

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
2 THIRD JUDICIAL DISTRICT AT ANCHORAGE
3

4)
5 In the Matter of the)
6 2021 Redistricting Plan.)
7)
8 _____) Case No. 3AN-21-08869CI

9
10 **ALASKA REDISTRICTING BOARD'S TRIAL BRIEF**
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1 **I. OPENING STATEMENT**

2 Redistricting in Alaska is a task of “Herculean proportions.”¹ “The challenge of
3 creating a statewide plan that balances multiple and conflicting constitutional
4 requirements is made even more difficult by the very short time-frame mandated by
5 [A]rticle VI, [S]ection 10 of the Alaska Constitution.”² The independent Alaska
6 Redistricting Board is permitted only 90 days to perform its task, and is guided by a
7 handful of sentences in the state constitution, plus a body of case law developed by the
8 Alaska Supreme Court over the past several decades, involving cases both before and
9 after a significant 1998 constitutional amendment.
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11

12 The 2021 Alaska Redistricting Board committed itself to adopting a final
13 Proclamation Plan that appropriately balanced Alaska’s constitutional requirements for
14 forty compact, contiguous, and relatively socio-economically integrated house districts,
15 plus twenty senate districts, each consisting of two contiguous house districts.³ Despite
16 the challenges of a global pandemic and a delayed U.S. Census, the Board engaged in
17 a robust, transparent public process utilizing available technology to allow the public
18 to draw their own maps, submit testimony, and attend hearings throughout the process.
19
20

21 While there are four challenges to the House Plan, it is important to note that the
22 challenges directly implicate only approximately 1,200 residents in Skagway, 4,000
23

24
25 ¹ See *In re 2001 Redistricting Cases*, 44 P.3d 141, 147 (Alaska 2002) (quoting *Egan v. Hammond*, 502 P.2d 856, 865-66 (Alaska 1972)).

26 ² See *id.*

³ Alaska Const. art. VI, § 10.

1 residents in Valdez, and 2,000 residents in Hooper Bay and Scammon Bay. Out of the
2 733,400 Alaskans redistricted into 40 new house districts, the legal challenges involve
3 less than 1% of the state’s population. Nonetheless, due to the interconnections and
4 cascading impacts of nearly all redistricting decisions, the relief that the challengers
5 seek could potentially require the Board to start from scratch. Fundamentally, this
6 Court will have to decide whether to uphold a fair map drawn for all Alaskans, or will
7 accommodate the special interests of a very select few disgruntled plaintiffs.
8

9
10 Skagway concedes (affirmatively argues) that it has extensive socio-economic
11 connections with the City and Borough of Juneau, yet protests that it should be joined
12 with downtown Juneau and not the north side of Juneau. This claim is foreclosed by
13 *Kenai Peninsula Borough v. State*,⁴ in which the Alaska Supreme Court rejected an
14 identical argument made by Nikiski. If Skagway shares socio-economic ties to the City
15 and Borough of Juneau, which it does not dispute, then it was well within the Board’s
16 discretion to place it with Auke Bay and the Mendenhall Valley portions of the
17 borough. “[A]ny distinctions between [downtown Juneau] and [north Juneau] are too
18 insignificant to constitute a basis for invalidating the state’s plan as unreasonable or
19 arbitrary.”⁵ Skagway has retained an expert who drew his own proposal for a Skagway-
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26 ⁴ 743 P.2d 1352, 1362 (Alaska 1987).

⁵ *See id.* at n.17.

1 downtown Juneau district, but “[a]t issue here, however, is the validity of the districts
2 [that] the Board actually created, not the districts [that] were possible or preferable.”⁶
3

4 Valdez’s primary contention is that it should be in a district with Richardson
5 Highway communities and the Fairbanks North Star Borough, rather than communities
6 in the Matanuska-Susitna Borough. The Mat-Su Borough raises essentially the same
7 claim, arguing that inclusion of Valdez in District 29 resulted in overpopulation of the
8 Mat-Su Borough by 1.1%-2.6% per district. Because “relative socio-economic
9 integration” does not require “perfect socio-economic integration,” and Valdez and
10 Mat-Su plainly share some economic ties, Valdez’s disappointment with not getting
11 what it preferred does not amount to a viable claim, particularly in light of the damage
12 that Valdez’s preference does to socio-economic integration for other communities
13 around Alaska. Valdez’s expert redrew the entire state plan in an attempt to demonstrate
14 how to meet Valdez’s wishes, but, again, the issue here “is the validity of the districts
15 [that] the Board actually created, not the districts [that] were possible of preferable.”⁷
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19 As to Mat-Su’s one-person, one-vote claim, the de minimus population deviations of
20 1.15%-2.6% are well within allowable deviation percentages under state and federal
21 law.

22 Calista’s claim is that the Board should have drawn the *house* districts with an
23 eye towards giving Calista more control of a *senate* seat. Because private corporations
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26 ⁶ See *id.* at n.18.

⁷ See *id.* at n.18.

1 do not have a right to control senate seats, and because nothing in Article VI requires
2 the Board to consider such things, Calista’s claim fails as a matter of law. The
3 overarching redistricting challenge in the Bethel region is that there are too many
4 Alaskans with close ties to Bethel to fit in a single house district. Since Hooper Bay
5 and Scammon Bay cannot be placed into District 38 without jettisoning villages that
6 have equal or greater connection to Bethel, there is simply no constitutional basis to
7 upset the Board’s carefully-considered Districts 37, 38, and 39 to conform to Calista’s
8 narrow preferences.
9
10

11 Finally, the East Anchorage plaintiffs make clear they seek to rewrite the
12 Anchorage senate map to the advantage of Democrats. The Alaska Constitution does
13 not contain partisan protections for any political party, and instead simply requires that
14 senate districts consist of two contiguous house districts. While East Anchorage
15 plaintiffs throw a hodgepodge of arguments together, their claims are unsupported by
16 the Constitution or existing case law. To the degree they claim that the senate districts
17 advantage one political party and should instead advantage another, such claims are not
18 legally cognizable. To the degree they dispute the process, the record is clear that the
19 two Anchorage senate seats they challenge were discussed and debated in open session
20 on November 8, and then decided by motion the morning of November 9.
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23 The first portion of this trial brief sets out the facts critical to resolution of these
24 consolidated cases. A summary of the key legal concepts that govern the redistricting
25
26

1 process follows the facts. The final section of the brief addresses each of the five legal
2 challenges and explains why the claims should be resolved in favor of the Board.

3 **II. FACTUAL BACKGROUND**

4
5 This case is about the reapportionment of the Alaska Legislature conducted by
6 the Alaska Redistricting Board (“Board”) every ten years upon completion of the U.S.
7 Census. In the 90 days between August 12, 2021—when the U.S. Census Bureau
8 reported its results—and November 10, 2021— when the Board issued its Final Plan
9 and Proclamation of Redistricting (“Final Plan”)—the Board engaged in the
10 reapportionment process outlined in Article VI of the Alaska Constitution. The Final
11 Plan sets the boundaries of the election districts for the forty house districts and twenty
12 senate districts, from which representatives who live in those districts are elected to
13 represent the residents of those districts. The Plaintiffs in this consolidated litigation
14 challenge certain aspects of the Final Plan.
15
16

17 **A. The Board is Empaneled**

18
19 In 1998, Alaska voters approved a constitutional amendment to remove the
20 redistricting process from the Governor’s office to a newly created “independent entity”
21 to complete the decennial redistricting process.⁸ That independent entity is the Alaska
22 Redistricting Board.⁹ The Board is comprised of five members selected as follows:
23

24 ⁸ *In re 2011 Redistricting Cases*, 274 P.3d 466, 466 n. 2 (Alaska 2012); *see also* Gordon
25 S. Harrison, *The Aftermath of In re 2001 Redistricting Cases: The Need for a New*
26 *Constitutional Scheme for Legislative Redistricting in Alaska*, 23 Alaska L. Rev. 51, 60-63
(2006).

⁹ Alaska Const. art. VI, § 3.

1 The governor selects two members of the board, the presiding officer of the senate
2 selects one member, the presiding officer of the house of representatives selects one
3 member, and the chief justice of the Alaska Supreme Court selects one member.¹⁰ In
4 July and August 2020, the 2021 Board was appointed and consists of Melanie Bahnke
5 of Nome, John Binkley of Fairbanks, Nicole Borromeo of Anchorage, Bethany Marcum
6 of Anchorage, and Budd Simpson of Juneau.¹¹ Several members are life-long Alaskans,
7 and this Board brings well over 200 years of experience in Alaska and collective
8 familiarity with nearly every community in our vast state. At the Board's first meeting
9 on August 25, 2020, the Board elected member John Binkley as the chair of the Board.¹²

12 **B. The Board Engages in Foundational and Housekeeping Work in**
13 **Preparation of the Release of the Census Data**

14 Until the U.S. Census Bureau released its results for the 2020 U.S. Census, the
15
16

17 ¹⁰ Alaska Const. art. VI, § 8(b).

18 ¹¹ See Press Release of Office of Governor Dunleavy, *Governor Dunleavy Announces*
19 *Redistricting Board Appointments* (July 28, 2020) (available at:
20 [https://gov.alaska.gov/newsroom/2020/07/28/overnor-dunleavy-announces-redistricting-](https://gov.alaska.gov/newsroom/2020/07/28/overnor-dunleavy-announces-redistricting-board-appointments/)
21 [board-appointments/](https://gov.alaska.gov/newsroom/2020/07/28/overnor-dunleavy-announces-redistricting-board-appointments/)) (appointment of Budd Simpson and Bethany Marcum); see James
22 Brooks, *John Binkley chosen as third Republican for Alaska's 5-member redistricting board*,
23 ANCHORAGE DAILY NEWS (July 29, 2020) (available at:
24 [https://www.adn.com/politics/2020/07/29/john-binkley-chosen-as-third-republican-for-](https://www.adn.com/politics/2020/07/29/john-binkley-chosen-as-third-republican-for-alaskas-redistricting-board/)
25 [alaskas-redistricting-board/](https://www.adn.com/politics/2020/07/29/john-binkley-chosen-as-third-republican-for-alaskas-redistricting-board/)) (appointment of John Binkley); see James Brooks, *AFN's top*
26 *lawyer is fourth pick for board that will rewrite Alaska's political boundaries*, ANCHORAGE
DAILY NEWS (July 30, 2020) (available at: [https://www.adn.com/politics/2020/07/30/afns-top-](https://www.adn.com/politics/2020/07/30/afns-top-lawyer-is-fourth-pick-for-board-that-will-rewrite-alaskas-political-boundaries/)
[lawyer-is-fourth-pick-for-board-that-will-rewrite-alaskas-political-boundaries/](https://www.adn.com/politics/2020/07/30/afns-top-lawyer-is-fourth-pick-for-board-that-will-rewrite-alaskas-political-boundaries/)) (appointment
of Nicole Borromeo); see James Brooks, *Final pick for Alaska's redistricting board is Native*
nonprofit CEO from Nome, ANCHORAGE DAILY NEWS (Aug. 6, 2020) (available at:
[https://www.adn.com/politics/2020/08/06/final-pick-for-alaskas-redistricting-board-is-native-](https://www.adn.com/politics/2020/08/06/final-pick-for-alaskas-redistricting-board-is-native-nonprofit-ceo-from-nome/)
[nonprofit-ceo-from-nome/](https://www.adn.com/politics/2020/08/06/final-pick-for-alaskas-redistricting-board-is-native-nonprofit-ceo-from-nome/)) (appointment of Melanie Bahnke).

¹² Aff. of John Binkley ¶ 12, dated Jan. 11, 2022.

1 Board could not engage in any district drawing. The Board used the pre-release time
2 to adopt its policies and procedures, hire Board staff, retain legal counsel, attend the
3 National Conference of State Legislatures “Ready to Redistrict” conference and receive
4 training on the redistricting software that the Board would use to draw election
5 districts.¹³ Board staff created a website, akredistrict.org, where the Board posted
6 important information and documents, including meeting notices; minutes and video
7 and audio of each Board meeting; a place for the public to submit comments and
8 testimony; and all redistricting maps.¹⁴

11 **C. On August 12, 2021, the U.S. Census Bureau Releases the Delayed**
12 **2020 U.S. Census Data, and the Board Adopts Proposed Redistricting**
13 **Plans**

14 On August 12, 2021, the U.S. Census Bureau released the results of the 2020
15 U.S. Census regarding Alaska’s population.¹⁵ The Census reported Alaska’s
16 population to be 733,391.¹⁶ Under Article VI, § 6, the ideal quotient for the forty house
17 districts was 18,335.¹⁷

18 The U.S. Census Bureau’s release of results triggered the Board’s obligation to
19 adopt a proposed plan or plans within 30 days of August 12.¹⁸ Twenty-eight days later,
20

21
22 ¹³ See Alaska Redistricting Board Meeting Minutes from September 10, 2020.
23 ARB000121-ARB000152.

24 ¹⁴ Alaska Redistricting Board Website. ARB004348-ARB004417.

25 ¹⁵ ARB000156.

26 ¹⁶ ARB004350-ARB004351.

¹⁷ Alaska Const. art. VI, § 6.

¹⁸ Alaska Const. art. VI, § 10(a).

1 on September 9, 2021, the Board adopted two proposed redistricting plans for forty
2 house districts.¹⁹ These proposed plans were denoted as “Board Composite v.1”²⁰ and
3 “Board Composite v.2.”²¹
4

5 The Board received immediate comment from the public about v.1 and v.2, and
6 particularly about an error in excluding certain census blocks on the south side of
7 Ketchikan. The Board also received public testimony on September 17 and 20
8 regarding v.1 and v.2.
9

10 The Board refined Board Composite v.1 and Board Composite v.2, based on
11 public testimony the Board received on those two proposed plans.²² Board Composite
12 v.1 was refined into a plan denoted as “Board Proposed Plan v.3” (“Board v.3”)²³
13 Board Composite v.2 was refined into a plan denoted as “Board Proposed Plan v.4”
14 (“Board v.4”).²⁴
15

16 The Board also adopted four (4) additional third-party redistricting plans
17 submitted by various groups. Each of these four plans included proposed senate
18 pairings. These groups were: Alaskans for Fair and Equitable Redistricting
19
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23 ¹⁹ ARB000159-ARB000165 (minutes of September 7-9, 2021 minutes).

24 ²⁰ ARB010708-ARB010765 (Board Composite v.1).

25 ²¹ ARB010766-ARB010821 (Board Composite v.2).

26 ²² ARB000166-ARB000192.

²³ ARB001341-ARB001387.

²⁴ ARB001388-ARB001434.

1 (“AFFER”);²⁵ Alaskan for Fair Redistricting (“AFFR”);²⁶ Coalition of Doyon, Tanana
2 Chiefs Conference, Fairbanks Native Association, Sealaska Corporation, and Ahtna
3 Incorporated (“Doyon Coalition”);²⁷ and Alaska Senate Minority Caucus.²⁸ Thus, as
4 of September 20, the Board had six proposed plans: Board v.3, Board v.4, AFFER,
5 AFFR, Doyon Coalition, and Senate Minority Caucus.
6

7 The Alaska Constitution gives the Board 90 days from the release of the U.S.
8 Census data to adopt a final redistricting plan.²⁹ By September 20, only 51 days
9 remained in that 90-day period.
10

11 **D. The Board Takes Its Six Proposed Plans on a Public Hearing**
12 **“Roadshow” Throughout Alaska**

13 The Board spent the next month taking its proposed plans around Alaska to
14 public hearings at various communities. Between September 27 and November 1,
15 2021, the Board held 25 public hearings all over Alaska.³⁰ The Board also held two
16 additional public hearings for statewide participants.³¹ Additional public outreach
17 initiatives of the Board included production of draft maps in interactive formats,
18 holding Zoom and statewide dial-in public testimony sessions, accepting on-the-record
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22 ²⁵ AFFER’s plan is located at ARB001232-ARB001293.

23 ²⁶ AFFR’s plan is located at ARB001294-ARB001340.

24 ²⁷ Doyon Coalition’s plan is located at ARB001435-ARB001481.

25 ²⁸ Senate Minority Caucus is located at ARB001482-ARB001528.

26 ²⁹ Alaska Const. art. VI, § 10(a).

³⁰ ARB004415-ARB004417.

³¹ ARB004415-ARB004417.

1 public map comment through its website, providing an opt-in email service that sent
2 over 50 updates to subscribers throughout the process, implementation of a dedicated
3 email address for testimony and comment, development of video conferencing
4 technology, and solicitation of public testimony at the beginning and conclusion of most
5 public meetings.³²

7 **E. Board Meets in November and Adopts the Final Plan on November**
8 **10, 2021**

9 After the “roadshow” of public hearings, the Board held meetings in Anchorage
10 to adopt the Final Plan by the 90-day deadline of November 10. Specifically, the Board
11 held public meetings on November 2, 3, 4, 5, 8, 9, and 10, 2021.³³

13 The Board’s Final Plan created forty (40) house districts and twenty (20) senate
14 districts.³⁴ The following is a discussion of areas that are challenged in this litigation.

15 **1. Skagway**

16 Board Member Budd Simpson of Juneau took the lead in drafting the Southeast
17 Alaska house districts. To start the process, Member Simpson first decided how far
18 north Southeast Alaska house districts would extend.³⁵ Member Simpson determined
19 that Southeast house districts should not extend past the northern boundary of the City
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24 ³² Aff. of Peter Torkelson ¶ 50, dated Jan. 12, 2022.

25 ³³ ARB000193-ARB000222.

26 ³⁴ ARB000012-ARB000115.

³⁵ Aff. of Budd Simpson ¶ 11, dated Jan. 12, 2022.

1 and Borough of Yakutat (“Yakutat”).³⁶ Member Simpson chose this as the northern
2 boundary because of his experience that the residents of Yakutat consider themselves
3 to be part of Southeast Alaska and the overpopulation problem (districts in excess of
4 their 1/40th of the population) that would occur if Southeast house districts extended
5 further into the Cordova area.³⁷ Specifically, by stopping at the northern boundary of
6 Yakutat, the entire Southeast area had a population of 72,286, which is 1,054 people
7 less than four ideally populated house districts of 18,335 persons.³⁸ If the Southeast
8 house districts extended north of Yakutat, thereby including the City of Cordova, the
9 total population rose to 74,895, or 1,555 people more than four ideal house districts.³⁹
10
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12 House Districts 1-4 of the Final Plan, as shown below, encompass the house
13 districts for Southeast Alaska.⁴⁰
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21 ³⁶ Simpson Aff. ¶ 11; *see also Groh v. Egan*, 526 P.2d 863, 879 (Alaska 1974) (“Yakutat,
22 the northwestern-most settlement in Southeast Alaska, which is itself separated by great
23 distance from other communities in the region, is 225 air miles from the nearest population
24 center in the Southcentral region, Cordova. There are valid considerations both historically
25 and geographically for not endeavoring to span that gap.”).

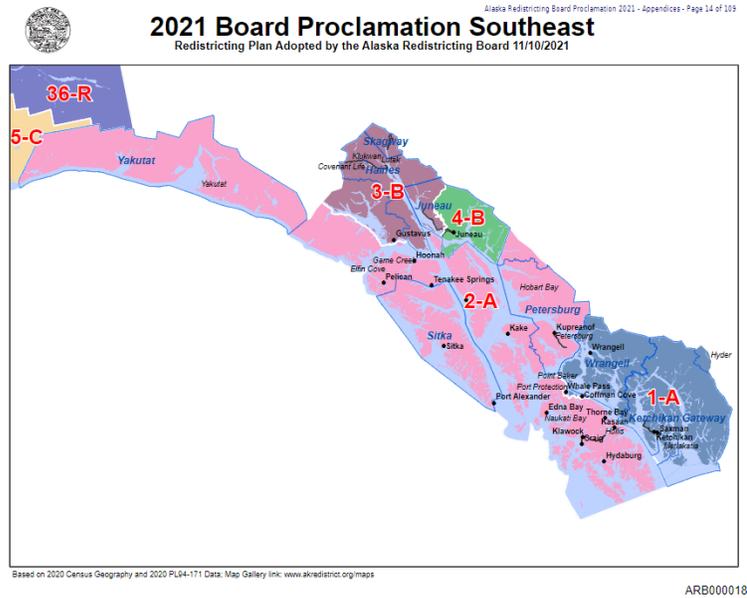
26 ³⁷ Simpson Aff. ¶¶ 11-12.

³⁸ Simpson Aff. ¶ 12.

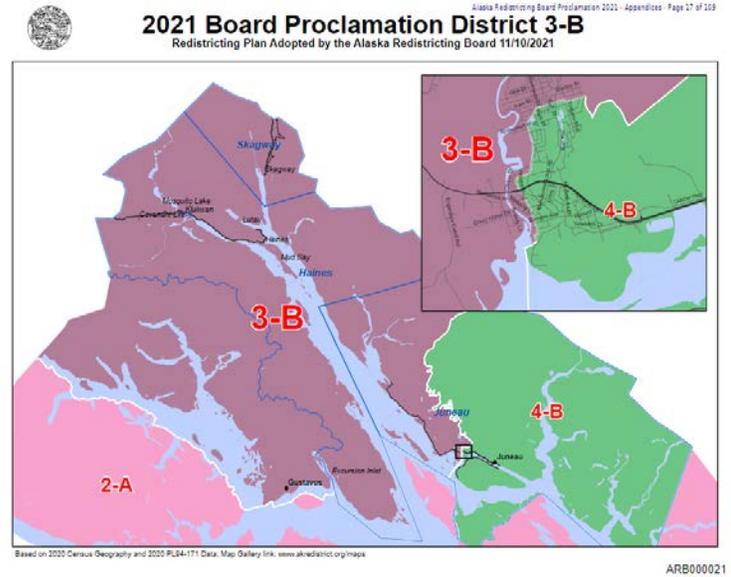
³⁹ Simpson Aff. ¶ 12.

⁴⁰ ARB000018.

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Skagway is included in House District 3, as shown below, along with Haines, Gustavus and a portion of the northern portion of the City and Borough of Juneau:⁴¹



⁴¹ ARB000021.

1 **2. Matanuska-Susitna Borough**

2 Member Nicole Borromeo took the lead in mapping the house districts within
3 and adjacent to the Matanuska-Susitna Borough (“Mat-Su Borough”). The 2020 U.S.
4 Census reported the Mat-Su Borough’s population to be 107,081, which was equivalent
5 to 5.84 ideally populated house districts of 18,335 people.⁴² Therefore, population from
6 outside of the Mat-Su Borough had to be added to the Borough to create six house
7 districts.⁴³ That population could not come from the Municipality of Anchorage
8 because it was likewise underpopulated.⁴⁴

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11 House Districts 25-30 were created as follows. House District 25 of the Final
12 Plan has the City of Palmer as its core, as shown below. House District 25 has 18,822
13 residents that reside within it.⁴⁵

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⁴² Aff. of Nicole Borromeo ¶ 14, dated Jan. 12, 2022.

23 ⁴³ Borromeo Aff. ¶ 14.

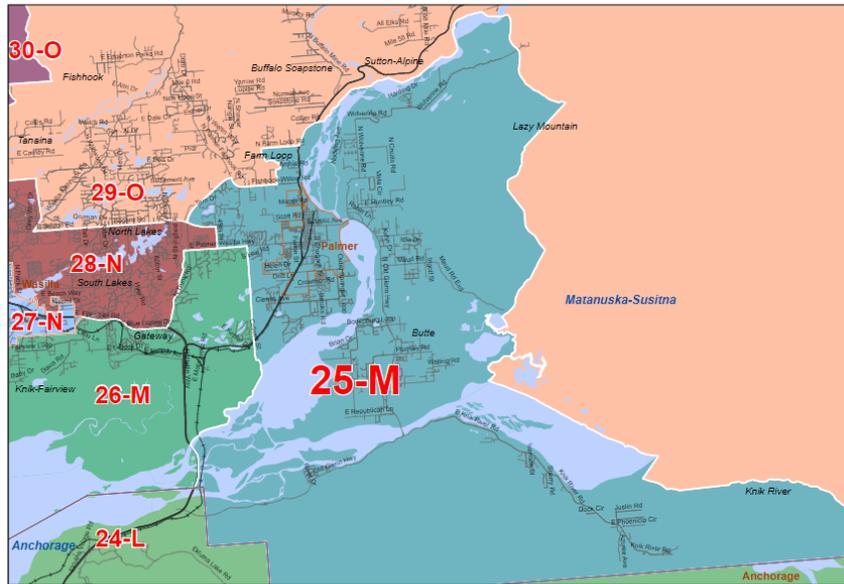
24 ⁴⁴ Borromeo Aff. ¶ 15. Borromeo explains the cascading effect that results to the
25 Municipality of Anchorage and Kenai Peninsula Borough if population was pulled from the
26 Municipality of Anchorage to provide excess population to populate house districts within the
 Mat-Su Borough.

⁴⁵ Borromeo Aff. ¶ 27.



2021 Board Proclamation District 25-M
 Redistricting Plan Adopted by the Alaska Redistricting Board 11/10/2021

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Based on 2020 Census Geography and 2020 PL04-171 Data. Map Gallery link: www.akredistrict.org/maps

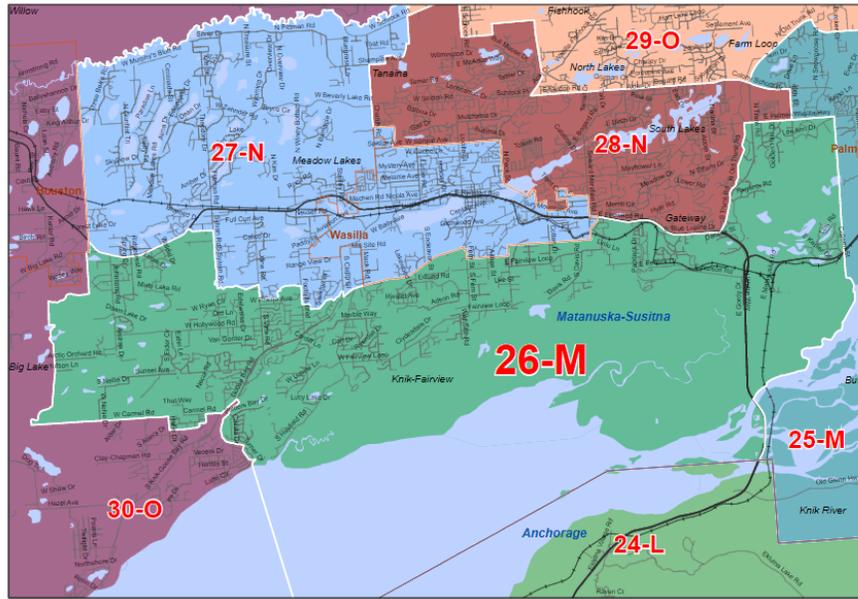
ARB000043

House District 26 is comprised of the area immediately south of the City of Wasilla, as follows. House District 26 has a population of 18,807 residents within it.⁴⁶

⁴⁶ Borromeo Aff. ¶ 27.



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2021 Board Proclamation District 26-M
 Redistricting Plan Adopted by the Alaska Redistricting Board 11/10/2021



Based on 2020 Census Geography and 2020 PL94-171 Data. Map Gallery link: www.akredistrict.org/maps

ARB000044

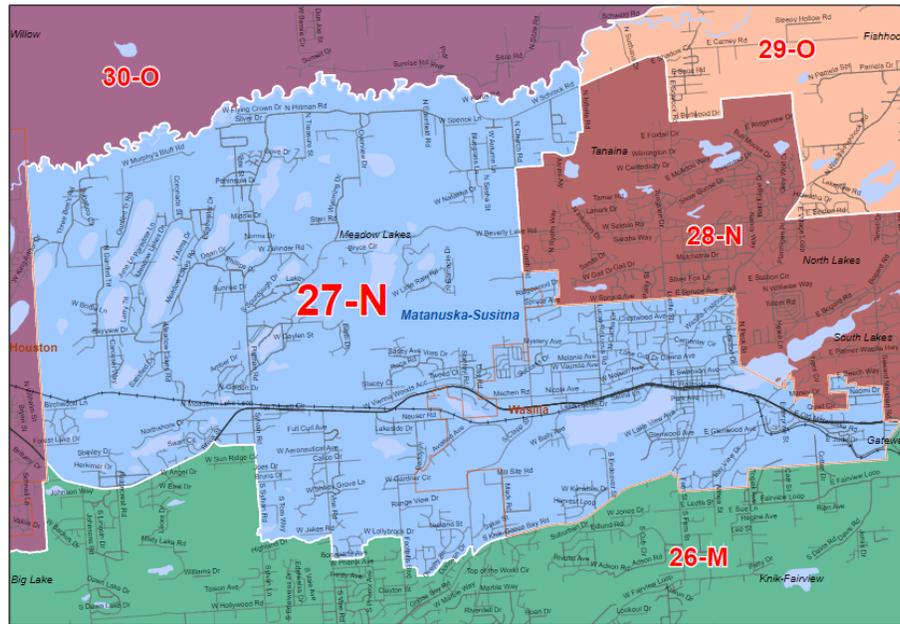
House District 27 has the City of Wasilla as its core, as follows. House District 27 has a population of 18,799 residents within it.⁴⁷

⁴⁷ Borromeo Aff. ¶ 27.



2021 Board Proclamation District 27-N
 Redistricting Plan Adopted by the Alaska Redistricting Board 11/10/2021

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Based on 2020 Census Geography and 2020 PL04-171 Data. Map Gallery link: www.akredistrict.org/maps

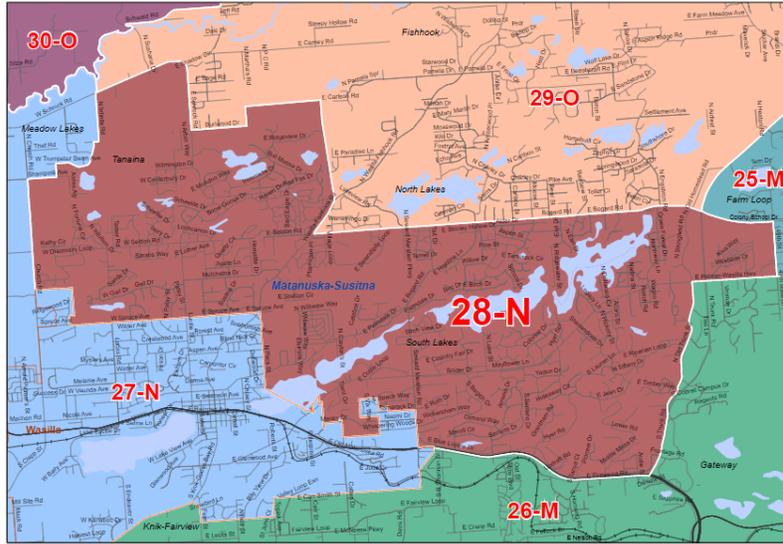
ARB000045

House District 28 covers the areas between the incorporated cities of Palmer and Wasilla, as shown below. House District 28 has a population of 18,793 residents within it.⁴⁸

⁴⁸ Borromeo Aff. ¶ 27.



Alaska Redistricting Board Proclamation 2021 - Appendices - Page 42 of 109
2021 Board Proclamation District 28-N
 Redistricting Plan Adopted by the Alaska Redistricting Board 11/10/2021

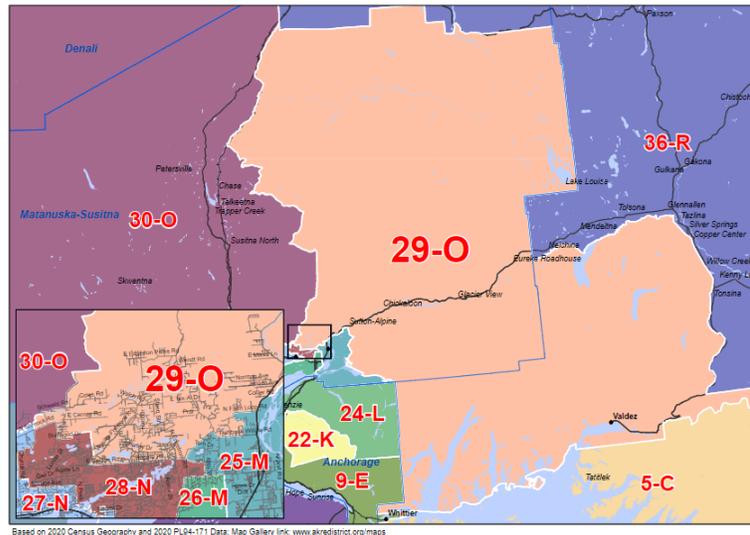


ARB000046

House District 29 covers the eastern side of the Mat-Su Borough and Valdez, as shown below. House District 29 has a population of 18,773 people within it.⁴⁹



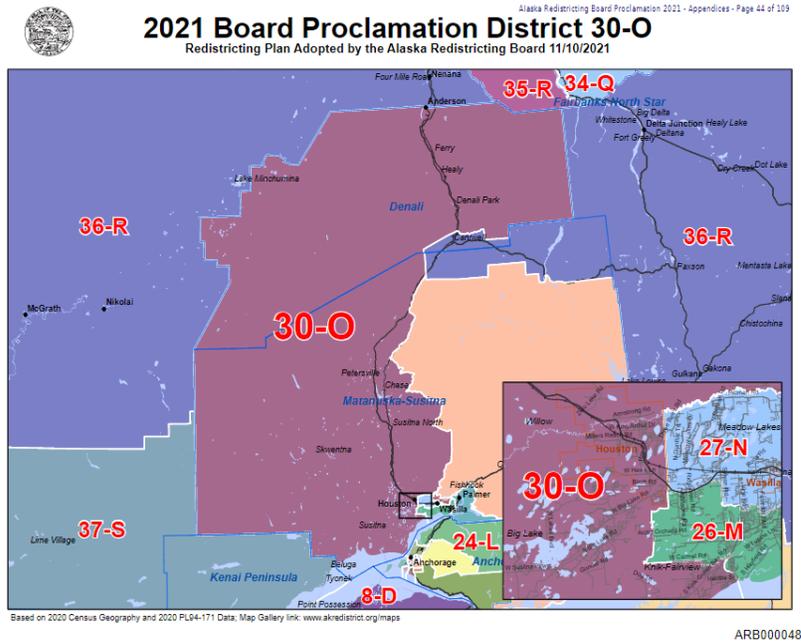
Alaska Redistricting Board Proclamation 2021 - Appendices - Page 43 of 109
2021 Board Proclamation District 29-O
 Redistricting Plan Adopted by the Alaska Redistricting Board 11/10/2021



ARB000047

⁴⁹ Borromeo Aff. ¶ 27.

1 House District 30 is a district with the incorporated City of Houston as its core, and
 2 extends north to take in the northern Mat-Su Borough and some of the Denali Borough,
 3 as shown below. House District 30 has a population of 18,536 people within it.⁵⁰
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 15 The Board did not include the Cantwell area in House District 30, thereby breaking the
 16 Mat-Su Borough and Denali Borough boundaries.⁵¹ This was done because the
 17 Cantwell area not included in House District 30 has only approximately 200 people,
 18 and the Board received public testimony that Cantwell (which is in the Denali Borough)
 19 was more closely connected to the Ahtna region of Alaska than the Mat-Su Borough.⁵²
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 21
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 23

24 ⁵⁰ Borromeo Aff. ¶ 27.

25 ⁵¹ Borromeo Aff. ¶ 23; Binkley Aff. ¶¶ 40-41; Torkelson Aff. ¶¶ 56-58.

26 ⁵² *Id.*; see also ARB000639, ARB001793-ARB001794, ARB001795-ARB001796, ARB001822, ARB002873, ARB003089, ARB003418, ARB003998, ARB004220 (public testimony); ARB009242 (Nov. 4 Tr. at 72:7-22) (Board discussion of the public testimony).

1 **3. Valdez**

2 Valdez was included in House District 29, as depicted above. Valdez was a
3 difficult area to redistrict in the 2021 redistricting cycle, as it has been in past
4 redistricting cycles.⁵³ After experimenting with numerous options for Valdez, the
5 Board ultimately concluded that the entire statewide map would best work with Valdez
6 included with the Matanuska-Susitna Borough in District 29, quite similar to how
7 Valdez was districted in the 2013 Proclamation Plan. The new District 29 contains
8 75% of the same households that were in the prior District 9.
9

10 **4. Calista**

11 Member Bahnke of Nome took the lead in drawing House Districts 37-40.⁵⁴
12 House District 40 is comprised of the North Slope Borough and the Northwest Arctic
13 Borough. Every third-party who submitted a formal proposed plan drew House District
14 40 the same way, demonstrating a rare point of consensus in the sometimes fractious
15 discussion of how best to draw Alaska house districts. House District 39 spans from
16 the Seward Peninsula down to the northern portion of the Yukon-Kuskokwim Delta, as
17 shown below:
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26 ⁵³ Borromeo Aff. ¶ 38; Binkley Aff. ¶ 24.

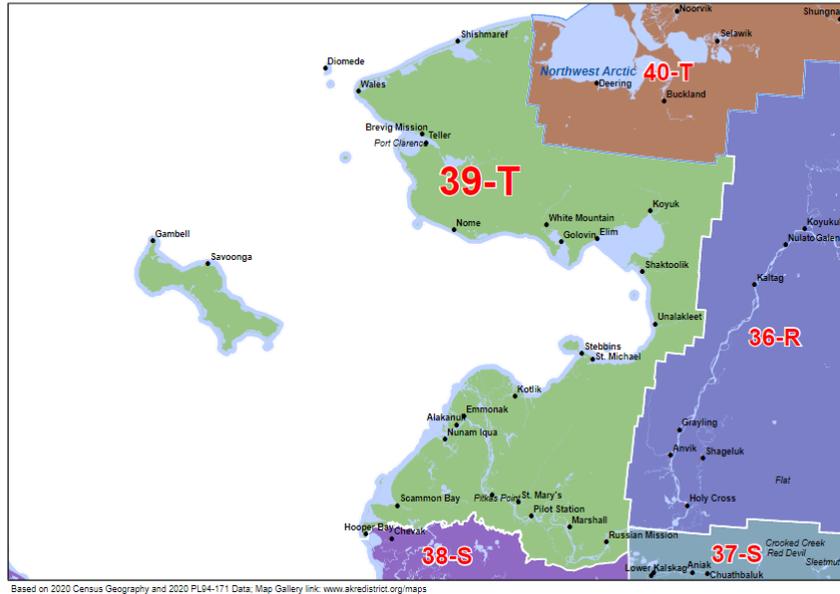
⁵⁴ Aff. of Melanie Bahnke ¶ 10, dated Jan. 11, 2022.



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2021 Board Proclamation District 39-T

Redistricting Plan Adopted by the Alaska Redistricting Board 11/10/2021



ARB000057

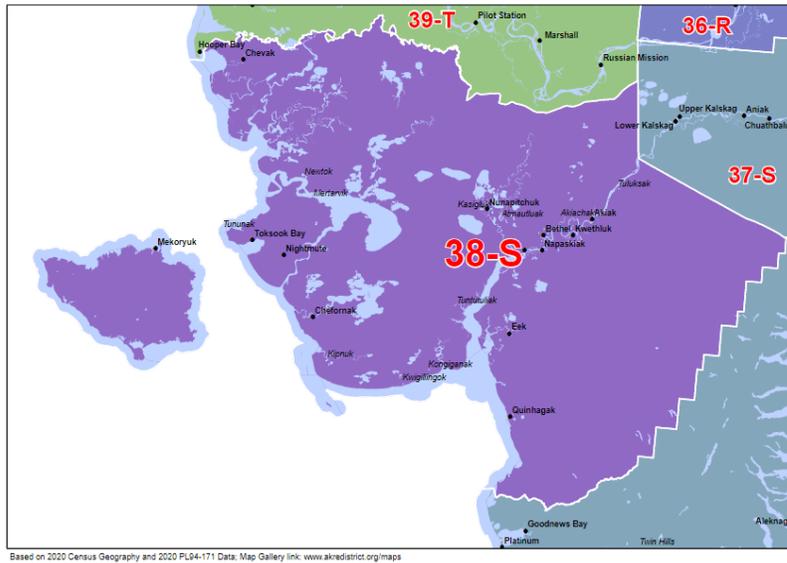
House District 38 is the Yukon-Kuskokwim Delta area, including Bethel, as shown below:



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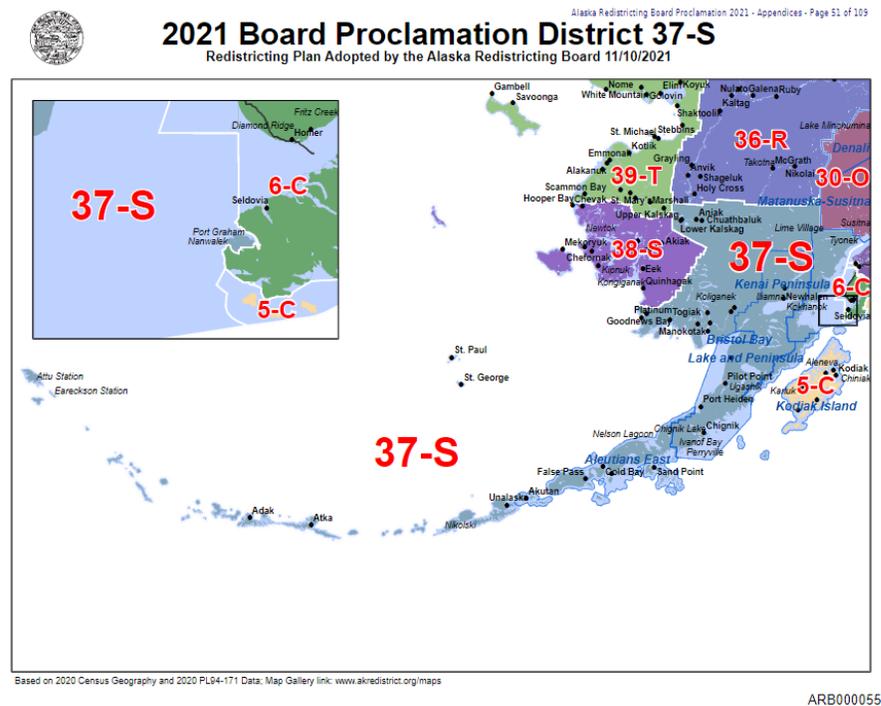
2021 Board Proclamation District 38-S

Redistricting Plan Adopted by the Alaska Redistricting Board 11/10/2021



ARB000056

1 House District 37 includes the Aleutian Islands (including the entire Aleutians
 2 East Borough), the Alaska Peninsula (including the entire Lake and Peninsula and
 3 Bristol Bay Boroughs), Tyonek, the Dillingham area, and extends north to upper
 4 Kuskokwim River communities of Upper Kalskag, Lower Kalskag, Aniak, and
 5 Chuathbaluk, as shown below:
 6

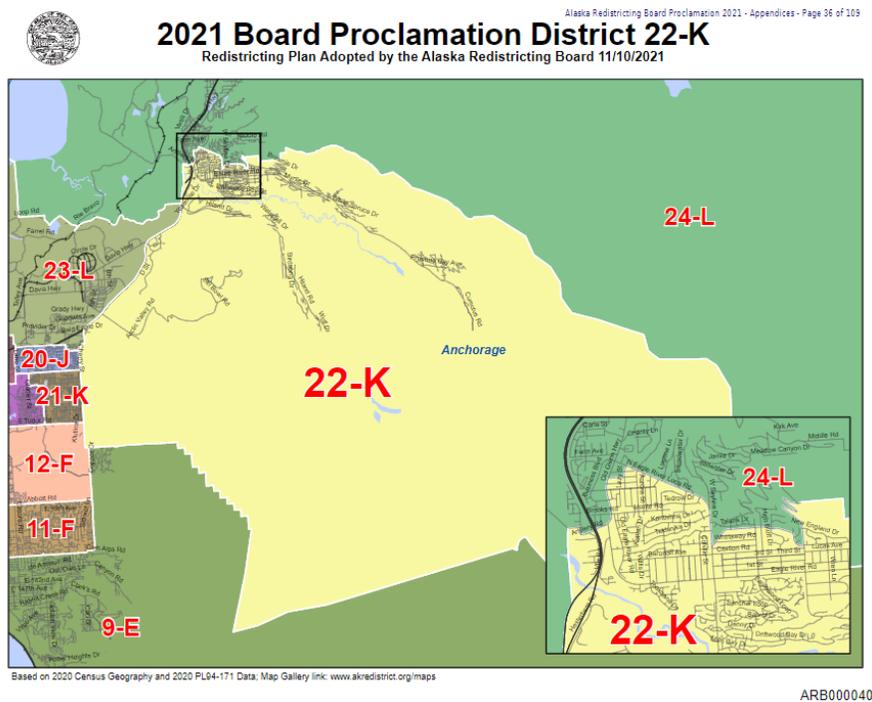


19 **5. Anchorage Senate Pairings**

20 The Alaska Constitution provides that “[e]ach senate district shall be composed
 21 as near as practicable of two contiguous house districts.”⁵⁵ On November 8, 2021,
 22 Board member Marcum proposed the challenged senate pairings in public session,
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⁵⁵ Alaska Const. art. VI, § 6.

1 including her reasoning behind the pairings.⁵⁶ The Board engaged in public discussion
2 regarding the pairing of the senate districts offered by Marcum.⁵⁷ On November 9,
3 2021, the Board adopted pairings of Alaska’s forty house districts to create Alaska’s
4 twenty senate districts.⁵⁸ The Board voted to pair House Districts 21 and 22 to create
5 Senate District K, and voted to pair House Districts 23 and 24 to create Senate District
6 L, as shown below:
7



⁵⁶ Aff. of Bethany Marcum ¶17, dated Jan. 12, 2022; *see also* ARB000212 (November 8 Meeting Minutes of Public Testimony: “Alaskans for Fair and Equitable Redistricting representative, Randy Ruedrich, recommended the following Senate pairings . . . Districts 21 and 22, and Districts 23 and 24.”).

⁵⁷ Marcum Aff. ¶ 17.

⁵⁸ ARB000215-ARB000218.

1 **III. LEGAL STANDARDS**

2 **A. Standard of Review**

3
4 Under Article VI, section 11 of the Alaska Constitution, the superior court has
5 original jurisdiction over lawsuits to “compel correction of any error in redistricting.”⁵⁹
6 This Court “may not substitute its judgment as to the sagacity of a [redistricting plan]
7 for that of the [Board; the] wisdom of the plan is not a subject for review.”⁶⁰ Court
8 review is meant to ensure that the Board’s Proclamation Plan is not unreasonable and
9 is constitutional under Article VI, section 6 of the Alaska Constitution. “The court
10 cannot pick a plan it likes, nor can it impose a plan it prefers. Rather, the court’s role is
11 to measure the plan against constitutional standards; the choice among alternative plans
12 that are otherwise constitutional is for the Board, not the Court.”⁶¹
13
14

15 As noted by this Court in the *In re 2001 Redistricting Cases*, “the Alaska
16 Supreme Court has never struck down an otherwise constitutional legislative district on
17 the grounds that such a district is ‘unreasonable.’”⁶² The examination of a reviewing
18 court is to assess whether the Board has “engaged in reasoned decision making.”⁶³
19
20 Reviewing courts have also consistently emphasized that:

21
22 ⁵⁹ Alaska Const. art. VI, § 11.

23 ⁶⁰ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 17 (Alaska Super. 2002) (citing
Carpenter v. Hammond, 667 P.2d 1204, 1214 (Alaska 1983)).

24 ⁶¹ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 18 (Alaska Super. 2002) (citing
Gaffney v. Cummings, 412 U.S. 735, 750-51 (1973)).

25 ⁶² *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 17 (Alaska Super. 2002)

26 ⁶³ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 18 (Alaska Super. 2002) (citing
Interior Alaska Airboat Assoc., Inc. v. State, 18 P.3d 686, 690 (Alaska 2001)).

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Another factor that must be considered by this court, especially when analyzing claims concerning the process by which the Board conducted its business and formulated its Final Plan is the limited time in which the Board was required to conduct its business. . . . The [] constitutional requirements placed extraordinary time constraints upon the Board’s ability to work and required extraordinary personal and professional sacrifices from the Board members, and any review of the process by which the Board conducted its business can fairly be considered only in that context.⁶⁴

Contrary to arguments the Court is likely to hear from plaintiffs, this Court’s review is not limited solely to the transcripts of some of the Board’s meetings, or to the Civil Rule 90.8 record. Rather, “Article VI, section 11 also compels us to consider facts de novo upon the record developed in the superior court in reviewing a reapportionment plan.”⁶⁵ Thus, for example, the Board was not required to make formal findings as to every decision that it made, or even to formally articulate every reason for every decision. Rather, the plan is constitutional if it meets the requirements of Section 6 based on the information presented in this case.

B. The *Hickel* Process

While Article IV governs most of the redistricting process, the federal Voting Rights Act of 1965 (“VRA”) also imposes potential requirements on the State’s reapportionment of legislative districts.⁶⁶ Under the VRA, a reapportionment plan is invalid if it would lead to a retrogression in the position of racial minorities with respect

⁶⁴ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 18.
⁶⁵ *Kenai Peninsula Borough v. State*, 743 P.3d 1353, 1358 (Alaska 1987).
⁶⁶ *Hickel*, 846 P.2d at 49.

1 to their effective exercise of the electoral franchise.⁶⁷ The Alaska Supreme Court has
2 recognized that compliance with the VRA is a legitimate goal of the Board.⁶⁸ To
3 promote the best map according to the requirements of Section 6 of Article VI of the
4 Alaska Constitution before modifying any districts for race-based reasons protected by
5 the VRA, the Alaska Supreme Court has mandated the Board follow what it labeled the
6 “*Hickel* process.”⁶⁹ The Court has explained:

8 The Board must first design a reapportionment plan based on the
9 requirements of the Alaska Constitution. That plan then must be tested
10 against the Voting Rights Act. A reapportionment plan may minimize
11 article IV, section 6 requirements when minimization is the only means
available to satisfy Voting Rights Act requirements.⁷⁰

12 During the 2011 redistricting cycle, the Board failed to follow the *Hickel* process.⁷¹

13 The 2011 Board began its redistricting work by first drawing Alaska Native “influence
14 districts,” including in Southeast Alaska, even though the “influence districts” are not
15 actually required by the VRA. On judicial review, the Court refused to review the
16 substance of the plan.⁷² Instead, it remanded the plan back to the Board to follow the
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21 ⁶⁷ *Hickel*, 846 P.2d at 49 (quoting *Kenai Peninsula Borough*, 743 P.2d at 1361).

22 ⁶⁸ *Hickel*, 846 P.2d at 49-50 (quoting *Kenai Peninsula Borough*, 743 P.2d at 1361).

23 ⁶⁹ See *Hickel*, 846 P.2d at 51 n.22 (explaining the reason for mandating the Board follow
24 this staggered “methodology in reconciling the requirements of the Voting Rights Act with the
requirements of the Alaska Constitution.”); *In re 2011 Redistricting Cases*, 274 P.3d 466, 467
(Alaska 2013).

25 ⁷⁰ *Hickel*, 846 P.2d at 51 n.22.

26 ⁷¹ *In re 2011 Redistricting Cases*, 274 P.3d 466, 467 (Alaska 2012).

⁷² *In re 2011 Redistricting Cases*, 274 P.3d 466, 468 (Alaska 2012).

1 *Hickel* process and adopt a new plan by first considering the Section 6 requirements of
2 the Alaska Constitution.⁷³

3
4 This redistricting cycle, the Board was not going to make the same mistake. It
5 scrupulously adhered to the *Hickel* process by completing all of its proposed plans
6 without analyzing or applying the VRA, or even considering racial data. It drafted those
7 plans by starting in Southeast Alaska, and worked its way around the state creating
8 house districts comprised of areas that were compact, contiguous, and relatively socio-
9 economically integrated with populations as close as practicable to 18,335. The Board
10 did not conduct a VRA analysis until the proposed plans were set, and the VRA analysis
11 did not require any changes to the districts the Board was considering. That VRA
12 analysis is attached to the Final Plan.⁷⁴

13
14
15 Perhaps recognizing how thin their claims are on the merits, the Valdez plaintiffs
16 are attempting to manufacture a *Hickel* process violation where none exists. Valdez
17 falsely asserts that the Board only started drafting its maps on September 7, when the
18 record shows that the Board engaged in two days of map drawing on August 23 and 24,
19 followed by weeks of intensive effort before re-convening on September 7.⁷⁵ The
20 August meetings, the recordings of which are part of the record, show the Board focused
21 on drawing 40 compact, contiguous, and socio-economically integrated districts.⁷⁶

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23
24 ⁷³ *In re 2011 Redistricting Cases*, 274 P.3d at 468.

25 ⁷⁴ See ARB000078-ARB000094, ARB000097-ARB000110, and ARB000113.

26 ⁷⁵ See *Torkleson Aff.* ¶¶ 19-20.

⁷⁶ ARB001231 (listing video URLs for August meetings).

1 Further, contrary to Valdez’s assertions that the Board started by drawing “VRA
2 districts,” the Board actually started with Southeast Alaska and then various members
3 began drawing districts across the state. Board members continued working daily
4 through the end of August and into September to craft ideas for a full statewide
5 redistricting map. When the Board reconvened on September 7-9, Board members
6 shared their ideas with each other and the Board collectively adopted v.1 and v.2.
7

8 An exchange on the record on September 8 is demonstrative of the Board’s
9 compliance with the *Hickel* process. The Native American Rights Fund wrote a letter
10 to the Board criticizing it for **not** considering racial data in adopting its initial maps.⁷⁷
11

12 Member Bahnke raised the letter with the Board and asked counsel for advice about it.
13

14 The following exchange ensued:

15 Mr. Singer: Mr. Chair, and members of the Board, I’ve reviewed the letter
16 provided by the Native American Rights Fund, and I respectfully
17 disagree with several points in the letter. And I think that while--
18 while well intentioned, that letter is inviting the Board to make
19 legal errors, and I’d urge your caution. So the United States
20 Supreme Court has directed that we may not racial gerrymander -
21 -

22 Member Bahnke: Uh-huh

23 Mr. Singer: -- and the Equal Protection Clause, the United States Constitution
24 prohibits using race to draw -- draw district boundaries. I -- I think
25 it’s a mistake to consider race at this stage.
26

The Board’s obligation is to draw 40 house districts that are
compact, contiguous, and socioeconomically integrated. The --
the -- the value that the five of you bring to Alaskans is your deep
knowledge and history in this state, and what matters is your

⁷⁷ ARB003301-ARB003305.

1 consideration of how communities are inner -- interact and are
2 socioeconomically integrate[d].

3 One aspect of that may be that there -- that -- that there are villages
4 that are Alaska Native, but that's not a numeric[al] analysis.

5 That's an analysis about how people live; about how people work;
6 about how people engage in subsistence; about how people seek
7 medical care; about where they work; about how they live their
8 lives.

9 And -- and I think that the Board is already appropriately
10 considering those aspects when it talks about small island
11 communities that are interlinked in Southeast or upriver
12 communities from Bethel.

13 So I would con-- - I would encourage the Board to continue on the
14 path that you're on. You're having the right discussion.

15 You are considering the right factors, and that is would be a
16 mistake at this stage to use population numbers broken down by
17 race as a tool in drawing the 40 district boundaries.

18 There will be a voting rights analysis. The Board has engaged an
19 expert to conduct that analysis to make sure that after you first
20 comply with the Alaska Constitution, that we are also complying
21 with the Voting Rights Act and -- and our obligations to protect
22 the minority vote. That's a different stage, and -- and I -- I just
23 strongly encourage you not to [combine] those stages.

24 And I -- and I respectfully disagree with the NARF [Native
25 American Rights Fund] letter for omitting any discussion of our
26 obligations under the United States Constitution and the whole
body of law that the U.S. Supreme Court has established with
regard to racial gender --gerrymandering.⁷⁸

⁷⁸ ARB010422-ARB010423.

1 The Board agreed with counsel’s advice, and rejected the invitation to consider racial
2 data. The Board proceeded to adopt draft maps based solely on the requirements of the
3 Alaska Constitution.
4

5 The record further shows that the Board delegated to its staff and retained
6 counsel to review its proposed plans for VRA compliance. Included in the final
7 Proclamation Plan is a full VRA report, as well as statistical analyses.⁷⁹ For the Voting
8 Rights Act to apply, the three *Gingles* factors must be satisfied.⁸⁰ This requires finding
9 there is a district in which a majority of the voting age population belongs to a minority
10 group, that the minority group is politically cohesive, and that there is racial block
11 voting where white voters tend to vote contrary to the minority, thereby potentially
12 suppressing the minority’s ability to choose candidates.⁸¹ If all these things are met,
13 then the Board is obligated to protect the minority vote by drawing the district in a
14 manner that maintains the minority’s ability to select candidates of their choice.
15
16

17 In Alaska, there are four house districts that meet the U.S. Supreme Court’s test
18 from *Thornburg v. Gingles*⁸²: Districts 37-40. The VRA analysis found that when the
19 Board drew its four compact, contiguous, and relatively socio-economically integrated
20 districts for rural Alaska in Districts 37-40, it accomplished the requirements of the
21 VRA. Whereas in past years the Board had faced the challenge of having to combine
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24 ⁷⁹ See ARB000078-ARB000094, ARB000097-ARB000110, and ARB000113.

25 ⁸⁰ *Thornburg v. Gingles*, 478 US 30, 48-51 (1986).

26 ⁸¹ *See id.* at 50-51.

⁸² *Gingles*, 478 US at 47.

1 urban voters with rural voters in order to populate rural house districts with enough
2 people, the population growth in rural Alaska reflected in the 2020 census largely
3 solved the VRA without need to sacrifice Alaska’s constitutional requirements. By
4 simply drawing districts in accord with the state constitution, the Board was able to
5 comply with the VRA. Thus, the VRA analysis did not require the Board to sacrifice
6 compactness, contiguity, or relative socio-economic integration in order to protect
7 Alaska Native voters.⁸³

10 **C. Article VI, § 6 Requirements⁸⁴**

11 The only substantive, non-procedural, redistricting requirements mandated by
12 Article VI of the Alaska Constitution are easily summarized into the following
13 requirements:
14

House Districts	Senate Districts
1. Contiguous 2. Compact 3. Relatively integrated socio-economically 4. Population as near as possible to 1/40th of the State population	1. Two contiguous house districts

22 ⁸³ ARB000090.

23 ⁸⁴ In full, the provision states: “The Redistricting Board shall establish the size and area
24 of house districts, subject to the limitations of this article. Each house district shall be formed
25 of contiguous and compact territory containing as nearly as practicable a relatively integrated
26 socio-economic area. Each shall contain a population as near as practicable to the quotient
obtained by dividing the population of the state by forty. Each senate district shall be composed
as near as practicable of two contiguous house districts. Consideration may be given to local
government boundaries. Drainage and other geographic features shall be used in describing
boundaries wherever possible.”

1 Section 6 further directs that local government boundaries *may* be given consideration,
2 and that “[d]rainage and other geographic features shall be used in describing
3 boundaries wherever possible.”⁸⁵ That is the universe of the requirements for
4 redistricting set out in Section 6.
5

6 While easy to summarize, Alaska courts recognize that these requirements pose
7 significant difficulty in application. As Judge Rindner in the 2001 redistricting
8 challenges,
9

10 When Alaska’s geographical, climatical, ethnic, cultural and socio-
11 economic differences are contemplated the task assumes Herculean
12 proportions commensurate with Alaska’s enormous land area. The
13 problems are multiplied by Alaska’s sparse and widely scattered
14 population and the relative inaccessibility of portions of the state. ...
15 Despite the possibility of belaboring this opinion we feel obligated to set
16 forth a few of the facts which make it difficult to fit Alaska’s
17 reapportionment plan into standards established for the 48 contiguous
18 states which preceded it into the Union. Alaska has a total land area of
19 586,400 square miles-as large as the entire Louisiana Purchase, and one-
20 fifth the total area of the continental United States. Its boundaries
21 embrace four time zones. The state contains the highest mountain on the
22 North American continent, glaciers that exceed the size of the State of
23 Rhode Island, and a coastline longer than the total coastline along the
24 remainder of the continental United States. Mountain ranges which equal
25 or exceed the length and height of the Rockies divide Alaska into five
26 relatively isolated regions which in turn are subdivided by river systems
and other geographic factors such as broad expanses of frozen tundra
challenging the most advanced roadway engineering. ... When
confronted with conditions so different from those of any other single
state in the continental United States, it is readily apparent that it becomes
well nigh impossible to achieve the mathematical precision of equal
proportions which is feasible in those other states.⁸⁶

⁸⁵ Alaska Const. art. VI, § 6.

⁸⁶ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 18 (Alaska Super. 2002).

1 With that gauntlet properly thrown, we turn to examine each requirement individually.

2 **1. Contiguous**

3 Section 6’s contiguity requirement is met if all areas within a house district touch
4 or, in the event the district contains islands, if all areas within a house district are
5 adjacent to landmasses in the same district. “Contiguous territory is territory which is
6 bordering or touching.”⁸⁷ As recognized in *Hickel v. Southeast Conference*, “[a]bsolute
7 contiguity of land masses is impossible in Alaska”⁸⁸ Further in the *In re 2001*
8 *Redistricting Cases*, this Court acknowledged that “contiguity is not dependent on the
9 vagaries of existing transportation systems. Rather, the concept is a visual one designed
10 to assure that no district contains two or more discrete or unconnected parts.”⁸⁹ The
11 contiguity issue concerned in the *In re 2001 Redistricting Cases* was an argument
12 advanced by Valdez and a borough that contiguity could not exist where “existing
13 transportation systems required residents of the district to cross other districts in order
14 to transverse the district in question.”⁹⁰ Judge Rindner refused to accept this limitation
15 to contiguity, finding it unsupported by Alaska law.⁹¹

16 **2. Compact**

17 Compactness is an ocular determination of whether a district unreasonably
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24 ⁸⁷ *Hickel v. Southeast Conference*, 846 P.2d 38, 45 (Alaska 1992).

25 ⁸⁸ *Hickel v. Southeast Conference*, 846 P.2d 38, 45 (Alaska 1992).

26 ⁸⁹ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 36 (Alaska Super. 2002).

⁹⁰ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 36 (Alaska Super. 2002).

⁹¹ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 36 (Alaska Super. 2002).

1 excludes or includes area. Compact means “having a small perimeter in relation to the
2 area encompassed. Compact districting should not yield ‘bizarre designs.’”⁹² The
3 Alaska Supreme Court looks “to the relative compactness of proposed and possible
4 districts in determining whether a district is sufficiently compact.”⁹³ Essentially,
5 analysis of compactness requires review of the “shape of a district. Odd-shaped
6 districts may well be the natural result of Alaska’s irregular geometry.”⁹⁴ The Court
7 has cautioned that appendages of otherwise compact areas may run afoul of the
8 compactness requirement,⁹⁵ but where appendages may be permissible when necessary
9 to further “any other requirement of Article VI, Section 6.”⁹⁶

12 **3. Relative Socio-Economic Integration**

13 This factor looks generally to where people live, work and play. The delegates
14 to Alaska’s Constitutional Convention explained the factor as: “Where people live
15 together and work together and earn their living together, where people do that, they
16 should be logically grouped that way.”⁹⁷ Common economic pursuits are a factor
17 favoring integration.⁹⁸ The Court has also had occasion to interpret the impact of the
18 word “relatively” preceding the words “socio-economic integration,” concluding that
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22 ⁹² *Hickel v. Southeast Conference*, 846 P.2d 38, 45 (1992).

23 ⁹³ *Hickel v. Southeast Conference*, 846 P.2d 38, 45 (1992).

24 ⁹⁴ *Hickel v. Southeast Conference*, 846 P.2d 38, 45 (1992).

25 ⁹⁵ *Hickel v. Southeast Conference*, 846 P.2d 38, 45-46 (1992).

26 ⁹⁶ *In re 2001 Redistricting Cases*, 44 P.3d 141, 143 (Alaska 2002).

⁹⁷ *Hickel v. Southeast Conference*, 846 P.2d 38, 46 (Alaska 1992).

⁹⁸ *Hickel v. Southeast Conference*, 846 P.2d 38, 46 (Alaska 1992).

1 “relatively means that we compare proposed districts to other previously existing and
2 proposed districts as well as principal alternative districts to determine if socio-
3 economic links are sufficient.”⁹⁹ Where house districts are “composed wholly of a
4 single borough” they are *by definition* socio-economically integrated.¹⁰⁰ “Thus, each
5 of the Anchorage districts are socio-economically integrated in accordance with Article
6 VI, Section 6 of the Alaska Constitution.”¹⁰¹

8
9 The Board’s task is complicated by the fact that Alaskans do not all live, work,
10 and play in convenient, compact, and contiguous groupings of 18,335 people. Where
11 cohesion of a common region is not feasible—such as sparsely populated areas of
12 Alaska where large areas have to be included to reach the ideal population for a house
13 district—connections between communities from different areas may serve as the
14 requisite socio-economic integration, as will similarities in economies and lifestyles:
15 “significant socio-economic integration between communities within a district outside
16 the region and the region in general demonstrates the requisite interconnectedness and
17 interaction, even though there may be little actual interaction between the areas joined
18 in a district.”¹⁰² “Socio-economic integration can be demonstrated both by direct face
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22 ⁹⁹ *Hickel v. Southeast Conference*, 846 P.2d 38, 47 (Alaska 1992).

23 ¹⁰⁰ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 42 (Alaska Super. 2002). (citing
24 *Hickel*, 846 P.2d at 51-52).

25 ¹⁰¹ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 42 (Alaska Super. 2002) *see*
26 *also In re 2001 Redistricting Cases*, 44 .3d 141, 146 (Alaska 2002) (“Anchorage is by
definition socio-economically integrated[.]”).

¹⁰² *Hickel*, 846 P.2d at 46 (citing *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1363
(Alaska 1987), wherein the Court declined to draw a distinction between the interaction of

1 to face and repeated interaction among neighbors and by evidence that a district is
2 bound together by systems of common culture, common values, common economic
3 needs, that unite people within an area. Indeed, given Alaska’s significant Native
4 populations, cultural and linguistic integration of a district may demonstrate that the
5 district is significantly socio-economically integrated.”¹⁰³ Over the years, the courts
6 have explained:
7

8
9 As a matter of constitutional requirement, however, there is nothing in
10 the Alaska Constitution that requires that every community within a
11 district have actual interaction with every other community within a
12 district. ... Rather they are linked by common culture, values, and needs.
13 The constitutional requirement of socio-economic integration does not
14 depend on repeated and systematic interaction among each and every
15 community within a district. Rather, the requirement in Article VI,
16 Section 6 of the Alaska Constitution may, by its very terms, be satisfied
17 if the “area” comprising the district is relatively socio-economically
18 integrated without regard to whether each community within the “area”
19 directly and repeatedly interacts with every other community in the
20 area.¹⁰⁴

21
22 The Court has invited comparison and consideration of previously upheld
23 pairings in determining the sufficiency of contacts between communities.¹⁰⁵ Districts
24 will be deemed invalid “if the record is simply devoid of significant social and
25
26

22 North Kenai with Anchorage and North Kenai with South Anchorage) (internal quotation
23 omitted).

24 ¹⁰³ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 36 (Alaska Super. Feb. 1, 2002).

25 ¹⁰⁴ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 36 (Alaska Super. 2002) (citing
26 *Kenai Peninsula Borough*, 743 P.2d at 1362-63).

¹⁰⁵ *Hickel*, 846 P.2d at 46 (“The sufficiency of the contacts between the communities
involved here can be determined by way of comparison with districts which we have
previously upheld.”) (quoting *Kenai Peninsula Borough*, 743 P.2d at 1363).

1 economic interaction among the communities within an election district.”¹⁰⁶ The
2 “record” means all evidence before the superior court, including the Board proceedings
3 and evidence admitted at the trial.¹⁰⁷ The Court has previously endorsed consideration
4 of the following non-exhaustive list of factors when reviewing relative socio-economic
5 integration¹⁰⁸:

- 7 • Transportation systems, such as ferry and air taxi or daily flights
- 8 • Common major economic activity
- 9 • Shared fishing areas, recreational or commercial
- 10 • Common interest in management of state lands
- 11 • Predominately Native character of the populace
- 12 • Historical ties
- 13 • Geographic proximity and/or similarities
- 14 • Common dependency on another city for transportation, entertainment,
15 news and professional services

16
17 To a lesser extent, the courts have looked to “patterns of housing, income levels, and
18 minority residences” in urban areas, but have cautioned that these factors lack the
19 necessary significance to justify significant population variances.¹⁰⁹

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21
22 _____
23 ¹⁰⁶ *Hickel*, 846 P.2d at 46 (quoting *Carpenter v. Hammond*, 667 P.2d 1204, 1215 (Alaska
1983)).

24 ¹⁰⁷ *Hickel*, 846 P.2d at 74 (“The decision is also based on testimony before the court and
25 the Board, as well as on the Board’s decision to include Nenana in this district.”).

26 ¹⁰⁸ *Hickel*, 846 P.2d at 46; *Kenai Peninsula Borough*, 743 P.2d at 1362-63; *Groh v. Egan*,
526 P.2d 863, 878-79 (Alaska 1974).

¹⁰⁹ *Hickel*, 846 P.2d at 48.

1 **4. As Near as Practicable to 1/40th of the Population of the State**

2 This requirement protects the right to “one person, one vote” by requiring
3 districts be as close as practicable to the same ideal quotient of the state population.
4 Similar in nature to the requirements under the equal protection clause of the Alaska
5 Constitution, is the requirement that the house districts be populated as near as
6 practicable to one fortieth of the newly designated Census population for the State.
7

8 “[A]rticle VI, section 6 will in many cases be stricter than the federal threshold
9 [of 10% variance acceptability]” due to the inclusion of the requirement that the
10 population be “as near as practicable.”¹¹⁰ However, the Alaska Supreme Court has
11 recognized population variances may be necessary to accommodate the other
12 requirements of Article VI, but has not adopted a specific number threshold over which
13 section 6 would be violated as a matter of law.¹¹¹ In *Hickel*, the governor’s redistricting
14 commission set a goal of no more than 2% population deviation, and the Alaska
15 Supreme Court reversed after finding that the fixation on small population deviations
16 came at too great a sacrifice to the constitutional requirements for compactness and
17 contiguity.¹¹² In the *In re 2001 Redistricting Cases*, the Alaska Supreme Court found
18 that the Board’s acceptance of any deviation up to 10% was unreasonable and that the
19 Board should strive for the lowest deviation practicable in light of the other
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25 ¹¹⁰ *In re 2001 Redistricting Cases*, 44 P.3d at 145-46.

26 ¹¹¹ *Hickel*, 846 P.2d at 48.

¹¹² *See id.* at 42-43.

1 constitutional requirements.¹¹³ Read together, *Hickel* and the later case suggest that
2 ranges between 2% and 10% are permissible if the Board reasonably strives for the
3 lower possible deviation without sacrificing compactness and socio-economic
4 integration.
5

6 **D. Senate Districts**

7 Article VI, Section 6 mandates that “[e]ach senate district shall be composed as
8 near as practicable of two contiguous house districts.”¹¹⁴ By its terms, Section 6 does
9 not require the Board to analyze whether a senate district is compact, contiguous or
10 socio-economically integrated.¹¹⁵ The single requirement of senate districts under
11 Article VI, Section 6 is that they be comprised of two house districts that touch.
12 Nothing more.
13

14 **E. Article VI, Section 10**

15 Article VI, Section 10, of the Alaska Constitution specifies the manner in which
16 the Redistricting Board must proceed. That provision states:
17

- 18 (a) Within thirty days after the official reporting of the decennial census
19 of the United States or thirty days after being duly appointed,
20 whichever occurs last, the board shall adopt one or more proposed
21 redistricting plans. The board shall hold public hearings on the
22 proposed plan, or, if no single proposed plan is agreed on, on all plans
23 proposed by the board. No later than ninety days after the board has
24 been appointed and the official reporting of the decennial census of

24 ¹¹³ See *In re 2011 Redistricting Cases*, No. 4FA-11-2209CI, 2013 WL 6074059, at *5
25 (Alaska Super. Nov. 18, 2013) (citing *In re 2001 Redistricting Cases*, 47 P.3d 141, 145-46
(Alaska 2002)).

26 ¹¹⁴ Alaska Const. art. VI, § 6.

¹¹⁵ *Kenai Peninsula Borough*, 743 P.2d at 1365.

1 the United States, the board shall adopt a final redistricting plan and
2 issue a proclamation of redistricting. The final plan shall set out
3 boundaries of house and senate districts and shall be effective for the
4 election of members of the legislature until after the official reporting
of the next decennial census of the United States.

5 (b) Adoption of a final redistricting plan shall require the affirmative
6 votes of three members of the Redistricting Board.¹¹⁶

7 As recognized previously in the *In re 2001 Redistricting Cases*, “Article VI, Section 10
8 requires that public hearings be held only on the plan or plans adopted by the Board
9 within thirty days of the reporting of the census.”¹¹⁷ Section 10 does not require the
10 Board hold public hearings on its Final Plan.¹¹⁸ Nor does Section 10 preclude the Board
11 from continuing to revise its plans and notify the public of these revisions after the
12 thirtieth day. Rather, the constitution envisions an interactive process where the Board
13 has the opportunity to learn from public involvement.

15 **F. Equal Protection Standards**

16 There are two basic principles of equal protection in the context of voting rights
17 in redistricting: (1) “one person, one vote,” which is the right to an equally weighted
18 vote; and (2) “fair and effective representation,” which is the right to group
19 effectiveness or an equally powerful vote.¹¹⁹ In Alaska Supreme Court caselaw the
20
21

22 _____
23 ¹¹⁶ Alaska Const. art. VI, § 10.

24 ¹¹⁷ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 24 (Alaska Super. Feb 1, 2002),
aff’d 44 P.3d 141, 143 (Alaska 2002).

25 ¹¹⁸ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 24 (Alaska Super. Feb 1, 2002),
aff’d 44 P.3d 141, 143 (Alaska 2002).

26 ¹¹⁹ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 14 (Alaska Super. 2002)
(quoting in part *Kenai Peninsula Borough*, 743 P.2d at 1366).

1 “one person, one vote” right is discussed in determining whether a house district is
2 overpopulated or underpopulated. The “fair and effective representation” standard is
3 discussed when an incorporated area (borough or city) is combined in a district with an
4 unincorporated area, thereby giving rise to the concern that the redistricting dilutes
5 urban or rural voters to the benefit of the other.
6

7 **1. One Person, One Vote**

8 The principle of “one person, one vote” is quantitative in nature.¹²⁰ “[A] State
9 [must] make an honest and good faith effort to construct districts, in both houses of its
10 legislature, as nearly of equal population as is practicable.”¹²¹ “Whatever the means of
11 accomplishment, the overriding objective must be substantial equality of population
12 among the various districts, so that the vote of any citizen is approximately equal in
13 weight to that of any other citizen in the state.”¹²²
14
15

16 “[A]s a general matter, [] an apportionment plan with a maximum population
17 deviation under 10% falls within a category of minor deviations.”¹²³ The state must
18 provide justification for any greater deviation.¹²⁴ The Alaska Supreme Court has
19 recognized “several other state policies which may also justify a population deviation
20
21
22

23 ¹²⁰ *Hickel*, 846 P.2d at 47.

24 ¹²¹ *Kenai Peninsula Borough*, 743 P.2d at 1358 (quoting *Reynolds v. Sims*, 377 U.S. 533,
577 (1964)). *Hickel*, 846 P.2d at 47.

25 ¹²² *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 14 (Alaska Super. Feb 1, 2002).

26 ¹²³ *Kenai Peninsula Borough*, 743 P.2d at 1358-59.

¹²⁴ *Id.*

1 greater than 10 percent.”¹²⁵ In *Kenai Peninsula Borough*, the Court noted that the state’s
2 desire to maintain political boundaries, such as Native corporation boundaries,¹²⁶ are
3 sufficient justification provided that this principle is applied consistently.¹²⁷
4

5 **2. Fair Representation**

6 The principle of “fair and effective representation” is qualitative in nature.¹²⁸
7 The Alaska Supreme Court has stated, “[t]hat the equal protection clause protects the
8 rights of voters to an equally meaningful vote.”¹²⁹ This issue has not arisen since
9 Alaska voters amended the Alaska Constitution to require single-member senate
10 districts.
11

12 Fair and effective representation issues have arisen historically in Alaska
13 concerning the use of multi-member senate districts that resulted in senators
14 representing disparate numbers of voters.¹³⁰ From statehood in 1959 through passage
15 of Article VI amendments in 1998, Alaska had multi-member senate districts.¹³¹ Where
16
17

18 ¹²⁵ *Hickel*, 846 P.2d at 48.

19 ¹²⁶ *Groh v. Egan*, 526 P.2d 863, 877-78 (Alaska 1974) (“Similarly, we implied that
20 adherence to Native corporation boundaries might also provide justification, as long as the
21 boundaries are adhered to consistently.”).

22 ¹²⁷ *See Kenai Peninsula Borough*, 743 P.2d at 1360; *Hickel*, 846 P.2d at 48.

23 ¹²⁸ *Hickel*, 846 P.2d at 47.

24 ¹²⁹ *Kenai Peninsula Borough*, 743 P.2d at 1367 (quoting *Reynolds*, 377 U.S. at 565-66).

25 ¹³⁰ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 14 (Alaska Super. Feb 1, 2002).

26 ¹³¹ *Cf. Wade v. Nolan*, 414 P.2d 689, 690 n.5 (Alaska 1966) (showing composition of
single and multi-member senate districts under the original provisions of Alaska Constitution);
Groh v. Egan, 526 P.2d 863, 880 (Alaska 1974) (discussing how Governor’s Reapportionment
Board may create single-member or multi-member senate districts); *Kenai Peninsula Borough*
v. State, 743 P.2d 1352, 1357, 1363-73 (Alaska 1987) (analyzing Senate District E, a two-
member senate district comprised of three house districts); *Hickel v. Southeast Conference*,

1 single-member districts are concerned—as all senate districts in Alaska now are¹³²—
2 the Court has directed that “where unconstitutional vote dilution is alleged in the form
3 of statewide political gerrymandering, the mere lack of proportional representation will
4 not be sufficient to prove unconstitutional discrimination.”¹³³ The challenger must
5 show that the Board *intentionally* discriminated.¹³⁴

7 In this context, a ruling of “unconstitutionality must be supported by evidence
8 of continued frustration of the will of a majority of the voters or effective denial to a
9 minority of voters of a fair chance to influence the political process.”¹³⁵ As this Court
10 has appreciated, “if there is not evidence of any real impact on the political process then
11 a claim that discriminatory intent may be inferred from a particular action carries little
12 weight.”¹³⁶

18
19 846 P.2d 38, 69 (Alaska 1992) (trial court discussing traditional multi-member senate district
for Juneau).

20 ¹³² See Alaska Const. art. VI, § 4.

21 ¹³³ *Hickel*, 846 P.2d at 49.

22 ¹³⁴ *Kenai Peninsula Borough*, 743 P.2d at 1372.

23 ¹³⁵ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 15 (quoting *Kenai Peninsula
Borough*, 743 P.2d at 1368).

24 ¹³⁶ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 32 (“Most significant to the
25 court again is the fact that the evidence indicates that where Republican incumbents were
26 removed from a district to create an open seat, the Republicans still are considered likely to
win that seat. The best evidence of a discriminatory intent is the impact that the Board’s action
likely will have. If there is not evidence of any real impact on the political process then a claim
that discriminatory intent may be inferred from a particular action carries little weight.”).

1 Only *after* there is a showing that the Board acted intentionally to discriminate
2 against a geographic region or minority, must the Board “demonstrate that its plan will
3 lead to greater proportionality of representation.”¹³⁷
4

5 **G. Article I, § 7 Due Process Standards**

6 Alaskan courts have recognized that with regard to redistricting, due process
7 requires: a meaningful opportunity to participate in the redistricting process or to be
8 heard.¹³⁸ This participation is not unlimited.¹³⁹ The due process analysis for
9 redistricting decisions is akin to the standard of review of an administrative agency:
10 “When an agency is considering promulgation of a rule or regulation, it is required by
11 law to give notice and an opportunity to comment to those who potentially will be
12 affected by a regulation.”¹⁴⁰ Nothing in Alaska law requires unlimited public comment
13 or serial hearings even after the Board makes a final decision.
14
15

16 Alaska courts have refused to find due process violations when the due process
17 claims alleged (1) the final plan was submitted with little to no input from the public,
18 (2) the plan was not published online, (3) consideration of plans after public hearings
19 were completed, (4) that public hearing was not held on the final plan that was adopted
20
21

22
23 ¹³⁷ *Hickel*, 846 P.2d at 49.

24 ¹³⁸ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 19 (“In addition, [t]he crux of
25 due process is opportunity to be heard and the right to adequately represent one’s interests.”)
(internal citations and quotations omitted).

26 ¹³⁹ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 30.

¹⁴⁰ *State of Alaska v. Hebert*, 743 P.2d 392 (Alaska Ct. App. 1987), *aff’d*, 803 P.2d 863
(Alaska 1990).

1 prior to its adoption, and (5) access to the board members by individuals outside of
2 public hearings.¹⁴¹ What is more, this Court emphasized that “any one of these
3 allegations alone might not individually suffice to establish a violation of due
4 process.”¹⁴² Thus, due process does not require unfettered comment, visibility, and
5 access, it requires some *meaningful* opportunity to participate and be heard, as the 2021
6 Board unquestionably provided.
7

8 **H. Open Meetings Act**

9
10 The Alaska Redistricting Board was created as an independent entity by
11 constitutional amendment in 1998. It is a fourth branch of government, constitutionally
12 created specifically for reapportionment of house and senate districts. Unlike an agency
13 or board created through the delegation of authority of the executive or legislative
14 branches, the Alaska Redistricting Board is born out of the Constitution and its
15 authority is not a delegation of authority from one of the other branches of state
16 government. Beyond the requirements and limitations restrictions in Article VI, the
17 Board’s procedures and protocols, including how it conducts its meetings, are not
18 subject to regulation by the Legislature. The statutory Open Meetings Act (“Act”) does
19 not legally apply to the Board.¹⁴³ Nonetheless, the Board adopted a policy to follow
20
21
22

23 ¹⁴¹ *In re 2001 Redistricting Cases*, 44 P.3d 141, 147 (2002) (“We hold that plaintiffs’ due
24 process challenges to the board’s development of the Proclamation Plan [including adopting
25 final plan that was not provided to the public and was not published for public comment or
testimony] have no merit.”).

26 ¹⁴² *See id.*

¹⁴³ *See Abood v. League of Women Voters of Alaska*, 743 P.2d 333, 335-40 (Alaska 1987).

1 the Open Meetings Act’s notice requirements and conducted itself as if the Act applied
2 to it in all respects.

3 The Act states, “[a]ll meetings of a government body of a public entity of the
4 state are open to the public except as otherwise provided by this section or another
5 provision of law”¹⁴⁴ It further requires that reasonable public notice be given. In
6 addition, a “meeting” is defined as “a gathering of members of a governmental body
7 when . . . more than three members or a majority of the members, whichever is less, are
8 present.”¹⁴⁵ “The Open Meetings Act is not violated by such individual lobbying of
9 Board members and there is nothing improper about this.”¹⁴⁶

10 The Act provides that certain matters may be considered in private, executive
11 session, including “matters which by law, municipal charter, or ordinance are required
12 to be confidential.”¹⁴⁷ This exception applies to attorney-client communications
13 regarding litigation.¹⁴⁸

14 Violations of the Act do not automatically void an action taken by the body.¹⁴⁹
15 Rather, before a court may void a government body’s action because of a violation of
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¹⁴⁴ AS 44.62.310(a).

22 ¹⁴⁵ AS 44.62.310(e).

23 ¹⁴⁶ *In re 2001 Redistricting Cases*, 2002 WL 34119573 (citing *See Brookwood Area Homeowner’s Ass’n v. Anchorage*, 702 P.2d 1317, 1323 n.7 (Alaska 1985)).

24 ¹⁴⁷ AS 44.62.310(c)(3).

25 ¹⁴⁸ *Cool Homes, Inc. v. Fairbanks North Star Borough*, 860 P.2d 1248, 1261 (Alaska 1993).

26 ¹⁴⁹ *See In re 2001 Redistricting Cases*, 2002 WL 34119573, at 21 (citing *Hickel*, 846 P.2d at 56-57).

1 the Act, it must consider the factors enumerated in the Act to determine if voiding the
2 action is in the public interest.¹⁵⁰ No Alaska court has voided a proclamation of
3 redistricting based on alleged violations of the Open Meetings Act.¹⁵¹
4

5 **IV. DISCUSSION OF EACH CHALLENGE**

6 **A. Article VI, § 6 Claims**

7 As discussed in detail above, a house district need only meet four requirements
8 for a house district to satisfy Article VI, Section 6 of the Alaska Constitution. Each
9 house district must be: (1) contiguous, (2) compact, (3) relatively socio-economically
10 integrated, and (4) as near as practicable to 1/40th of the Statewide population. Section
11 6 requires even less of a senate district: it must be comprised of two contiguous house
12 districts. The senate districts, being comprised of contiguous house districts, are the
13 beneficiaries of the house district’s constitutional safeguards.
14
15

16 **1. Municipality of Skagway Borough and Brad Ryan** 17 **(“Skagway Plaintiffs”)**

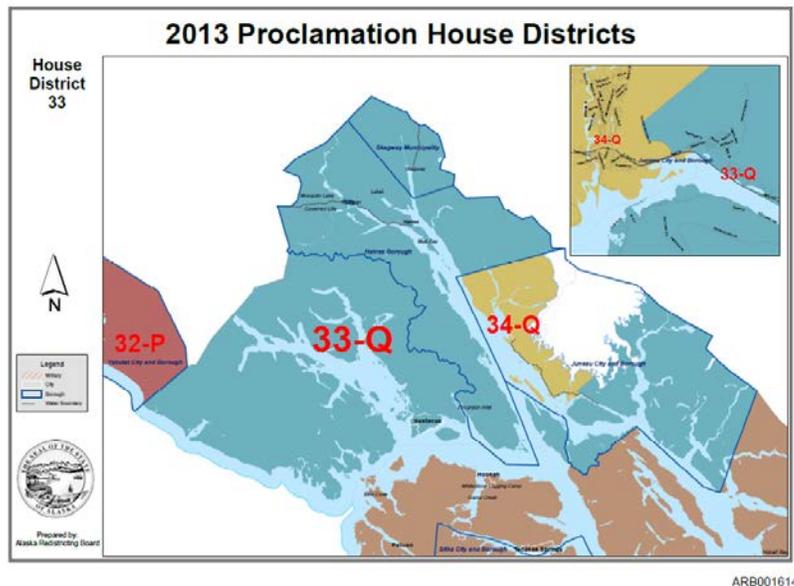
18 Skagway claims that House Districts 3 and 4 of the Final Plan are not compact,
19 contiguous or socio-economically integrated. These claims are the easiest claims for
20

21 ¹⁵⁰ AS 44.62.310(f).

22 ¹⁵¹ See *In re 2001 Redistricting Cases*, 2002 WL 34119573 (“We hold that the superior
23 court properly concluded that, based on the factors set out in AS 44.62.310(f), the public
24 interest[] in requiring compliance with the Open Meetings Act does not outweigh the harm
25 that would be caused to the public interest by voiding the entire Redistricting Plan on this basis.
26 Because we hold that the superior court permissibly refused to grant any remedy for the
particular e-mail exchanges it found to violate the Open Meetings Act, we need not address
whether these email exchanges actually violated the Act. We further conclude that the superior
court did not err by failing to find additional violations of the Act.”). See also *Hickel*, 846 P.2d
at 56-57.

1 this Court to dispose of because House District 3 and 4 are visually compact and all
2 areas within them touch others except for adjacent islands, making them comprised of
3 contiguous areas. As for socio-economic integration, Skagway's argument that it
4 should be placed in a district with the southern portion of the incorporated City and
5 Borough of Juneau because it is *more* socio-economically integrated with that portion
6 of Juneau is foreclosed by the Alaska Supreme Court's decisions in *Groh* and *Kenai*
7 *Peninsula Borough*.

10 Skagway does not seriously contest that House District 3 and 4 are comprised of
11 contiguous areas. As for compactness, Skagway urges this Court to make the obviously
12 erroneous conclusion that the prior house districts for the area are more compact than
13 House Districts 3 and 4. Below is a comparison of the former house districts (from the
14 Board's 2013 Plan) followed by the new house districts:
15

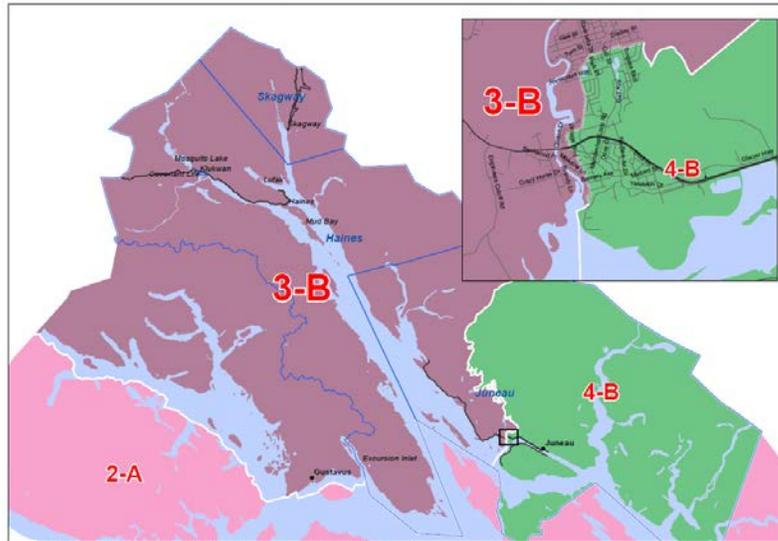




2021 Board Proclamation District 3-B

Redistricting Plan Adopted by the Alaska Redistricting Board 11/10/2021

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Based on 2020 Census Geography and 2020 PL04-171 Data. Map Gallery link: www.akredistrict.org/maps

ARB000021

A cursory comparison of the two demonstrates that the Board’s 2021 House Districts 3 and 4 are more compact than the Board’s 2013 House Districts 33 and 34. The Board’s current plan places Skagway in a house district with areas immediately adjacent to it, whereas the Board’s 2013 plan has Skagway placed in a district that skirts around the northern boundary of the City and Borough of Juneau and then swoops in to take in downtown Juneau.

Skagway’s claim that it is not relatively socio-economically integrated with the portion of the City and Borough of Juneau closest to it, which are the Mendenhall Valley and Auke Bay areas of Juneau, is foreclosed by binding precedent. In 1974, the *Groh* Court reasoned that Skagway was socio-economically integrated with the City and Borough of Juneau because of the “close transportation ties between Juneau, Haines

1 and Skagway by daily scheduled air flights and frequent ferry service.”¹⁵² That remains
2 the case today, and the Skagway plaintiffs do not contest that Skagway is integrated
3 with the City and Borough of Juneau. Skagway asserts it is not paired with the portion
4 of the City and Borough of Juneau that it is *most* integrated with: downtown Juneau.
5 This argument is foreclosed by the Court’s decision in *Kenai Peninsula Borough v.*
6 *State*, in which it affirmed including the area of Nikiski in a house district with South
7 Anchorage.¹⁵³ The Court rejected the Kenai Peninsula Borough’s argument that the
8 socio-economic integration analysis should turn on whether Nikiski’s connections were
9 to the exact portion of incorporated Anchorage that it was combined with, holding
10 instead that Nikiski was socio-economically integrated with all of Anchorage because
11 it had connections to some portions of the city:
12
13
14

15 Like the Juneau District upheld in *Groh*, which included Skagway and
16 Haines, the communities here are connected by daily airline flights (and
17 by highway transportation, whereas the Juneau communities used ferry
18 service); both are linked to the hub of Anchorage, although North Kenai
19 obviously has greater links to Kenai. We think Kenai draws too fine a
20 distinction between the interaction of North Kenai with Anchorage and
that of North Kenai with South Anchorage. We find no error in the
superior court’s decision to uphold [the house district that combined
Nikiski with South Anchorage].¹⁵⁴

21 The same is true here. Skagway and the portions of House District 3 within the
22 boundaries of the City and Borough of Juneau share a transportation link: the Alaska
23
24

25 ¹⁵² *Groh v. Egan*, 526 P.2d 863, 879 (Alaska 1974).

26 ¹⁵³ *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1361-63 (Alaska 1987).

¹⁵⁴ *Kenai Peninsula Borough*, 743 P.2d at 1361.

1 Marine Highway System. The Juneau terminal of that ferry system is located in Auke
2 Bay, which is in House District 3. To travel on the ferry from Juneau to Skagway users
3 must go through Auke Bay. Just as Nikiski’s closer connections to other portions of
4 Anchorage did not mean it was not socio-economically integrated with South
5 Anchorage, Skagway’s perception that it has closer ties to downtown Juneau does not
6 change the fact that it is socio-economically integrated with all portions of the City and
7 Borough of Juneau. Alaska law recognizes that communities within a single borough
8 are *by definition* socio-economically integrated.¹⁵⁵

11 2. City of Valdez and Mark Detter

12 Valdez asserts its placement in House Districts 29, 30, and 36 violate § 6
13 requirements that house districts be compact, contiguous and relatively socio-
14 economically integrated.¹⁵⁶ None of these claims have merit.

16 House District 29

17 House District 29 is compact and contiguous. It is contiguous because all areas
18 of District 29 are connected to each other. House District 29 is compact because it does
19 not contain any bizarre appendages or peninsulas. House District 29 is comprised of
20 communities that are relatively socio-economically integrated with each other. Mat-Su
21

23 ¹⁵⁵ See *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 42 (citing *Hickel*, 846 P.2d
24 at 51-52). (holding that each of the Anchorage districts are socio-economically integrated in
25 accordance with Article VI, Section 6, and reasoning “The Alaska Supreme Court has indicated
26 that by definition those districts composed wholly of a single borough are socio-economically
integrated.”).

¹⁵⁶ Valdez’s First Amended Complaint in the Nature of an Application to Correct Errors
in Redistricting, at ¶ 55 (Dec. 29, 2021).

1 and Valdez residents both utilize the Lake Louise/Eureka area for recreational and
2 subsistence activities. The residents of the district are connected via a state highway
3 system, as the Glenn and Richardson Highways connect Valdez and the eastern Mat-
4 Su.¹⁵⁷ Valdez sports teams compete against Mat-Su schools. Both communities operate
5 home rule school districts supported by a local tax base, as opposed to the REAA school
6 districts found in smaller villages. And both communities share substantial social and
7 economic connections with Anchorage. As the *Hickel* Court stated:
8

9
10 In areas, where a common region is divided into several districts,
11 significant socio-economic integration between communities within a
12 district outside the region and the region in general demonstrates the
13 requisite interconnectedness and interaction, even though there may be
14 little actual interaction between the areas joined in a district.¹⁵⁸

15 Here, because the eastern Mat-Su communities within House District 29 interact with
16 Valdez, there is sufficient socio-economic connection between the communities to
17 satisfy section 6.

18 Valdez erroneously asserts that District 29 is not contiguous because an
19 individual in an automobile could not drive from Valdez to the Mat-Su without leaving
20 District 29. But contiguity is not based on automobile contiguity. Judge Rindner
21 rejected this argument the last time Valdez asserted in in redistricting litigation.¹⁵⁹ If
22 contiguity was dependent on ground transportation, Alaska's Aleutian Islands, Prince
23

24
25 ¹⁵⁷ Binkley Aff. ¶¶ 26-28.

26 ¹⁵⁸ *Hickel*, 846 P.2 at 46.

¹⁵⁹ *In re 2001 Redistricting Cases*, 2002 WL 34119573 (Alaska Super. Feb. 1, 2002).

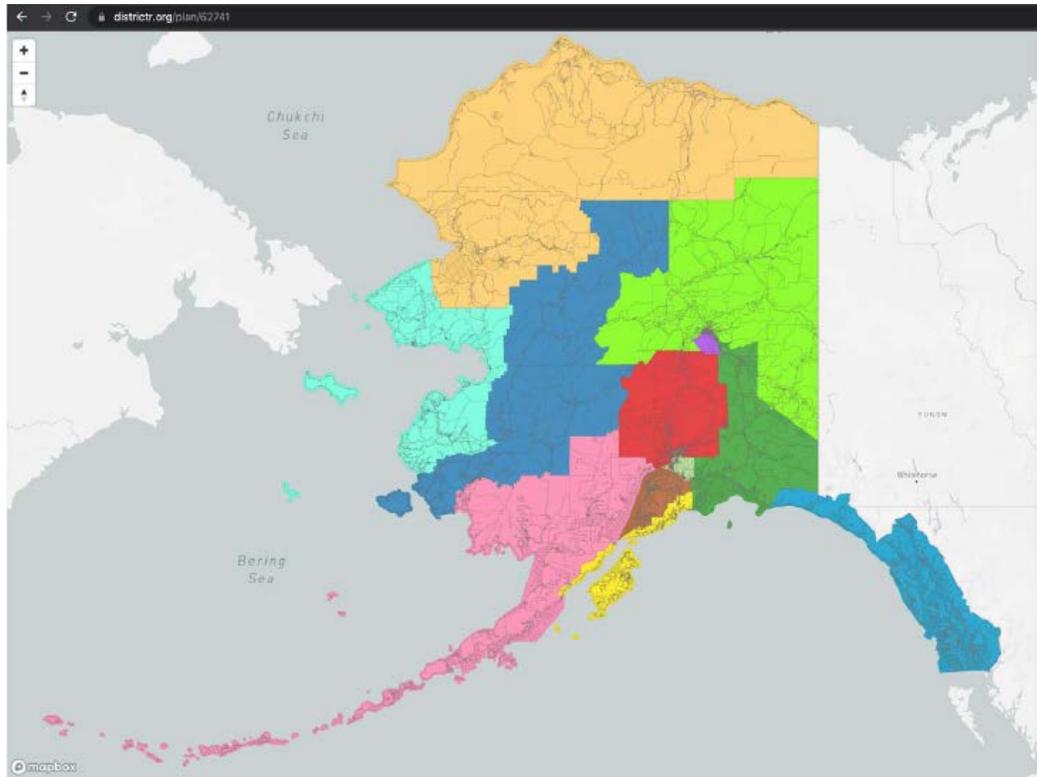
1 William Sound, the Panhandle, and much of Interior, Western Alaska, and the North
2 Slope would be impossible to include in a contiguous house district. Valdez also claims
3 that it is not socio-economically integrated with the Mat-Su Borough because it is *more*
4 integrated with Richardson Highway communities and Fairbanks. This is an erroneous
5 argument. Section 6 requires areas within a house district to be relatively socio-
6 economically integrated; it does not require that house districts be comprised of only
7 communities that are the most socio-economically integrated with it, a requirement not
8 found in § 6 that would turn the already Herculean effort of redistricting in Alaska to
9 an impossible one.
10
11

12 The Board paired Valdez with eastern Mat-Su because those areas are relatively
13 integrated. Valdez and the Mat-Su Borough were also paired in the 2013 Proclamation,
14 which was upheld by the Superior Court.¹⁶⁰ Looking at “previously existing” districts
15 has been specifically endorsed by the Alaska Supreme Court when assessing socio-
16 economic integration. The evidence of the current socioeconomic connections to be
17 presented at trial, together with the prior affirmation of the inclusion of Valdez and the
18 eastern portion of the Mat-Su Valley in the 2013 Proclamation evidence the reasoned,
19 rational decision of the Board in placing these communities together.
20
21

22 Valdez was, and has traditionally been, a particularly difficult area to deal with
23 in redistricting. Indeed, Valdez submitted its own plan during the redistricting process
24
25

26 ¹⁶⁰ *In re: 2011 Redistricting Cases*, No. 4FA-11-2209CI, 2013 WL 6074059, at *12-17
(Alaska Super. Nov 18, 2013).

1 that demonstrated how focusing solely on Valdez’s desire to be paired with Richardson
2 Highway, Delta Junction, and the Eielson Air Force Base portion of the Fairbanks North
3 Star Borough does violence to numerous other house districts across Alaska. That plan
4 was called “Valdez Option 1” and is reproduced below.¹⁶¹



19 Valdez Option 1 only mapped 11 house districts out of the required 40. Yet it broke
20 the Fairbanks North Star Borough twice (instead of once like the Board’s Final Plan)
21 so that Eielson Air Force Base was included in Valdez’s district and pulled additional
22 residents from the Fairbanks North Star Borough up into the lighter green rural district.
23

24
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26

¹⁶¹ Borromeo Aff. ¶ 39.

1 Moreover, it created a snaking rural district in dark blue that spanned from Bettles in
2 the north to Nunivak Island in the south.

3
4 During its redistricting, the Board was keenly aware that Valdez desired to be
5 paired with Richardson Highway communities. The bulk of public testimony from
6 residents in Valdez during the public hearing Roadshow and the City of Valdez’s
7 submission to the Board all stated as much. The Board tried to accommodate this
8 request, but could not make it work without breaking the Fairbanks North Star Borough
9 twice and without causing substantial harm to socio-economic integration throughout
10 large regions of the state.

12 **House District 30**

13
14 House District 30 is compact and contiguous. It is compact because it does not
15 contain any bizarre appendages or peninsulas. It is contiguous because all areas within
16 District 30 touch. There are no islands of land in District 30. District 30 is likewise
17 comprised of areas that are relatively socio-economically integrated with each other.
18 District 30 is comprised of portions of the Mat-Su and Denali Boroughs. These
19 communities are integrated with each other by the Parks Highway that connects all of
20 them. The City of Houston forms the core of the district and then extends north through
21 the Denali Borough.

23 **House District 36**

24
25 House District 36 is the Final Plan’s rural interior Alaska district. It includes
26 sparsely populated communities from McCarthy in the southeastern portion of

1 mainland Alaska to Arctic Village in the north to Holy Cross in the Southwest. This
2 district is contiguous because all portions of the district are touching. The district's
3 compactness is on balance with meeting other Section 6 requirements, such as near as
4 practicable population equality and socio-economic integration. In order to avoid
5 overpopulating the house districts within the Fairbanks North Star Borough by roughly
6 4.5%, the only option was to move these excess residents into House District 36.¹⁶²
7

8
9 Thus, District 36 extends to capture the excess population of the Fairbanks North
10 Star Borough. One portion of District 36 does protrude into the Mat-Su and Denali
11 Boroughs to pick up the roughly 200 residents in Cantwell in the district. The Board's
12 inclusion of Cantwell was purposefully done because House District 30 was already
13 overpopulated and there was public testimony that Cantwell was part of the Ahtna
14 region and shared culture and other interests with those that lived in and around
15 Glennallen.
16

17 The district is comprised of socio-economically integrated people because it is
18 comprised of the Doyon and Ahtna regions of Alaska. The evidence will show that the
19 Board received public comments expressing the cultural and subsistence tradition links
20 between Ahtna and Cantwell.¹⁶³ It is not necessary that a community be districted
21

22
23 ¹⁶² Binkley Aff. ¶¶ 32-33.

24 ¹⁶³ See ARB000639, ARB001793-ARB001794, ARB001795-ARB001796, ARB001822,
25 ARB002873, ARB003089, ARB003418, ARB003998, ARB004220 (public testimony);
26 ARB009242 (Nov. 4 Tr. at 72:7-22) (Board discussion of the public testimony); see also Aff.
of Michelle Anderson ¶¶ 5, 9-13, dated Jan. 12, 2022; Aff. of Miranda Wright ¶¶ 20-21, dated
Jan. 11, 2022; Aff. of Vicki Ann Otte ¶ 27, dated Jan. 12, 2022.

1 within a district that it shares the most socio-economic ties, rather, Section 6 requires
2 the four requirements be balanced to achieve 40 house districts across the state that are
3 each: contiguous, compact, relatively socioeconomically-integrated, and as near as
4 practicable to 1/40th of the State’s population. Valdez’s inclusion within House District
5 29 may not have been its first pick, but the district map proposed by Valdez failed to
6 satisfy the constitutional requirement of compactness, while also reducing the socio-
7 economic integration throughout the Bettles and Nunavik Island, among others.
8 Valdez’s proposed map would have also improperly diluted the votes of residents of
9 the Fairbanks North Star Borough by unnecessarily splitting the excess population of
10 Fairbanks into two districts. District 29 is the most reasonable option to achieve what
11 the constitution requires.
12
13
14

15 **3. Matanuska-Susitna Borough and Michael Brown**

16 In its Section 6 claim, the Mat-Su Borough alleges that House Districts 25, 26,
17 27, 28, 29, and 30 violate the fourth Section 6 requirement—that house districts be as
18 near as practicable to 1/40th of the State’s population. As best as can be ascertained
19 from Mat-Su’s vague pleading, it further challenges that House Districts 29, 30, and 36
20 are not compact, contiguous, and are not relatively socio-economically integrated.¹⁶⁴
21 Because House Districts 29, 30, and 36 are thoroughly discussed above, the analysis
22 for those two districts is not repeated here. However, in assessing the Section 6
23
24
25

26 ¹⁶⁴ See Mat-Su Am. Compl. ¶ 50 (“House Districts, including but not limited to, 29, 30, and 36 . . . are not compact, contiguous . . .”).

1 requirements, it is informative to view other proposed plans, including the plan
2 submitted by AFFER and the Mat-Su Borough. This plan favored by the Mat-Su
3 Borough had widespread rippling effects that weakened the constitutionality of other
4 districts across the state. Specifically, it would split the Ahtna region into three
5 districts; divide the communities on the Richardson Highway based upon the side of
6 the highway they live on; and force Cordova in a non-compact district with Interior
7 villages with which it shares little socio-economic similarities or integration.¹⁶⁵
8
9

10 **The Population of House Districts 25-30**

11 The Mat-Su Borough Plaintiffs challenge the population of House Districts 25-
12 30 as not complying with Section 6's requirement that their populations be as near as
13 practicable to the ideal population of 18,335. Below is a table of the population of each
14 district:
15

16 House District	17 Population	18 Deviation from 18,335 Ideal Population	19 Percentage Deviation from Ideal
20 25	18,822	+487	+2.66%
21 26	18,807	+472	+2.58%
22 27	18,799	+464	+2.50%
23 28	18,793	+458	+2.53%

24
25
26

¹⁶⁵ Borromeo Aff. ¶ 31.

House District	Population	Deviation from 18,335 Ideal Population	Percentage Deviation from Ideal
29	18,773	+438	+2.39%
30	18,536	+201	+1.10%

These are *de minimus* population deviations. The highest deviation is House District 25, which is overpopulated by 2.66%, and the lowest deviation is House District 30, which is overpopulated by 1.10%. This means that there is a maximum deviation within the Mat-Su Borough of 2.66%. These small deviations are a result of map drawing and do not rise to the level of a Section 6 violation.¹⁶⁶ Indeed, variations nearly twice those applicable in these challenged districts were upheld in the 2001 redistricting cycle.¹⁶⁷ Mat-Su tries to exaggerate the population deviations by adding them all together and claiming it is overpopulated by more than 13%, but this mathematical aggregation is inconsistent with how population deviation is measured in redistricting case law.

4. Calista Corporation, William Naneng, and Harley Sundown

Calista challenges that House Districts 37, 38 and 39 fail to meet Section 6 criteria.

¹⁶⁶ *In re 2011 Redistricting Cases*, No. 4FA-11-2209CI, 2013 WL 6074059, at *5 (Alaska Super. Nov. 18, 2013) (citing *In re 2001 Redistricting Cases*, 47 P.3d 141, 145-46 (Alaska 2002)).

¹⁶⁷ *In re: 2011 Redistricting Cases*, No. 4FA-11-2209CI, 2013 WL 6074059, at *5 (Alaska Super. Nov. 18, 2013) (citing *In re 2001 Redistricting Cases*, 47 P.3d at 145-146).

1 **House District 37**

2 House District 37 is compact and contiguous.¹⁶⁸ It is compact because it does
3 not have any bizarre appendages; its length and disconnected portions is caused by the
4 geography of the Aleutian Islands.¹⁶⁹ It is contiguous because all portions of House
5 District 37 are touching, except for the Aleutian Islands and other areas that are
6 separated by Cook Inlet (Port Graham and Nanwalek). It is comprised of relatively
7 socio-economically integrated areas because it pairs rural Alaskan villages together that
8 range from the Upper Kuskokwim River down through the Bristol Bay area, to the
9 Aleutian Islands.¹⁷⁰ The areas of the Kenai Peninsula Borough that were included in
10 House District 37—Tyonek, Port Graham, and Nanwalek—are rural, off-the-road
11 portions of the Kenai Peninsula that share common interests with those in the remainder
12 of House District 37.
13
14
15

16 **House District 38**

17 House District 38 is compact and contiguous.¹⁷¹ It is compact because it does
18 not have any bizarre appendages.¹⁷² It is contiguous because no portion of House
19 District 38 is disconnected from the others, except for islands in the Bering Sea that are
20
21
22

23 _____
168 ARB000055.

24 169 ARB000055.

25 170 ARB000055.

26 171 ARB000056.

172 ARB000056.

1 adjacent to the landmass of District 38.¹⁷³ House District 38 is comprised of relatively
2 socio-economically integrated areas because the communities of House District 38 are
3 all part of the Calista region and share subsistence, work, and recreational interests.¹⁷⁴
4

5 **House District 39**

6 House District 39 is compact and contiguous.¹⁷⁵ It is compact because it does
7 not have any bizarre appendages.¹⁷⁶ It is contiguous because no portion of House
8 District 39 is disconnected from the others, except for islands in the Bering Sea adjacent
9 to the District 39 landmass.¹⁷⁷ The communities within House District 39 are relatively
10 socio-economically integrated because they share subsistence, recreational and work
11 interests.¹⁷⁸
12

13 Calista’s complaint about the makeup of House Districts 37-39 is illogical and
14 foreclosed by this Court’s standard of review. Calista nitpicks that the “Calista Region
15 Villages,” as shown below, should have been distributed differently in House Districts
16 37-39:¹⁷⁹
17
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22 ¹⁷³ ARB000056.

23 ¹⁷⁴ ARB000056.

24 ¹⁷⁵ ARB000057.

25 ¹⁷⁶ ARB000057.

26 ¹⁷⁷ ARB000057.

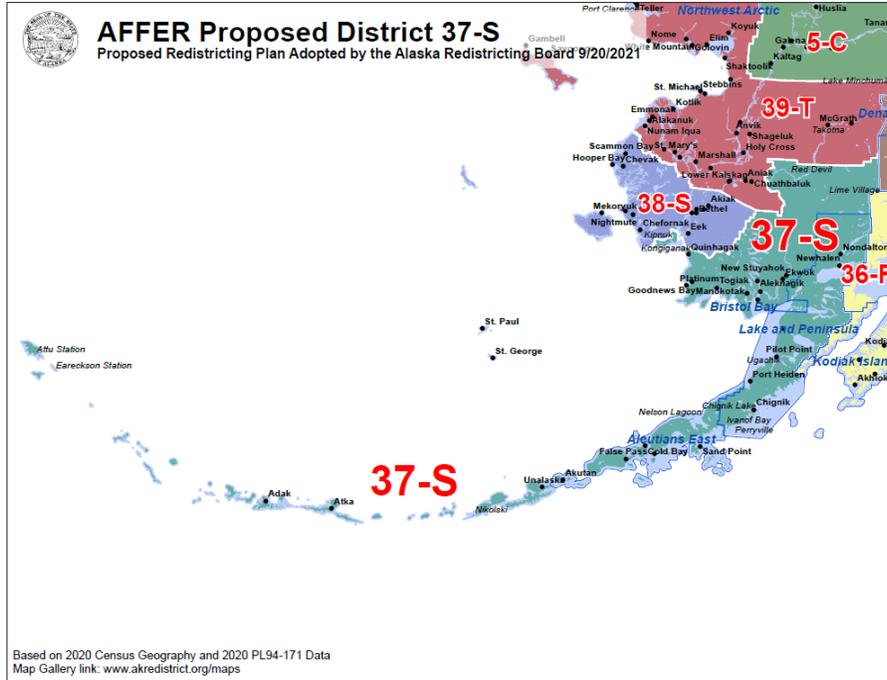
¹⁷⁸ ARB000057.

¹⁷⁹ Borromeo Aff. ¶ 36.

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But even Calista's proposal for House Districts 37-39, placed these villages in three separate house districts, as shown below:



ARB001290

Calista’s proposal, submitted through the AFFER group, placed the Lower Yukon River communities of Emmonak, Alakanuk, St. Mary’s and others, in House District 39; the Bethel area village in House District 38, and the communities of Platinum, Goodnews Bay, Lime Village and others in House District 37. Calista offers incoherent explanations of why its proposed placement of its region’s villages in house districts that do not include Bethel is constitutionally different than the Final Plan’s House Districts 37-39. If it is constitutionally permissible to place the Calista villages of Emmonak and St. Mary’s in House District 39, it is constitutionally permissible to place Hooper Bay, Scammon Bay, and Chevak in House District 39. The same goes for the villages in House District 37 that Calista quibbles over.

1 Calista also makes a strained argument about House District 37’s composition
2 negatively affecting its ability to control Senate District S. Specifically, Calista
3 complains that House District 37’s composition of less Calista region villages than
4 Calista desires “inappropriately dilutes Calista’s Senate District S advantage from 6.2%
5 to 4.4%.”¹⁸⁰ There are several fatal problems with this argument.

7 As an initial matter, there is no right for any corporation to control a senate seat.
8 Calista is a for-profit company. Not all of Calista’s shareholders are Alaska Natives,
9 and not every person who lives in the villages it identifies as Calista Region villages
10 are Alaska Natives. Calista has not shown how any protected class’s vote is being
11 diluted. Nor has it shown that its region’s vote is being diluted to the benefit of any
12 urban or incorporated area. Calista has simply not pleaded a cognizable equal
13 protection claim, and it cannot prove an equal protection violation at trial.

16 **5. East Anchorage Plaintiffs (Felisa Wilson, George Martinez,
17 and Yarrow Silvers)**

18 The East Anchorage Plaintiffs do not challenge any of the Final Plan’s 40 house
19 districts. Their claims concern only the pairing of four of the 16 house districts within
20 the Municipality of Anchorage. Specifically, the East Anchorage Plaintiffs argue that
21 the Board’s pairing of House Districts 21 and 22 to create Senate District K¹⁸¹ and
22

25
26 ¹⁸⁰ Calista’s First Am. Compl., ¶ 21.

¹⁸¹ ARB000039-ARB000040.

1 pairing of House Districts 23 and 24 to create Senate District L¹⁸² violates Section 6
2 and the Equal Protection Clause of the Alaska Constitution.

3
4 East Anchorage Plaintiffs do not have a viable Section 6 or Equal Protection
5 Clause claim regarding these senate districts. The only requirement of Section 6 for
6 senate districts is that they must be contiguous, or touch. House Districts 21 and 22
7 share a substantial border, and House Districts 23 and 24 likewise share a significant
8 border. Senate Districts K and L are each comprised of contiguous house districts.

9
10 The East Anchorage Plaintiffs improperly seek to add additional requirements
11 for senate districts not required by Section 6. They want senate districts to be comprised
12 of house districts that residents can drive between without leaving the senate district.
13 They also seek to impose the socio-economic integration requirement for house districts
14 onto senate districts. As a matter of law, Section 6 does not require senate districts to
15 be comprised of house districts which may be traversed by automobile without leaving
16 the senate district, and all portions of the Municipality of Anchorage, including
17 Muldoon and Eagle River, are socio-economically integrated.¹⁸³ Indeed, in the *In re*
18 *2001 Redistricting Cases*, the Alaska Supreme Court rejected a challenger's argument
19 that Eagle River was legally distinct from other portions of the Municipality of
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26 ¹⁸² ARB000041-ARB000042.

¹⁸³ *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1091 (Alaska 2002); *see also Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1361-63 (Alaska 1987).

1 Anchorage for purposes of socio-economic integration because: “Anchorage is by
2 definition socio-economically integrated.”¹⁸⁴

3
4 No Alaskan court has held that contiguity under Section 6 is only satisfied for
5 purposes of senate districts if they are comprised of two house districts that touch the
6 most or have the most shared boundary.

7 Contiguity is a visual concept and under Alaska law requires that the districts
8 touch. It is a binary concept; either the paired house districts touch or they do not. There
9 is no further requirement for senate pairings as the senate districts undeniably benefit
10 from the protections assured in creation of the house districts of which it is comprised,
11 including relative socio-economic integration.

12
13 Moreover, since *Groh v. Eggers*, the Alaska Supreme Court has consistently
14 held that neighborhoods within a borough or municipality are socio-economically
15 integrated. There is no requirement that senate districts consist of house districts that
16 are socio-economically integrated with each other, but even if there was, two
17 neighborhoods of the same town are plainly integrated.¹⁸⁵ The Section 6 argument
18 advanced by East Anchorage Plaintiffs is unsupported by Alaska law.
19
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24 ¹⁸⁴ *In re 2001 Redistricting Cases*, 47 P.3d at 1091 n.8.

25 ¹⁸⁵ *See In re 2001 Redistricting Cases*, 2002 WL 34119573, at 42 (citing *Hickel*, 846 P.2d
26 at 51-52). (holding that each of the Anchorage districts are socio-economically integrated in
accordance with Article VI, Section 6, and reasoning “The Alaska Supreme Court has indicated
that by definition those districts composed wholly of a single borough are socio-economically
integrated.”).

1 **6. Article VI, Section 10 Claims**

2 Four of the Plaintiff groups in this litigation assert that the Board violated § 10
3 of Article VI of the Alaska Constitution. None has merit. The Board addresses each
4 in turn after discussing the applicable law:
5

6 The Alaska Constitution does not mandate public hearing on the final
7 redistricting plan.¹⁸⁶ Article VI, Section 10(a) of the Alaska Constitution dictates
8

9 Within thirty days after the official reporting of the decennial census of
10 the United States or thirty days after being duly appointed, whichever
11 occurs last, the board shall adopt one or more proposed redistricting
12 plans. *The board shall hold public hearings on the proposed plan, or, if*
13 *no single proposed plan is agreed on, on all plans proposed by the board.*
14 No later than ninety days after the board has been appointed and the
15 official reporting of the decennial census of the United States, the board
16 shall adopt a final redistricting plan and issue a proclamation of
17 redistricting. . . .¹⁸⁷

18 Pursuant to the directive and plain language in Section 10(a), public hearings are
19 required for all *proposed plans* adopted by the Redistricting Board within the first 30
20 days after reporting of the U.S. census. Section 10 requires no more than the adoption
21 of at least one proposed plan within thirty days, followed by at least two public hearings
22 (two are required because the section uses the plural of “hearings”). Section 10 sets the
23 floor on public process, not the ceiling. Because the Board adopted v.1 and v.2 within
24 30 days, and then heard public testimony on those draft plans on September 17 and
25 September 20, it satisfied all of its obligations under Section 10. The robust public

26 ¹⁸⁶ Alaska Const. art. VI, § 10.

¹⁸⁷ Alaska Const. art. VI, § 10 (emphasis added).

1 process that followed between September 20 and November 10 was all extra; it was
2 above the minimal process required by Section 10.

3
4 Section 10's public testimony requirement is purposefully limited to proposed
5 plans only. Section 10 provides no more than 60 days after adoption of proposed plans
6 for the Redistricting Board to hold public hearings, adopt a final plan, and issue the
7 proclamation of redistricting. It is unsurprising that Section 10 does not extend public
8 hearing obligations beyond the Board's initial, proposed plans. Imposing a burden that
9 a public hearing be held on the exact final plan adopted would necessitate a reduction
10 in the amount of public testimony or input elicited on the proposed plans. Such a final
11 plan hearing would also be cyclical and must inevitably end with a mere rubber-stamp
12 hearing where there is no intent to consider or incorporate any additional testimony,
13 only to check a "public testimony" box necessary to complete the final plan. Such a
14 requirement would amount to a waste of time and resources in an already accelerated,
15 time-scarce process. This Court should not judicially write-in a hearing requirement
16 that is not required by a plain reading of the language of the Alaska Constitution.

17
18
19 In addition to the Challengers' manufactured hearing requirement being
20 impractical and contrary to the actual language included in Section 10, this Court
21 rejected that argument. In the *In re 2001 Redistricting Cases*, Judge Rindner concluded
22 that the redistricting board had fully complied with Article VI, Section 10 of the Alaska
23 Constitution without holding hearings on the final plan. Judge Rindner explained:
24

25
26 Defendants contend, and this court agrees, that Article VI, Section 10
requires that public hearings be held only on the plan or plans adopted by

1 the Board within thirty days of the reporting of the census. Indeed, given
2 the extraordinary time constraints imposed by Article VI, Section 10 on
3 the work of the Board, any other requirement would likely discourage the
4 Board's consideration of plans submitted after the initial thirty day time
5 period. Likewise, if the Board were required to hold additional public
6 hearings on any significant or substantial modifications made after public
7 comment was received on the original proposed plans, the Board might
8 be discouraged because of lack of time to hold hearings, from making
9 such modifications based on public input. The evidence indicates that
many of the Board members were trying to modify parts of the various
plans virtually until a final vote was taken. The Board's work would also
likely be hindered by the uncertainty of whether a modification to a plan
was significant enough to warrant additional public hearings.¹⁸⁸

10 On appeal, the Alaska Supreme Court affirmed this plain reading of Section 10.¹⁸⁹

11 Similar to the 2001 cases, the aspects of the Redistricting Board's Final Plan
12 criticized by the Challengers were all included in at least one of the proposed plans
13 adopted by the Redistricting Board and subject to 25 separate public hearing
14 opportunities.¹⁹⁰ The areas of the Final Plan that the Challengers complain about were
15 made available to the public and were subject to public testimony. Nothing more is
16 required.
17

18 The East Anchorage Plaintiffs acknowledge that the Board complied with
19 Section 10 regarding house districts but claim that the Board's November 9, 2021
20

21
22 ¹⁸⁸ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 24 (Alaska Super. Feb. 1, 2002).

23 ¹⁸⁹ *In re 2001 Redistricting Cases*, 44 P.3d 141, 142 (Alaska 2002) ("Except insofar as
24 they are inconsistent with this order, the orders of the superior court challenged by petitioners
are AFFIRMED.").

25 ¹⁹⁰ *See In re 2001 Redistricting Cases*, 2002 WL 34119573, at 24-25 n.40 ("This case does
26 not present the problem of the Board adopting an entirely new plan that has never been the
subject of public hearings and which was a radical departure from plans that had been the
subject of public comment.").

1 adoption of eight *senate districts* for the sixteen house districts within the Municipality
2 of Anchorage violated Section 10.¹⁹¹ They claim that the Board’s failure to have a
3 public hearing on the specific Anchorage senate pairings that the Board adopted is a
4 violation of Section 10’s requirement that the Board “shall hold public hearings on the
5 proposed plan, or, if no single proposed plan is agreed on, on all plans proposed by the
6 board.”¹⁹² The problem for the East Anchorage Plaintiffs is that Section 10 requires no
7 such thing.
8

9
10 Section 10 requires the Board to hold public hearings on any proposed plans it
11 adopts.¹⁹³ The Board adopted two proposed redistricting plans (Board Composite v.1
12 and Board Composite v.2) on September 9, 2021,¹⁹⁴ within 30 days of receiving the
13 U.S. Census data for Alaska.¹⁹⁵ It took public testimony on these proposed plans on
14 September 9 and September 17, 2021.¹⁹⁶ Based on that public testimony and other
15 feedback, the Board reconvened on September 20, 2021, and adopted refined versions
16 of v.1 and v.2, which were designated Board v.3 and Board v.4, respectively.¹⁹⁷ The
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20 ¹⁹¹ First Am. App. to Compel the Alaska Redistricting Board to Correct Its Senate District
Pairings in Anchorage, ¶¶ 38-41 (Dec. 15, 2021).

21 ¹⁹² *Id.*, ¶¶ 38-41.

22 ¹⁹³ Alaska Const. art. VI, § 10.

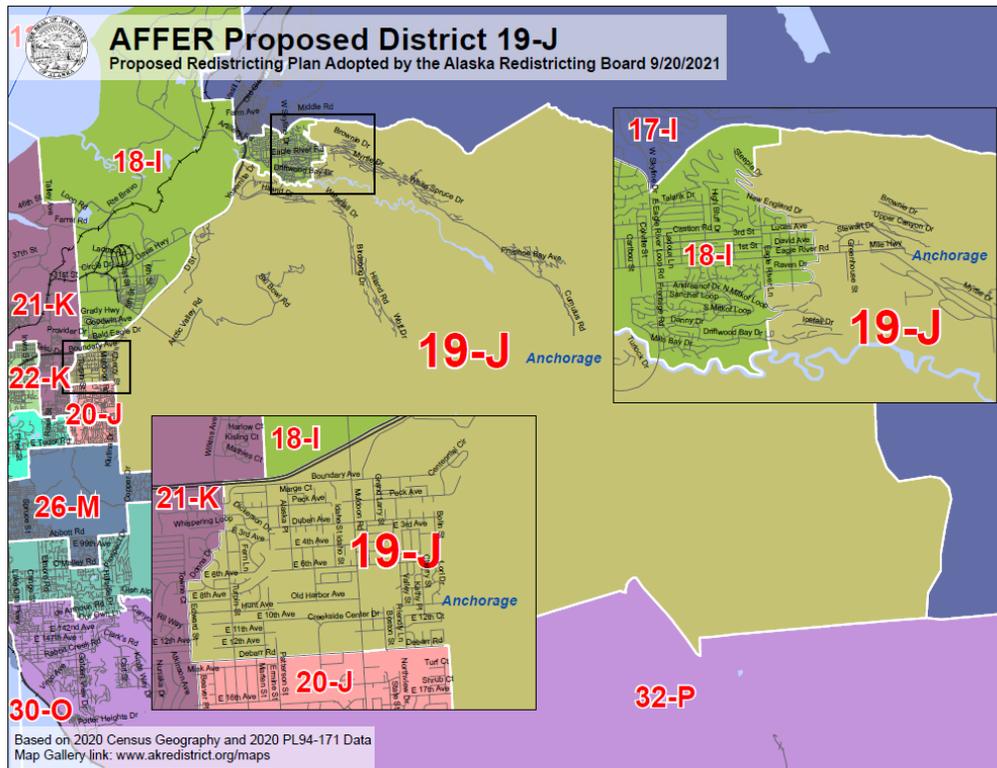
23 ¹⁹⁴ ARB010708-ARB010765 (Board Composite v.1); ARB010766-ARB010821 (Board
Composite v.2).

24 ¹⁹⁵ ARB001158-ARB001164 (Minutes of September 9, 2021 Meeting where v.1 and v.2
adopted).

25 ¹⁹⁶ ARB001163-ARB001164 (September 9 public testimony on Board v.1 and Board v.2);
26 ARB001165-ARB001173 (September 17 public testimony on Board v.1 and Board v.2).

¹⁹⁷ ARB001174-ARB001191 (minutes of September 20, 2021 ARB meeting).

1 Board also adopted four third-party maps (AFFER, AFFR, Senate Minority Caucus,
 2 and Doyon Coalition) to increase the number of proposed plans to six.¹⁹⁸ Four of the
 3 six proposed plans included proposed senate pairings, including AFFER’s plan which
 4 proposed pairing South Muldoon with Eagle River to create a proposed Senate District
 5 J, as shown below:
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ARB001272

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 21 The East Anchorage Plaintiffs assert that the Board violated § 10 on November
 22 9, by adopting senate pairings without a public hearing on the pairings it specifically
 23 adopted. That is not what Section 10 requires. Section 10 requires that the Board hold
 24 public hearings on any proposed plans, not on its final plan. It did that with Board v.1,
 25

26
 198 ARB001189-ARB001191 (minutes of September 20, 2021 ARB meeting).

1 Board v.2, Board v.3, Board v.4, AFFER’s proposal, AFFR’s proposal, Senate Minority
2 Caucus’s proposal, and the Doyon Coalition proposal. Those plans were all adopted so
3 that the public could provide public testimony on them, including the senate pairings of
4 some of those plans, through the Board’s September 27-November 1 “Roadshow”
5 across Alaska. Plainly, the Board held public hearings on its proposed plans, as
6 required by Section 10. The East Anchorage Plaintiffs are attempting to, again, add
7 things to the Alaska Constitution that are not in it. Section 10 does not require the
8 Board to hold public hearings on its final redistricting plan.
9

10
11 The Mat-Su Plaintiffs likewise assert that the Board violated Section 10 because
12 “the Board failed to hold requisite public hearings on the Final Plan.”¹⁹⁹ While the
13 Mat-Su Plaintiffs may desire the Board hold public hearings on its Final Plan, nothing
14 in Section 10 requires it. The Board was required to hold public hearings on its proposed
15 plans, which it undeniably did across Alaska, including in Palmer and Wasilla within
16 the Mat-Su Borough.
17

18 Valdez’s and Skagway’s Section 10 claims mirror one another. They also
19 erroneously claim that Section 10 requires a public hearing on the Final Plan. Section
20 10 plainly does not require that. They also claim that the Board violated Section 10
21 because the City of Valdez and the Municipality of Skagway Borough were not put into
22 house districts that met their preferences. In other words, Skagway and Valdez attempt
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26 ¹⁹⁹ Am. Compl. in the Nature of an Expedited App. to Compel Correction of Error in Redistricting Plan, ¶¶ 42-44 (Dec. 15, 2021).

1 to read into Section 10 the substantive requirement that the Board must hold public
2 hearings and adopt house districts that conform to whatever public testimony the Board
3 receives. Redistricting is not a popularity contest. Nothing of the sort can be found in
4 Section 10, which simply requires the Board to hold public hearings. Section 10 is a
5 procedural provision; it does not speak to the composition of any house or senate district
6 that the Board adopts.
7

8 **7. Open Meetings Act Claims**

9
10 The East Anchorage, Valdez, and Skagway Plaintiffs assert that the Board
11 violated Alaska's Open Meetings Act. But the Board is neither subject to the Open
12 Meetings Act nor did it violate the Act's provisions. The Board properly noticed all of
13 its meetings and all of its meetings were open to the public, with the exception of the
14 handful of executive sessions that the Board entered to discuss facts and litigation
15 strategy for the all-but-certain lawsuits that would follow its adoption of the Final Plan.
16

17 Valdez and Skagway claim that the Board conducted secret deliberations and
18 serial meetings, and that the Board failed to properly conduct necessary votes. The
19 evidence at trial will show that the Board did not conduct any secret deliberations or
20 serial meetings and it properly conducted necessary votes. The Board advised public
21 attendees that it was going into executive session to obtain legal advice and upon exit
22 from the session tried to provide a general synopsis of broad topics covered without
23 revealing any specific attorney-client communications or advice.
24
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1 The East Anchorage Plaintiffs claim that the Board violated the Open Meetings
2 Act on November 8 and 9, when it considered and adopted senate districts.²⁰⁰ The basis
3 of this claim is that the East Anchorage Plaintiffs speculate two things occurred during
4 those executive sessions that did not: (1) that the Board used executive session on those
5 days to improperly present general principles of redistricting law, and (2) a majority of
6 the Board met during that session and reached agreement on senate pairings.²⁰¹ Neither
7 guess is accurate. The Board entered executive session to obtain legal advice on the
8 all-but-assured litigation that would follow adoption of the Final Plan. The Board
9 decided not to adopt certain senate pairings based on that advice, but did not discuss or
10 reach agreement on different senate pairings. The specific senate pairings that the East
11 Anchorage Plaintiffs challenge in this litigation were discussed in open session on
12 November 8, 2021, *before* the executive session that East Anchorage Plaintiffs
13 incorrectly guess is where pairing South Muldoon and Eagle River to make a senate
14 district first occurred.²⁰²

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18 The Board is not subject to the Act, but even if it were, there is no evidence the
19 Board violated the Act. The Plaintiffs' claims are pure speculation and inadmissible
20 inferences.
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25 ²⁰⁰ East Anchorage Am. Compl., ¶¶ 35-37.

26 ²⁰¹ *Id.*, ¶¶ 36-37.

²⁰² ARB006441-ARB0066481.

1 **8. Due Process Claims**

2 Several plaintiffs attempt to use the due process clause of the Alaska
3 Constitution as a catch-all claim when the elements of other available claims cannot be
4 satisfied. With regard to redistricting, Article I, Section 7 of the Alaska Constitution
5 requires a meaningful opportunity to participate in the redistricting process and be
6 heard. The Board’s compliance with Article VI, Section 10 already afforded this
7 opportunity. The more directly applicable Article VI, Section 10 sets out the process
8 that the Board is to follow. However, in addition to asserting Section 10 claims,
9 Plaintiffs²⁰³ also assert due process claims under Article I. No redistricting challenger
10 has ever prevailed on a stand-alone due process claim, and plaintiffs should not prevail
11 here either.
12

13
14 The Skagway and Valdez Plaintiffs recycle their flawed Section 10 arguments
15 that the Board did not hold public hearings on its proposed plans. However, the
16 evidence will show that the Board held public hearings on all of its proposed plans,
17 including Board v.1, Board v.2, Board v.3, and Board v.4 The Board undertook an
18 entire statewide “Roadshow.” To the extent Skagway and Valdez are asserting that the
19 Board was required to hold public hearings before adopting any of its proposed plans,
20 that is not the process that was due under Section 10, but that occurred nonetheless. The
21 Board took public testimony on September 7, 8, 9, 17, and 20, regarding its proposed
22 plans.
23
24

25
26 ²⁰³ The Calista Plaintiffs are the only Plaintiff group that do not assert a due process
challenge under Article I.

1 plans before adopting them as proposed plans. To the extent Skagway and Valdez are
2 claiming that the final redistricting plan must be subject to a public hearing, that is not
3 required by Section 10 or any caselaw.
4

5 Under applicable Alaska case law, no due process violation has been found even
6 where (1) the final plan was submitted with little to no input from the public, (2) the
7 plan was not published online, (3) consideration of plans after public hearings were
8 completed, (4) that public hearing was not held on the final plan that was adopted prior
9 to its adoption, and (5) access to the board members by individuals outside of public
10 hearings.²⁰⁴ There is simply no recognized due process violation under the Alaska
11 Constitution if the public was afforded public hearings before and after adoption of its
12 proposed plans.
13
14

15 Skagway and Valdez also claim that due process was violated because the
16 Board's decision was arbitrary, irrational, and departs for past pairings. There is no
17 evidence to support these claims. First, if boards were to be bound to prior boards'
18 redistricting plans, there would be no need to reconvene every 10 years. Second, Article
19 VI, Section 6 sets the standards necessary for creating house and senate districts. Where
20 these Section 6 requirements are met, the Board's decision is not arbitrary or irrational:
21 it was making decisions based on explicitly what is required of it under the Constitution.
22
23
24

25 ²⁰⁴ *In re 2001 Redistricting Cases*, 44 P.3d 141 (2002) (“We hold that plaintiffs’ due
26 process challenges to the board’s development of the Proclamation Plan [including adopting
final plan that was not provided to the public and was not published for public comment or
testimony] have no merit.”).

1 It is not irrational to follow the strictures of Section 6 and not read additional
2 requirements into it. No other court has found a violation of due process under the
3 Alaska Constitution in the redistricting process, and the 2021 redistricting process has
4 been the most publicly available through use of the internet. Remote video and audio
5 meetings were held,²⁰⁵ the board members traveled around the state to be available to
6 the public,²⁰⁶ the Board actively posted public submissions and plans online for
7 uninterrupted public access.²⁰⁷ Of all the redistricting processes in Alaska’s history, the
8 2021 redistricting cycle has afforded the greatest access to the public.²⁰⁸ If prior cycles
9 did not violate the due process clause, the 2021 redistricting process certainly did not.
10
11

12 The Mat-Su Plaintiffs assert there was a due process violation because the final
13 plan was not subject to public hearing.²⁰⁹ Alaskan courts have already ruled such an
14 allegation is not a due process violation.²¹⁰
15

16 From the outset, it is important to clarify that the “hard look” standard advocated
17 by the East Anchorage Plaintiffs must be read in light of the constitutional
18 requirements. The standard of review does not impose substantive or process
19 requirements that do not otherwise exist. The Board is not required to take a hard look
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21

22 ²⁰⁵ Torkelson Aff. ¶ 50.

23 ²⁰⁶ Torkelson Aff. ¶ 50.

24 ²⁰⁷ Torkelson Aff. ¶ 50.

25 ²⁰⁸ Dep. Tr. of R. Ruedrich, at 12:15-13:2.

26 ²⁰⁹ See Mat-Su Am. Compl. ¶¶44-45.

²¹⁰ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 24 (Alaska Super. Feb 1, 2002),
aff’d 44 P.3d 141, 143 (Alaska 2002).

1 at standards not set forth in the constitution. Because the Board paired two contiguous
2 house districts and did not violate the urban/rural anti-dilution rule; its senate districts
3 are constitutional.
4

5 The East Anchorage Plaintiffs allege that their due process rights have been
6 violated because allegedly (1) the senate pairing decisions were arbitrary, (2) “the
7 Board adopted the challenged senate pairings without consideration or discussion of the
8 overwhelming public testimony . . .,” (3) the Board relied on mischaracterized public
9 testimony, (4) the Board applied an “overly broad application of the attorney-client
10 privilege to evade public scrutiny,” and (5) the Board “misuse[d] [] work sessions and
11 executive sessions to conceal the rationale for its pairings . . . outside the public’s
12 purview.”²¹¹ On the face of East Anchorage’s complaint, it is clear that they are taking
13 contrary and inconsistent positions and making factually incorrect statements. First,
14 the Board is alleged to have ignored public testimony, then it is alleged to have relied
15 on mischaracterized public testimony. Due process does not require that the Board
16 abandon drawing districts that meet constitutional requirements in order to
17 accommodate a popularity contest among citizen comments. Section 10’s requirement
18 that proposed plans be subject to public hearings is different than requiring that the
19 proposed plans be modified based on public testimony.
20
21
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24 Due process does not impose additional process on the Board beyond that
25 required by Article VI of the Alaska Constitution. A “meaningful” opportunity for
26

²¹¹ East Anchorage Am. Compl. ¶¶ 43-46.

1 involvement and to be heard is what is required. There is no evidence that any of the
2 East Anchorage Plaintiffs were denied such a meaningful opportunity. Two of the East
3 Anchorage Plaintiffs—Felisa Wilson and Yarrow Silvers—were regular attendees of
4 Board meetings and provided public testimony on several occasions.²¹² After
5 September 20, they had ample opportunity to provide commentary on the proposal to
6 pair South Muldoon with Eagle River, as was proposed in AFFER’s Senate District J.
7 Indeed, an adverse witness to the Board, Randy Ruedrich, testified during his deposition
8 that the Board’s process this redistricting cycle allowed for more public testimony than
9 during the previous cycle.²¹³ The Board’s accessibility is further evidence by the fact
10 that Plaintiff Wilson herself “testified in person at the Redistricting Board hearings and
11 work sessions more than six times and sent in written testimony as well.”²¹⁴

15 9. Equal Protection Claims

16 Each of the five plaintiffs groups allege violations of the equal protection clause.
17 Valdez,²¹⁵ Skagway,²¹⁶ Calista,²¹⁷ and East Anchorage²¹⁸ assert that they are being

20 ²¹² See Aff. of Felisa Wilson ¶ 16, dated Jan. 4, 2022; Aff. of Yarrow Silvers ¶ 21, dated
21 Jan. 4, 2022.

22 ²¹³ Dep. Tr. of R. Ruedrich, at 12:15-13:2.

23 ²¹⁴ Wilson Aff. ¶16. See also Aff. of Kevin David McGee ¶¶ 24-28, dated Jan. 4, 2022
(discussion his public testimony and submissions); Silvers Aff. ¶21 (“I testified throughout the
24 process.”).

25 ²¹⁵ Valdez Am. Compl. ¶63.

26 ²¹⁶ Skagway Am. Compl. ¶¶ 52-53.

²¹⁷ Calista Am. Compl. ¶¶ 29-31.

²¹⁸ East Anchorage Am. Compl. ¶¶50-51.

1 denied the right to an equally weighted vote, or that the strength of their vote is being
2 diluted. Mat-Su Plaintiffs challenge the Final Plan on both the equally weighted vote
3 and one person, one vote principles.
4

5 Mat-Su challenges that House Districts 25-30 are overpopulated and thus violate
6 the one person, one vote principle of the equal protection clause of the Alaska
7 Constitution. Mat-Su is correct that House Districts 25-30 all have more people than
8 the ideal number of 18,335. The least overpopulated district is House District 30 with
9 18,535, which is 201 people or 1.10% more than the ideal population of 18,335. The
10 most overpopulated district within the Mat-Su is House District 25 with 18,822 people,
11 which is 487 people or 2.66% over the ideally populated district of 18,335.²¹⁹ The *de*
12 *minimus* overpopulation of House Districts 25-30 was necessary to accomplish greater
13 socio-economic integration of the Ahtna region and to avoid overpopulation
14 significantly greater than that experienced by the Mat-Su Borough from occurring in
15 the Fairbanks North Star Borough.²²⁰
16
17

18 No court in Alaska has struck down a district for being overpopulated by 2.66%.
19 Nor has a court struck down as unconstitutional a maximum deviation of 2.66% within
20 an incorporated area.
21
22
23

24 ²¹⁹ ARB007234.

25 ²²⁰ See *Borrromeo Aff.* ¶ 23; *Binkley Aff.* ¶¶ 40-41; *Torkelson Aff.* ¶¶ 56-58. See also
26 ARB000639, ARB001793-ARB001794, ARB001795-ARB001796, ARB001822,
ARB002873, ARB003089, ARB003418, ARB003998, ARB004220 (public testimony);
ARB009242 (Nov. 4 Tr. at 72:7-22) (Board discussion of the public testimony).

1 Valdez, Skagway, Calista, the Mat-Su Borough, and the East Anchorage
2 Plaintiffs all allege that their inclusion with “dissimilar municipalities and localities”
3 dilutes their vote and violates the due process clause.²²¹ There is no merit to these
4 geographic equal protection claims. Under Alaska law, an inference of discrimination
5 may arise in the geographic context where excess population of a borough is split
6 among a number of districts or senate parings are comprised of cross borough districts.
7 There is no such inference of discrimination for unorganized areas of the State or when
8 house districts within a borough are combined to form senate districts.²²² Further,
9 dividing an unorganized area does not, without more, constitute sufficient evidence of
10 an equal protection violation such that the Board must justify its action. And as the
11 Court has recognized, if there is no evidence of an actual impact on the political process,
12 an inference of discrimination carries little weight.²²³

16 Neither Valdez nor Skagway have sufficient populations to create a house
17 district. Valdez’s population is roughly 4,000 and Skagway’s is roughly 1,200. And
18 while they are incorporated cities, they are not part of any organized Borough. All of
19 Skagway’s population is contained within House District 3. All of Valdez’s population
20 is contained within House District 29. “[G]roups of voters are not constitutionally
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25 ²²¹ Valdez Am. Compl. ¶ 63; Skagway Am. Compl. ¶ 53; Calista Am. Compl. ¶ 30, Mat-
Su Am. Compl. ¶ 40; East Anchorage Am. Compl. ¶ 50.

26 ²²² *In re 2001 Redistricting Cases*, 44 P.3d 141, 146 (Alaska 2002).

²²³ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at *32.

1 entitled to proportional representation absent invidious discrimination.”²²⁴ If half of
2 Valdez’s voters were in one district and half in another, it might have a point. But here,
3 no evidence presented by Valdez or Skagway will demonstrate that its representation is
4 disproportionate within its district, let alone that its placement is the result of
5 discrimination.
6

7 Calista contends that its vote was unconstitutionally diluted through the
8 inclusion of the Tyonek Precinct in Senate District S, which reduced Calista’s admitted
9 controlling interest in a senate seat by less than 2%, resulting in a remaining 54.4% of
10 the population being comprised of Calista population. A private entity is not entitled
11 to control of a senate district. Nor does Calista allege that the result of this alleged
12 unconstitutional discrimination results in an actual impact on the likely outcome of the
13 political process. That is to say, Calista’s shareholders still hold a controlling portion
14 of the population. As recognized in the 2001 redistricting cycle, where there is no
15 evidence of an actual impact on the political process, an inference of discrimination
16 (which Calista has not even satisfied the requirements for) carries little weight.²²⁵
17
18 Calista’s senate district equal protection claim is not supported by Alaska law.
19
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21 Calista’s equal protection allegations stemming from the division of Calista’s
22 unincorporated region amongst three house districts does not raise an inference of
23 unconstitutional discrimination under Alaska law. Each of the concerned districts are
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25
26 ²²⁴ *In re 2001 Redistricting Cases*, 44 P.3d at 146.

²²⁵ *In re 2001 Redistricting Cases*, 2002 WL 34119573, at *32.

1 comprised of rural populations, so there is no borough/rural competition. More
2 baffling, Calista itself was a proponent of the AFFER Proposed Plan that split Calista
3 into three house districts, just not precisely as the Board's Final Plan.
4

5 The Mat-Su Borough alleges that its excess population has been impermissibly
6 included within House District 29, which includes unincorporated Valdez, and House
7 District 30, which includes portions of the Denali Borough. As explained earlier, House
8 Districts 29 and 30 were drawn in order to achieve and balance the dictates of Section
9 6. Such a valid, nondiscriminatory justification is sufficient to overcome an inference
10 of discrimination that could arise from the inclusion of organized and unorganized
11 communities within a single district. There is simply no evidence of intentional
12 discrimination by the Board.
13
14

15 Finally, the East Anchorage Plaintiffs contend that the Final Plan's pairing of
16 House Districts 21 and 22 to create Senate District K and pairing of House Districts 23
17 and 24 to create Senate District L violates equal protection. But they fail to articulate
18 what protected class of voters has their vote diluted by pairing equally-populated house
19 districts within the Municipality of Anchorage.
20

21 East Anchorage Plaintiffs have no geographic discrimination claim as the senate
22 pairings they challenge are within the incorporated Municipality of Anchorage. To the
23 extent the East Anchorage Plaintiffs base their equal protection claim on a partisan or
24 political affiliation, they do not state what race or ethnic group is being disenfranchised
25 by the pairings. To the extent, they are arguing that all non-white voters are a
26

1 homogenous voting group, the Board’s Voting Rights Act expert found that there was
2 insufficient evidence to support that conclusion in Anchorage.²²⁶ The United States
3 Supreme Court has expressly cautioned that we cannot simply assume that all minority
4 voters act the same, but rather there must be proof that minority voters are politically
5 cohesive.²²⁷ East Anchorage Plaintiffs offer no such proof.

7 Moreover, East Anchorage’s arguments do not make sense. If they believe that
8 pairing South Muldoon with Eagle River gives Eagle River the chance to elect another
9 senator, that logic applies to South Muldoon as well. House districts of equal
10 population do not have advantages over other house districts with equal population. By
11

13
14 ²²⁶ ARB000088 (“In consultation with Mr. Adelson and Dr. Katz, it was determined that
15 court-accepted statistical methods are not capable of detecting political cohesiveness or racial
16 bloc voting among minority groups in Anchorage from available election returns. . . . Without
17 empirical evidence of Racial Bloc Voting, or Racially Polarized voting, the U.S. Supreme
18 Court has directed that “. . . a state may not assum[e] from a group of voters’ race that they
19 “think alike, share the same political interests, and will prefer the same candidates at the
20 polls.”); see also ARB000113 (“After completing our racially polarized voting analysis of
21 elections in Alaska presented in our earlier report, we were asked to further quantitatively
22 examine voting patterns of Alaska Native, non-Alaska Native Minorities, and Other (non-
23 Minority and non-Alaska Native) individuals in the Anchorage area. In particular, we
24 examined legislative districts 15, 16, 17, 18, 19, 20, 23, and 25. Unfortunately, this analysis is
25 not possible and no reliable inferences can be made of voter behavior in this area. Ecological
inference requires at least some almost homogeneous precincts in order to generate reliable
estimates of a group’s voting behavior. In this area, there are no precincts that are anywhere
close to homogeneous. For example, the largest fraction of non-Alaska Native minority
population in any precinct is 77.4% and only 30.0% for Alaska Natives. This problem was
confirmed by the failed diagnostics of the estimated models attempted on the data from this
area.). See also *Thornburg v. Gingles*, 478 U.S. 30 (1986)(setting out requirements for voters
to be considered as a unit, including that the minority group is politically cohesive and votes
similarly); *League of United Latin American Citizens v. Perry*, 548 U.S. 399 (2006).

26 ²²⁷ See *Thornburg*, 478 U.S. at 30 (setting out requirements for voters to be considered as
a unit, including that the minority group is politically cohesive and votes similarly); *League of
United Latin American Citizens*, 548 U.S. at 399.

1 the plaintiffs' logic, the Final Plan gives the residents along Muldoon three senators
2 who represent their interests: Senate Districts J, K, and L.²²⁸ Thus, East Anchorage's
3 equal protections claim fails as a matter of law.
4

5 **IV. CONCLUSION**

6 The Court should uphold the Board's Final Plan that carefully balances the
7 interests of all Alaskans. The Plaintiffs' challenges to the Final Plan seek to upend this
8 careful balance in favor of their individual interests. The Final Plan's house districts
9 that encompass Skagway and Valdez are constitutional under Section 6, and do not
10 violate any other constitutional rights. Calista is not entitled to mandate the Board draw
11 house districts so that it has more power in any resulting senate district. East Anchorage
12 is not entitled to a safe Democrat senate seat, and the Board's pairing of senate districts
13 in Anchorage complied with the constitutional requirement that senate districts be
14 comprised of two touching house districts. The population deviations in the Mat-Su
15 house districts are *de minimis* and do not violate Section 6 or equal protection. Finally,
16 the 2021 Redistricting Board afforded more public access and involvement than any
17 preceding redistricting board. If the 2021 Redistricting Board's process was
18 constitutionally infirm, it is difficult to imagine a future redistricting board meeting
19 such exacting minimum constitutional guarantees that such a ruling would demand.
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26 ²²⁸ Marcum Aff. ¶ 14.

1 DATED at Anchorage, Alaska, this 18th day of January, 2022.

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12 CERTIFICATE OF SERVICE

13 I hereby certify that on the 18th day of January, 2022,
14 a true and correct copy of ALASKA REDISTRICTING BOARD'S
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