possibility that the state's and private party's interests may diverge "need not be great").

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For these same reasons, even if the State and Proposed Intervenors shared substantially similar objectives, the Magistrate Judge's holding that a presumption of adequacy exists was improper. A presumption of adequacy is defeated if "the public interest the [State] is obligated to represent *may* differ from the would-be intervenors particular interest." *Utah Ass'n of Cntys.*, 255 F.3d at 1255. Accordingly, intervention as a matter of right is warranted to ensure the shared interests of Proposed Intervenors and the communities they work with are adequately represented.

C. In the alternative, Proposed Intervenors should be granted permissive intervention.

Proposed Intervenors should be granted permissive intervention because their interests share common questions of law and fact to this action. Fed. R. Civ. P. 24(b)(1). The Magistrate

Judge's contrary finding was in error. Specifically, the Magistrate Judge reasoned that Proposed Intervenors did not raise common issues of law and fact because they would "simply side with [the State], in that they contend that Colorado [is] fully enforcing, and complying with, the NVRA as written." Rec. at 10. But disagreement with all existing parties to the suit, especially the party whose side a proposed intervenor seeks to join, is not a requirement for permissive intervention.[3] *See Kobach*, 2013 WL 6511874, at *3. All that is required is that Proposed Intervenors' interests raise common questions of law or fact to the underlying suit. Here, Proposed Intervenors' interests raise questions about the legality, sufficiency, and impact of Colorado's current and future list maintenance schemes, all of which are directly at issue in this suit.

Courts routinely grant permissive intervention to non-governmental organizations in litigation against government agencies to ensure that all effected interests are adequately represented. *See, e.g., Utah Ass'n of Cntys*., 255 F.3d at 1252-53; *Winfrey*, 463 F. Supp. 3d at 796 (granting permissive intervention in list maintenance case to voter registration organization); *Kobach*, 2013 WL 6511874, at *4 (granting permissive intervention when movants had "clearly shown their interests in either increasing participation in the democratic process, or protecting voting rights, or both, particularly amongst minority and underprivileged communities"); *cf. League of Women Voters of Mich. v. Johnson*, 902 F.3d 572, 579 (6th Cir. 2018). This is because a "fulsome consideration of both competing interests, vigorously advocated by appropriately interested parties . . . unquestionably will be helpful to the Court when it is called upon to strike the required balance and decide whether the defendants' program of list maintenance is 'reasonable' within the meaning of the statute." *Winfrey*, 463 F. Supp. 3d at 801.

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[3] The Magistrate Judge's finding on permissive intervention is particularly curious given that if it is true that Proposed Intervenors "simply side with Defendants," the logical inference is that their interests necessarily raise common factual and legal questions at issue in this case, not the opposite.

Here, Proposed Intervenors will not "clutter" the case. Rec. at 10. Rather, they will provide this Court with valuable information about their constituencies, including the difficulties they encounter registering and staying registered to vote in the face of expansive voter purge programs like the one Judicial Watch seeks to force Colorado to implement. *See, e.g.*, *Lower Ark. Valley Water Conservancy Dist. v. United States*, 252 F.R.D. 687, 691 (D. Colo. 2008) (granting permissive intervention where intervenors provided a "significant and useful contribution to the development of the underlying factual and legal issues"); *Bellitto*, No. 16-cv-61474-BB (S.D. Fla. Mar. 30, 2018) (Order, ECF No. 244) (explaining the value of expert evidence presented by the voter registration organization intervenor); *Kobach*, 2013 WL 6511874, at *4 (finding proposed intervenors' experience, views, and expertise on minority communities' interactions with the voter registration requirements at issue would help to clarify, rather than clutter, the issues in the case).

V. CONCLUSION

For the aforementioned reasons, Proposed Intervenors respectfully request that the Court reject the Recommendation of the Magistrate Judge and grant their request to intervene.

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Dated this 12th of May 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following individuals:

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