December 5, 2022
Dear Clerk,

The Secretary’s Recount Order is in conflict with Colorado Law. I ask that you take your oath seriously and follow Colorado Law. This can be done by adhering to [CRS§1-10.5-102](https://casetext.com/statute/colorado-revised-statutes/title-1-elections/general-primary-recall-and-congressional-vacancy-elections/article-105-recounts/section-1-105-102-recounts-for-congressional-state-and-district-offices-state-ballot-questions-and-state-ballot-issues) along with the guidance set by the Secretary. A manual comparison of the voter verified paper ballots with at least one of the tabulator results is required *as the first step in a legal recount*. Once the accuracy of the selected tabulator is deemed accurate following the comparison, should the rest of the secretary's procedures be conducted. You will not be disobeying the Secretary’s Order by omitting an action, you will be following the law by performing the comparison *in addition* to the Secretary’s Order and Guidance which have omitted this vital procedure. You will be in compliance with the law should any legal actions be filed. You will be honoring your duty by performing a transparent recount to alleviate any concerns the people of Colorado may have.

The *Summary of Colorado’s Recount Procedures - November 2022* issued by the Secretary of State states in the first paragraph, “The following is a summary of the laws and rules governing recounts. While you should use this document as a guide, **you should also review Article 10.5 of Title 1 and Election Rule 10 as you prepare for any recounts**.”

The Secretary is instructing you to be familiar with, and follow both the statutes and rules. However, the language in this guidance is misleading as it combines that of the statute and the rules.

Compare the language of the Guidance:

7.Testing Prior to Recount
a. Generally

• 1-10.5-102 (3) (a) and (b), C.R.S. and Rules 10.12.2, 10.13.1 The canvass board must, prior to any recount in which scanners will be used, randomly choose and test voting devices used in the original race. **The canvass board must compare a manual count of *the paper test ballots* against the machine count of the randomly selected scanners or voting devices.** If the results of the comparison are identical, or if any discrepancy can be attributed to voter or ballot marking error, the county must conduct the recount in the same manner as the original count.

To the language of the statute:

[C.R.S. § 1-10.5-102](https://casetext.com/statute/colorado-revised-statutes/title-1-elections/general-primary-recall-and-congressional-vacancy-elections/article-105-recounts/section-1-105-102-recounts-for-congressional-state-and-district-offices-state-ballot-questions-and-state-ballot-issues) (3)(a) states: **Prior to any recount**, the canvass board shall choose at random and test voting devices used in the candidate race, ballot issue, or ballot question that is the subject of the recount. **The board shall use the voting devices it has selected to conduct a comparison of the machine count of the ballots counted on each such voting device for the candidate race**, ballot issue, or ballot question **to the corresponding manual count of *the voter-verified paper records*.**

A Voter Verified Paper Record is defined by statute as:

Colo. Rev. Stat. § 1-1-104
**(a)** "Voter-verified paper record" means an **auditable paper record** that:
**(I)** Is available for the elector to inspect and verify before the vote is cast;
**(II)** Is produced contemporaneously with or employed by any voting system*;(From a Ballot Marking Device)***(III)** Lists the designation of each office, the number or letter of each ballot issue or ballot question, and the elector's choice for each office, ballot issue, or ballot question and indicates any office, ballot issue, or ballot question for which the elector has not made a selection;
**(IV)** Is suitable for a manual audit or recount; and
**(V)** Is capable of being maintained as an election record in accordance with the requirements of section 1-7-802.
**(b)** ***Any paper ballot*** that lists the title, along with any number, as applicable, of each candidate race, ballot issue, or ballot question, **on which the elector has marked** his or her choices in such races, issues, or questions shall constitute a voter-verified paper record for purposes of this subsection (50.6).

The Secretary goes onto refer to the “test Ballots” where as the statute refers to “the requirements of section (3)a” which, we saw above, refers to the “voter verified paper records” in the next step in recount procedure.

Compare the language of the Guidance:
If the results of the comparison are identical, or if any discrepancy can be attributed to voter or ballot marking error, the county must conduct the recount in the same manner as the original count.

•Rule 10.13.1 If there are unresolvable discrepancies in the test, the recount must be conducted as a hand count in that county under Rule 10.13.4.

•Rule 10.12.2 (b) A bipartisan team of judges or clerk staff must hand tally the recount contest on **the test ballots** to verify there are no discrepancies on the voting devices chosen.

To the language of the statute:

[C.R.S. § 1-10.5-102](https://casetext.com/statute/colorado-revised-statutes/title-1-elections/general-primary-recall-and-congressional-vacancy-elections/article-105-recounts/section-1-105-102-recounts-for-congressional-state-and-district-offices-state-ballot-questions-and-state-ballot-issues) (3)(b) states: If the results of the comparison of the machine count and the manual count **in accordance with the requirements of subsection (3)(a)** of this section are identical, or if any discrepancy is able to be accounted for by voter error, then the recount may be conducted in the same manner as the original ballot count. *If the results of the comparison of the machine count and the manual count* in accordance with the requirements of subsection (3)(a) of this section *are not identical*, or if any discrepancy is not able to be accounted for by voter error, *a presumption is created that the voter-verified paper records will be used for a final determination*

To comply with Colorado law, the Canvas Board must follow CRS§ 1-105-102. They must then proceed with a Logic and Accuracy Test that is being described in the Secretary’s Guidance. There is no legal way to avoid the canvas board comparing the Voter Verified Paper Record (Original Paper Ballots) with at least one of the Tabulator (Voting Devices) results. In some counties, this will mean hand counting all of the ballots cast if only one tabulator was used in the General election.

Election Rules are subordinate to Statute as rules must be in compliance with statute. So shall any guidance or procedures be in compliance with Colorado Revised Statutes.

Additionally, but less significant, though Candidate Frisch has requested a *rescan*, the law requires a *recount*. [CRS§1-10.5-101](https://casetext.com/statute/colorado-revised-statutes/title-1-elections/general-primary-recall-and-congressional-vacancy-elections/article-105-recounts/section-1-105-101-recounts-required-expenses) (=< .5%) The law sets forth how the recount shall be conducted which includes a comparison of the manual count of the voter-verified paper records and at least one Tabulator. Please don’t be distracted by this “re-scan” request and the subordinate Election Rules such as 10.9.3 when the Statute is clear on how the recount is to be conducted. Did Candidate Frisch prepay for the re-scan as a requested recount requires?

Election Order 3. Pursuant to Election Rule 10.9.3, Candidate Frisch has requested that the recount be conducted by means of a re-scan of the ballots cast in the CD-3 race. As a result, all counties that used a certified voting system for the initial tabulation must re-scan all ballot cards counted during the initial tabulation.”

Sincerely,

Simply Copy and paste the above letter into an email then bcc the following group clerks. Feel free to personalize the message and send it individually.
mfelix@alamosacounty.org; karchuleta@archuletacounty.org; nruybal@co.conejos.co.us; najondine.placek@costillacounty-co.gov; Clerkandrecorder@costillacounty-co.gov; tstephenson@deltacounty.com; dcclerk@fone.net; elections@eaglecounty.us; elections@garfield-county.com; ksimillion@gunnisoncounty.org; clerk@hinsdalecountycolorado.us; nancy@huerfano.us; elections@co.laplata.co.us; peach.vigil@lasanimascounty.org; voter.info@mesacounty.us; mineralcountyclerk@hotmail.com; traschke@moffatcounty.net; kpercell@co.montezuma.co.us; elections@montrosecounty.net; lscott@oterogov.org; nathan@shultz-law.com; mnauer@ouraycountyco.gov; elections@pitkincounty.com; ortiz@pueblocounty.us; elections@pueblocounty.us; clerk@rbc.us; clerk@riograndecounty.org; tgilbert@saguachecounty-co.gov; dgerade@saguachecounty-co.gov; stephanniev@sanmiguelcountyco.gov; clerkandrecorder@sanmiguelcountyco.gov; nancyh@sanmiguelcountyco.gov;  **Contact Information**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **County** | **Clerk** | **Contact Email** | **Location** | **Contact phone number** |
| Alamosa | Roni Wisdom- interim replacement  | mfelix@alamosacounty.org | 8999 Independence Way, Ste. 101, Alamosa, CO 81101 | (719) 589-6681 |
| Archuleta | Kristy Archuleta | karchuleta@archuletacounty.org | 449 San Juan St, Pagosa Springs, CO 81147 | (970) 264-8331 |
| Conejos | Nathan Ruybal | nruybal@co.conejos.co.us | 6683 County Road 13, Conejos, CO 81129 | (719) 376-5422 |
| Costilla | Najondine T. Placek | najondine.placek@costillacounty-co.gov; Clerkandrecorder@costillacounty-co.gov | 400 Gasper St, San Luis, CO 81152 | (719) 937-7671 |
| Delta | Teri A. Stephenson | tstephenson@deltacounty.com; Elections@deltacounty.com  | 501 Palmer St, Ste. 211, Delta, CO 81416 | 970-874-2150 |
| Dolores | Lana Hancock | dcclerk@fone.net | 409 N Main St, Dove Creek, CO 81324 | (970) 677-2381 |
| Eagle | Regina O'Brien | elections@eaglecounty.us;  | 500 Broadway, Ste 101, Eagle, CO 81631 | (970) 328-8715 |
| Garfield | Jean Alberico | elections@garfield-county.com | 109 8th St, Ste. 200, Glenwood Springs, CO 81601 | (970) 384-3700 |
| Gunnison | Kathy Simillion | ksimillion@gunnisoncounty.org  | 221 N Wisconsin St, Ste C, Gunnison, CO 81230 | (970) 641-7927 |
| Hinsdale | Joan Roberts | clerk@hinsdalecountycolorado.us | 317 N Henson St, Lake City, CO 81235 | (970) 944-2228 |
| Huerfano | Nancy Cruz | nancy@huerfano.us | 401 Main Street, Ste 204, Walsenburg, CO 81089 | (719) 738-2380 |
| La Plata | Tiffany Lee Parker | elections@co.laplata.co.us | 679 Turner Dr, Ste C, Durango, CO 81303 | (970) 382-6296 |
| Las Animas | Patricia "Peach" Vigil | peach.vigil@lasanimascounty.org | 200 E 1st St, Rm 205, Trinidad, CO 81082 | (719) 845-2575 |
| Mesa | Brandi BantzDEO | voter.info@mesacounty.us | 200 S Spruce St, Grand Junction, CO 81501 | 970-244-1664 |
| Mineral | Eryn K Wintz | mineralcountyclerk@hotmail.com | 1201 N Main St, Creede, CO 81501 | (719) 658-2440 |
| Moffat | Tammy Raschke | traschke@moffatcounty.net | 221 W Victory Way, Ste 200, Craig, CO 81625 | (970) 824-9120 |
| Montezuma | Kim Percell | kpercell@co.montezuma.co.us | 140 W Main St, Ste 1, Cortez, CO 81321 | (970) 565-3728 |
| Montrose | Tressa Guynes | elections@montrosecounty.net | 320 S 1st St, Rm 103, Montrose, CO 81401 | (970) 249-3362 ext 3 |
| Otero | Lynda "Lyn" Scott | lscott@oterogov.org; nathan@shultz-law.com | 13 W 3rd St, Rm 210, La Junta, CO 81050 | (719) 383-3020 |
| Ouray | Michelle Nauer | mnauer@ouraycountyco.gov | 541 4th St, Ouray, CO 81427 | (970) 325-4961 |
| Pitkin | Ingrid Grueter | elections@pitkincounty.com; | 530 E Main St, Aspen, CO 81611 | (970) 429-2732 |
| Pueblo | Gilbert "Bo" Ortiz | ortiz@pueblocounty.us; elections@pueblocounty.us, | 720 N Main St, Ste 200, Pueblo, CO 81003 | (719) 583-6620 |
| Rio Blanco | Boots M Campbell | clerk@rbc.us | 555 Main St, Meeker, CO 81641 | (970) 878-9460 |
| Rio Grande | Cindy Hill | clerk@riograndecounty.org | 965 6th St, Del Norte, CO 811325 | (719) 657-3334 |
| Saguache | Trish Gilbert | tgilbert@saguachecounty-co.gov | 501 4th St, Saguache, CO 81149 | (719) 655-2512 |
| San Juan \*Hand Count | Ladonna Jaramillo | clerk@sanjuancountycolorado.us | 1557 Greene St, Silverton, CO 81149 | (970) 387-5671 |
| San Miguel | Stephannie Van Damme | stephanniev@sanmiguelcountyco.gov; clerkandrecorder@sanmiguelcountyco.gov;  | 305 Colorado Ave, Telluride, CO 81435 | (970) 728-3954 |

**Recount Schedule and Location**

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| --- | --- | --- | --- | --- | --- |
| **County** | **Location** | **Recount Day 1** | **Recount Day 2** | **Recount Day 3** | **Recount Day 4 & following** |
| Alamosa | 8999 Independence Way, Ste. 101, Alamosa, CO 81101 | 12/2/2022 9:00 am - 4:30 pm | 12/4/2022 9:00 am - End |   |   |
| Archuleta | 449 San Juan St, Pagosa Springs, CO 81147 | 12/6/2022 9:00 am - End |   |   |   |
| Conejos | 6683 County Road 13, Conejos, CO 81129 | 12/8/2022 8:00 am - 4:30 pm | 12/9/2022 8:00 am-End |   |   |
| Costilla | 400 Gasper St, San Luis, CO 81152 | 12/9/2022 8:00 am- End |   |   |   |
| Delta | 501 Palmer St, Ste. 211, Delta, CO 81416 | 12/7/2022 8:30 am - 4:30 pm  | 12/8/2022 8:30 am - 4:30 pm  | 12/9/2022 8:30 am - 4:30 pm | 12/10/2022 8:30 am - End |
| Dolores | 409 N Main St, Dove Creek, CO 81324 | 12/5/2022 10:00 am - End |   |   |   |
| Eagle | 500 Broadway, Ste 101, Eagle, CO 81631 | 12/5/2022 10:00 am - 11:00 am (test deck prep) | 12/6/2022 9:00 am - 11:00 am (equip test) | 12/7/2022 8:30 am - End (rescanning) |   |
| Garfield | 109 8th St, Ste. 200, Glenwood Springs, CO 81601 | 12/8/2022 8:00 am - 5:00 pm | 12/9/2022 8:00 am - End (if needed) |   |   |
| Gunnison | 221 N Wisconsin St, Ste C, Gunnison, CO 81230 | 12/7/2022 8:00 am - 5:00 pm | 12/8/2022 8:00 am - 5:00 pm | 12/9/2022 8:00 am - End (if needed) |   |
| Hinsdale | 317 N Henson St, Lake City, CO 81235 | 12/6/2022 10:00 am - End |   |   |   |
| Huerfano | 401 Main Street, Ste 204, Walsenburg, CO 81089 | 12/8/2022 8:00 am - 4:00 pm | 12/9/2022 8:00 am - End (if needed) |   |   |
| La Plata | 679 Turner Dr, Ste C, Durango, CO 81303 | 12/6/2022 9:00 am - 4:00 pm | 12/7/2022 9:00 am - End |   |   |
| Las Animas | 200 E 1st St, Rm 205, Trinidad, CO 81082 | 12/7/2022 9:00 am - 5:00 pm | 12/8/2022 9:00 am - End |   |   |
| Mesa | 200 S Spruce St, Grand Junction, CO 81501 | 12/7/2022 9:00 am - 5:00 pm | 12/8/2022 9:00 am - 5:00 pm | 12/9/2022 9:00 am - 5:00 pm | 12/12/2022 9:00 am - End |
| Mineral | 1201 N Main St, Creede, CO 81501 | 12/8/2022 8:00 am - End |   |   |   |
| Moffat | 221 W Victory Way, Ste 200, Craig, CO 81625 | 12/6/2022 8:30 am - 5:00 pm | 12/7/2022 9:30 am - End |   |   |
| Montezuma | 140 W Main St, Ste 1, Cortez, CO 81321 | 12/5/2022 9:00 am - End  |   |   |   |
| Montrose | 320 S 1st St, Rm 103, Montrose, CO 81401 | 12/5/2022 8:30 am (equip test) | 12/6/2022 8:30 am - 5:00 pm | 12/7/2022 8:30 am - End |   |
| Otero | 13 W 3rd St, Rm 210, La Junta, CO 81050 | 12/5/2022 9:00 am (equip test) | 12/6/2022 9:00 am - 5:00 pm | 12/7/2022 9:00 am - End |   |
| Ouray | 541 4th St, Ouray, CO 81427 | 12/7/2022 9:00 am - 5:00 pm | 12/8/2022 9:00 am - End |   |   |
| Pitkin | 530 E Main St, Aspen, CO 81611 | 12/6/2022 9:00 am - 5:00 pm | 12/7/2022 9:00 am - End |   |   |
| Pueblo | 720 N Main St, Ste 200, Pueblo, CO 81003 | 12/5/2022 8:30 am - 5:00 pm | 12/6/2022 8:30 am - 5:00 pm | 12/7/2022 8:30 am - 5:00 pm | 12/8/2022 8:30 am - End |
| Rio Blanco | 555 Main St, Meeker, CO 81641 | 12/7/2022 10:00 am (equip test) | 12/9/2022 9:00 am - End (scanning) | 12/12/2022 or 12/13/2022 (canvass) |   |
| Rio Grande | 965 6th St, Del Norte, CO 811325 | 12/7/2022 8:00 am - 4:00 pm | 12/8/2022 8:00 am - End |   |   |
| Saguache | 501 4th St, Saguache, CO 81149 | 12/6/2022 8:00 am - 4:00 pm | 12/7/2022 8:00 am - End |   |   |
| San Juan | 1557 Greene St, Silverton, CO 81149 | 12/8/2022 9:30 am - End (hand count) |   |   |   |
| San Miguel | 305 Colorado Ave, Telluride, CO 81435 | 12/8/2022 9:15 am - 5:00 pm | 12/9/2022 9:15 am - 5:00 pm | 12/12/2022 9:15 am - End (if needed) |   |
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