IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT

IN RE 2011 REDISTRICTING CASES	**RILEY ET. AL. PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT: COMPACTNESS**

Case No. 4FA-11-02209 CI.

COMES NOW, Plaintiffs George Riley and Ron Dearborn, by and through

counsel, Michael J. Walleri, to move the Court for partial summary judgment that

Districts 1, 2, and 37 of the 2011 Final Plan for the redistricting of Alaska's legislative

districts adopted by the Alaska Redistricting Board, does not comprise a compact area

within the meaning of Article VI, Section 6 of the Alaska Constitution. The motion is

supported by the accompanying memorandum.

Date: December 5, 2011

Attorney for Plaintiffs
Alaska Bar No. 7906060

Certificate of Service
I certify that a true and correct copy of the foregoing
was served by e-mail on this December 5, 2011 to:
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The Riley Plaintiffs[1] seek partial summary judgment that Proclamation House

Districts 1, 2, and 37 are not compact and therefore violate Article VI, Section 6 of the

Alaska Constitution.

I. THE COMPACTNESS REQUIREMENT.

The Alaska State Constitution states "Each house district shall be formed of

contiguous and compact territory...."[2] Our Court has interpreted this provision to

require compact house legislative districts,[3] which is to be accorded priority

importance in Alaska Constitutional analysis.[4] The purpose of the compactness

requirement is to prevent gerrymandering, which is the "dividing of an area into

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1   George Riley and Ron Dearborn
2   AK CONST. Art. VI, Sec. 6
3   *Hickel v Southeast Conference*, 846 P.2d 38, 44 (Alaska, 1992); *Kenai Peninsula Borough v State*, 743 P.2d 38, 44 (Alaska, 1992) The compactnss requirement does not apply to Senate districts, *Kenai Peninsula Borough, supra* at 1365, except when the Court must order an interim plan. *Hickel, supra. At* 65 n. 11-12 However, in considering Senate districts, similar anti-gerrymandering prophylactic restrictions are expressed in terms of equal protection analysis. *Kenai Peninsula Borough, supra at,* 1365 n 21 (senate districts which meander and ignore political subdivision boundaries and communities of interest will be suspect under the Alaska equal protection clause.) See also, Id., at 1370-1374
4   As previously noted in Petersburg's compactness motion, "The requirements of Article VI, Sec. 6 (of the Alaska Constitution) shall receive priority *inter se* in the following order: (1) continuous and compactness....." *In re 2001 Redistricting Cases,* 44 P.3d 141, 143 n.2 (Alaska, 2002), quoting *Hickel v Southeast Conference,* 846 P.2d at, 62.

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political units "in an unnatural way with the purpose of bestowing advantages on some and thus disadvantaging others."[5] In Alaska, compactness and contiguity are important for "good reason;"i.e. "The fear that politicians would attempt to carve out little pieces of geography and move them around the map for apportionment purposes."[6]

As discussed below, Alaska's Courts consider three types of factors in evaluating the compactness of any particular district: i.e. objective, subjective and justifying factors. The first is a mathematical measurement (objective) factor. The second is a subjective review for "odd-shapes" like "corridors" and "appendages." Finally, such irregularities may be justified by "Alaska's irregular geography," relative compactness, and legal standards with priority over compactness.

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5 *Hickel v Southeast Conference*, 846 P.2d at, 44, *quoting* Proceedings of the Alaska Constitutional Convention ("[The requirements] prohibit[ ] gerrymandering which would have to take place were 40 districts arbitrarily set up by the governor.... [T]he Committee feels that gerrymandering is definitely prevented by these restrictive limits."3 PACC 1846 [January 11, 1956])

6 *Hickel, supra, at 71;* As the Court noted, these concerns has caused 34 states to add requirements for compactness and contiguity to their constitutions." *See* Daniel D. Polsby & Robert D. Popper, *The Third Criterion: Compactness as a Procedural Safeguard Against Partisan Gerrymandering*, 9 YALE L. & POL'Y REV. 301, (1991). While our Constitutional framers may have believed this to be true, the practical effectiveness of such standards to prevent gerrymandering has been put into serious question. See Harrison, *The Aftermath Of In Re 2001 Redistricting Cases: The Need For A New Constitutional Scheme For Legislative Redistricting In Alaska*, 23 Alaska L. R. 51, 77 n 169 (2006) citing Grofman, *Criteria for Districting: A Social Science Perspective*, 33 UCLA L. REV. 77, 88 n 11 (1985).   ("The commonly held view that reliance on formal criteria such as compactness or equal population can prevent gerrymandering is simply wrong.")

A) MATHEMATICAL MEASUREMENT ("OBJECTIVE") FACTOR.

Compact, at a minimum, "means having a small perimeter in relation to area encompassed. The most compact shape is a circle."[7] This factor merely examines a district to determine how close its shape is to a circle, which is principally a mathematical measurement. In particular, the so-called Reock Test, is the most relevant mathematical measurement because it is "an area-based measure that compares each district to a circle.... For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district."[8] The Reock resulting measure clearly reflect the "closeness" to a circle in terms of shape as contemplated by the Alaska courts.

Of course, there are other measures of compactness that have led to confusion. As the Board has otherwise suggested, the Superior Court in *In Re 2001 Redistricting Cases*, opined, "A problem with such mathematical tests is that the commentators are unable to agree on an appropriate measure of compactness."[9] While the Referenced

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7   *Carpenter v Hammond*, 667 P.2d 1204, 1218 *(Alaska, 1983)* (J. Matthews concurring) citing Black's Law
    Dictionary 351 (4th ed. 1968); *Subsequently cited in Kenai Peninsula Borough v State*, 743 P.2d 1352, 1361 (Alaska,
    1987) and *Southeast Conference v Hickel*, 846 P.2d at 45 (Alaska, 1992)
8   Exhibit 1 (Lawson's Compactness Report)
9   See ARB's Memorandum in Support of Opposition to Motion for Partial Summary Judgment on Compactness and Cross
    Motion for Summary Judgment, (Nov. 4, 2011), at 13-14, incl. Exhibit B (hereinafter "ARB Memo: Compactness")

Order has no precedent value,[10] it is also irrelevant. While various "commentators" are useful and informative, the Alaska Supreme Court has offered more guidance in this area than suggested by the by the 2001 Superior Court's order.[11] As noted above, the Alaska Supreme Court has explained in three (3) redistricting rounds, that "The most compact shape is a circle"[12] There is nothing in the Court's opinion *In Re 2001 Redistricting Cases*-- at either the Superior or Supreme Court level-- overturning the precedent of the prior three (3) decisions.

The Board's argument ignores that some measurements commonly used in redistricting have simply been rejected in Alaska. For example, the Population Polygon and the Population Circle test consider the shape of populated areas within a district.[13] Such compactness tests considering population, however, have been rejected by the Alaska courts.[14] Alternatively, other commonly used mathematical measures in redistricting are less probative relative to Alaska's "circle" factor.[15] Thus, the Reock

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10 Appellant R. 214. In Alaska, "unpublished opinions are not precedent for purposes of *stare decisis.*" *McCoy v State*, 80 P.3d 757, 764 (Alaska App., 2002) "(T)he rule does not forbid judges and lawyers from relying on unpublished decisions for whatever persuasive power those decisions might have." Id. See also *State v Doherty*, 167 P.3d 64, 73 n. 29 (Alaska, 2007)

11 As the ARB noted, Judge Ridner "hoped the Alaska Supreme Court will remedy this problem in its anticipated review of this ruling ...". ARB Memo: Compactness, *supra*, at 13 n 5 The Supreme Court did not

12 Note 7 *supra.*

13 See Exhibit 1 (Lawson's Compactness Report)

14 In *re 2001 Redistricting Cases*, 47 P.3d 1089 (Alaska May 24, 2002) ("population distributions are largely irrelevant to the compactness inquiry.")

15 For example, of the remaining tests, only two – the Polsby-Popper and the Schwartzberg ---tests mesure a "closeness to

measurement is the closest measurement to Alaska's "circle" factor embraced by the

Court in *Carpenter, Kenai* and *Hickel.*

B. ODD-SHAPED DISTRICTS ("SUBJECTIVE") FACTOR.

Our Court has further stated that compactness inquiry looks to the shape of a

district, holding that

> Odd-shaped districts may well be the natural result of Alaska's irregular
> geometry. However, "corridors" of land that extend to include a populated area,
> but not the less-populated land around it, may run afoul of the compactness
> requirement. Likewise, appendages attached to otherwise compact areas may
> violate the requirement of compact districting.[16]

In substance, this is a subjective "visual" test. The test as explained in *Hickel*

contains clear guidelines, examples and parameters capable of replication with more

than mere pragmatic intuition. Specifically, as the above quote notes, the Court held

that "'corridors' and 'appendages' may be non-compact.[17] Thus, the *Hickel* factors

suggest specific geometric/geographic shapes that may violate the compactness

requirement. While the compactness holding in *In re 2001 Redistricting Cases*[18] has been

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a circle, however, they contain adjustments, which respectively involve the perimeter and the "base" of the district
shape. The Length-Witdth, Ehrenburg, and the Perimeter tests measure aspects of the district's geometric shape other
than its "closeness" to a circle. See Exhibit 1

16 *Hickel, 486 P.2d, at 455-46*

17 For example see discussion of District 2 in *Carpenter, surpa at 1219 (Matthews concurring)*

18 44 P.3d 141 (Alaska, 2002)

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criticized as not involving much legal analysis,[19] the Supreme Court actually closely

focused upon the *Hickel* subjective factors respecting the presence of "appendages" in

its analysis.[20]

Of course, neither the objective nor the subjective factors are necessarily

determinative of "compactness". Rather, the objective and subjective factors merely

suggest that a District may be non-compact. The Courts compactness analysis must

also consider "relative" compactness and "justifying" factors.

C.   RELATIVITY AND JUSTIFYING FACTORS.

In applying both the objective and subjective factors, our Supreme Court looks

to relative compactness.[21] "Where there are two or more districts in a given area they

can be compared on compactness grounds with other possible districts encompassing

the same area."[22] In looking at "relative compactness," prior court decisions have

looked at the proposed districts and compared them to what is possible. In this sense,

irregularity only renders a district un-constitutionally non-compact where it is

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19 Schulz, *Redistricting And The New Judicial Federalism: Reapportionment Litigation Under State Constitutions*, 37
   Rutgers L. J. 1087, 1114 (2006)
20 44 P.3d, at 143. *Compare* J. Carpeneti's dissent, which also focused upon the existence of appendages. 44 P.3d, at 148-
   149 (Carpenti dissenting). The term appendage appears in the opinion and dissent seven times.
21 *Hickel*, supra, at 46, citing *Carpenter, 667 2d, at 1218 (Matthews, J. concuring)*
22 *Carpenter*, supra at 1218

possible to draw the district in a more compact manner.[23]

While the objective and subjective factors may lead a Court to question a district's compactness, irregularities may be justified by "Alaska's irregular geometry," relative compactness, and legal standards with priority over compactness. As the *Hickel* Court noted, "Odd-shaped districts may well be the natural result of Alaska's irregular geometry. " However, while this is clearly stated as a justifying factor to permit an otherwise non-compact district, a review of Alaska Supreme Court redistricting case law failed to render an example where the Court held that an otherwise non-compact district was actually required by Alaska's "irregular geometry".

On the other hand, the Court has clearly held that there are considerations which have priority over compactness. Specifically, the Court has held that the requirements of the Federal Constitution and the Voting Rights Act have priority over

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23 In his dissent in In Re 2001 Redistricting Cases, J. Carpeneti commented
    Alaska's constitution "calls only for relative compactness;" this is because the state's geography and population distribution make it impossible to draw conventionally compact districts that neatly approximate regular shapes like squares and circles. We have frequently allowed some departure from strict compactness in a given district in order to accommodate all of the constitutional criteria for all of the districts in the state. 44 P.3d, at 148

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compactness.[24] In both *Hickel* and the *2001 Redistricting Cases*, an otherwise non-compact district was held to be justified by the necessity to comply with the Voting Rights Act.[25] However, where compliance with the VRA is possible with a relatively more compact district, the VRA does not justify the less compact district.[26]

D. NON-FACTORS.

As a general matter, population,[27] size[28] and strict equality[29] in a district are not considered factors in Alaska's compactness analysis.

II.   THE DISTRICTS

There are seven (7) Proclamation House Districts (Proc. HD) containing

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24 In *re 2001 Redistricitng Litigaiton*, 44 P. 3d at 134 the Court stated
Priority must be given first to the Federal Constitution, second to the federal voting rights act, and third to the requirements of article VI, Section 6 of the Alaska Constiution. The requirements of article VI, Section 6 shall receive priority *inter se* in the following order: (1) contiguousness and compactness, (2) relative socioeconomic integration, (3) consideration of local government boundaries, (4) use of drainage and other geographic features in describing boundaries.
25 *Hickel, 846 P 2d , at* 52 n 23; In *re 2001 Redistricitng Litigaiton*, 47 P. 3d, at 1092
26 In *Hickel*, the Court discussed the matter as follows: "The Board cited the Voting Rights Act as its justification in creating District 3. District 3 was meant to be a Native influence district. The proposed configuration of District 3 raised the Native percentage of the district two percentage points compared to the old "Islands District." However, such an awkward reapportionment of the Southeast Native population was not necessary for compliance with the Voting Rights Act. An "Island District" can be configured which satisfies the requirements of the Voting Rights Act and which is more compact and better integrated socially." *Hickel, 846 P 2d , at* 51-52
27 In *re 2001 Redistricting Cases*, 47 P.3d 1089 (Alaska May 24, 2002) ("population distributions are largely irrelevant to the compactness inquiry.")
28 Id. (neither size nor lack of direct road access made a district unconstitutionally non-compact)
29 *Hickel, supra, at 53* (The Board's failure to create a compact district is not justified by rigid adherence to mathematical equality.)

residents of the Fairbanks North Star Borough.[30] Two (2) of these districts and the

Bethal/Aleutians West District are drawn in a non-compact manner: i.e. Proc. HD 1, 2,

and 37.

A. PROCLAMATION HOUSE DISTRICT 1

Proc. HD 1 is a district including East Fairbanks City, (including that portion of

Fort Wainwright north of the Tanana River)[31] and portions of Badger, Steele Creek,

and South Van Horn CDP.[32] The District may be considered relatively compact under

the objective Reock Test: i.e. scoring .45.[33] While less than an absolute mean under the

test, it is more compact than the Proclamation Plan mean (i.e. .37), and within the

Proclamation Plan standard deviation (.13).[34]

However, Proclamation HD 1 is clearly non-compact when considering

subjective factors. Specifically, Proclamation HD 1 contains a classical "appendage"

on its western side, which protrudes west from the New Steese Highway along the

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30 See Exhibit 2 (Map of Fairbanks Districts) at ARB00006632
31 Ft. Wainwright is split between HD 1, 2 and 5, with the portion south of the Tanana River in the latter district. See *infra* regarding portion in HD 5. See Exhibit 3 & 4 regarding small portion of Ft. Wainwright located in HD 2 (i.e. the Badger Road Gate area).
32 See Exhibit 3 (Map of HD 1) at ARB00006588. See also ARB 00006563 (District Descriptions) and 00006580 (Census Designated Places CDPs by Proclamation District)
33 See Exhibit 1 at 6.
34 Id. It is also more compact than the alternative corresponding District in the Modified RIGHTS Plan. Id., at 5

Noyes Slough. The far-western tip of the appendage contains a small portion of Aurora area south of College Road and north of Noyes Slough.

The relative non-compactness of the District is most easily demonstrated by a comparison of the comparable district contained in Board Options 1 and 2, adopted by the Board on April 13, 2011.[35] Board Option HD 10 (the comparable East Fairbanks City District contained in both Options 1 and 2),[36] contains no such appendage. South Cushman serves as a common boundary between the East and West Fairbanks City districts south of the Mitchell Expressway in Options 1 and 2 and the Proclamation plans. [37] However, the appendage in Proc. HD 1 is made possible by swapping out the area south of the Chena River, north of the Mitchell Expressway, east of Cushman Street and west of the New Steese Highway. Under Options 1 and 2, this area was in the East Fairbanks City District, while the area within the western appendage in Proclamation HD 1 was in the West Fairbanks City District. There is no question that the Board's change in the Final plan exchanged these populations to make possible the offensive appendage contained in Proclamation HD 1.

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35 Cf. Exhibit 4. The Board record relating to the adoption of Board Option 1 and 2 can be found at ARB0002645-2826 (Hrg. Transcript 4/13/11), Map of Board Option 1at ARB00006097, and Map of Board Option 2 at ARB00006102.
36 There is no significant difference in HD 10 contained in Options 1 and 2.
37 Cf. Exhibits 3 & 4

There is no justification for this non-compactnees. "Alaska's irregular

geography," is clearly not relevant. There is no compelling geographic feature in

downtown Fairbanks requiring the appendage. Equally, there is no legal

consideration having priority over Alaska's constitutional requirement for

compactness. The appendage does not implicate US Constitutional issues.

Downtown Fairbanks is not a Native effective or influence district subject to VRA

scrutiny, thus VRA considerations are irrelevant. There is nothing in the record that

explains why this appendage was necessary.

Alternatively, circumstantial evidence does exist to suggest a possible political

motivation for the appendage of both a personal and partisan nature. The Fairbanks

Districts were drawn by Board-member Jim Holm,[38] who was the former Republican

State Representative from West Fairbanks City.[39] In 2004 and 2006, Holm ran for re-

election against Democrat Scott Kawasaki.[40] In 2004, Mr. Holms defeated Mr.

Kawasaki.[41] However, in 2006, Mr. Kawasaki defeated Mr. Holm,[42] and Mr. Kawasaki

is the incumbent State Representative from West Fairbanks.[43] That latter election was

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38 Exhibit 5 (Holm Depo.) at 55: 18- 56:1
39 Id. at 12:22
40 Id. at 11:22- 12:5; Exhibit 6 (Aff't of S. Kawasaki) at -----
41 Id., (Aff't of S. Kawasaki)
42 Exhibit 5 (Holm Depo.) at 12:6-11
43 Id. (Aff't of S. Kawasaki)

a close and hotly contested, and Mr. Holm felt that the campaign was unfairly critical of his tenure in the State Legislature.[44] Mr. Holm knew Mr. Kawasaki's family,[45] including the location of his parents old home, but was under the mistaken impression that Mr. Kawasaki lived in an Aurora-area house different from his parents old home.[46] In fact, Rep. Kawasaki lives in his parents old home in the Aurora area south of Noyes Slough. Rather, it is Rep. Kawasaki's sister, Sonja Kawasaki who lives in the Aurora area at house different from her parents old house, which is north of Noyes Slough.[47] While Ms. Kawasaki's address is not listed in the phone book, she did disclose her address to the ARB when she signed in to testify at the ARB's Fairbanks hearing on April 19, 2011, indicating her address as 224 Spruce.[48] She merely observed, and did not testify.[49] Ms. Kawasaki is often mistaken for Rep. Kawasaki's wife.[50] Ms. Kawasaki's home is in the farthest western tip of the appendage protruding from Proclamation HD 1.[51] Thus, her home is located in the West Fairbanks City district under the Board Option plans (HD 9) but was moved to the East Fairbanks City district (Proclamation HD 1) under the Proclamation plan when the district's western

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44 Exhibit 5 at 12:21- 14: 18 (Holm Depo.)
45 id., at 42: 17-19
46 Id. at   42:13-25
47 Exhibit 6 (Aff't of S. Kawasaki)
48 ARB 00011971
49 ARB 00012357-00012369
50 Exhibit 6 (Aff't of S. Kawasaki)
51 Id.

appendage was created. Thus, while there is no direct evidence, there is substantial

circumstantial evidence that Board-member Jim Holm redrew the appendage in

Proclamation HD 1 in a failed attempt to move Mr. Kawasaki from his current West

Fairbanks district to East Fairbanks. That attempt was based upon Mr. Holm's

admitted misunderstanding as to where Mr. Kawasaki actually lives.

Additionally, shortly after the Board's Proclamation, Mr. David Pruhs, the

Republican Party District 10 Chair filed a letter of intent to run for the legislature.[52]

The current incumbent for District 10 (East Fairbanks City) is Mr. Steve Thompson,

who is also a Republican. Mr. Pruhs lives in the the sliver of area south of the Chena

River, north of the Mitchell Expressway, east of Cushman Street and west of the New

Steese Highway that was originally in East Fairbanks City under the Board Option

plan, but is now in West Fairbanks City under the Proclamation Plan.[53]   If the Board

had adopted the Board Option plan, Mr. Pruhs would have had to face an incumbent

from his own party for election. But under the Proclamation Plan, Mr. Pruhs will run

in West Fairbanks against Mr. Kawasaki.   If Mr. Kawasaki lived in his sister's house as

Mr. Holm believed, Mr. Kawasaki would have been forced to run for re-election in a

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52 Exhibit 6 (Aff't of S. Kawasaki)
53 Id.

district that was substantially different than his current district, and against a popular

former City Mayor and Republican House incumbent who would be running in a

district that was substantially similar to his current district, while Mr. Pruhs would

have been running in district without an incumbent.

B. PROCLAMATION HOUSE DISTRICT 2.

HD 2 is an elongated district that follows the Richardson Highway corridor

from the Fairbanks City limits southeasterly to the Badger Road,[54] North Pole, Moose

Creek, and Eielson AFB areas.[55] The District is not compact under the objective

Reock Test: i.e. scoring .19.[56] While less than an absolute mean under the test, it is also

less compact than the Proclamation Plan mean (i.e. .37), and outside the Proclamation

Plan standard deviation (.13).[57] Nor is the district relatively compact in an objective

sense. The Modified RIGHTS Plan (MRP)[58] divides the area in question into two

Districts (i.e. MRP HD 5- Eielson and MRP HD 6 North Pole Badger) Both resulting

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54 As noted above, HD 2 contains a small portion of Ft. Wainwright around the Badger Road Gate area. See discussion
   regarding HD 1 above and HD 5 below.
55 See Exhibit 7 (Map of HD 2) at ARB00006088. See also ARB 00006565 (District Descriptions) and 00006580 (Census
   Designated Places CDPs by Proclamation District)
56 See Exhibit 1
57 Id. It is also more compact than the alternative corresponding District in the Modified RIGHTS Plan. Id.
58 See Exhibit ----. The Modified RIGHTS Plan (MRP) was presented to the Court in the Petersburg Summary Judgment
   Motion on Compactness (10/18/11) See Attachment 2 to Aff't of Leonard Lawson accompanying the Petersburg
   Motion. As Mr. Lawson's Affidavit in indicates, the Modified RIGHTS Plan is a modification of the final RIGHTS
   plan submitted to the Board., which was submitted after Dr. Handley's presentations and is not the RIGHTS plan
   contained in the Board Record. Cf. ARB 00006339 et. Seq.

districts are clearly more compact than Proc. HD 2. MRP HD 6 scores .53 in the Reock

Test, which is more compact than the test's absolute mean, greater than the Modified

RIGHTS Plan mean (.40) and within the that plan's standard deviation (.14).[59] MRP

HD 5 scores .32[60] in the Reock Test, which is more compact than Proc. HD 2, although

it is less than either the the test's absolute mean, or the Modified RIGHTS Plan mean

(.40). It is, however, within the that plan's standard deviation (.14). From an objective

perspective, the District is clearly not compact in an absolute sense nor in a relative

sense.

Nor is Proclamation HD 2 compact from a subjective perspective. Proc HD 2

has three (3) major population areas strung along the Richardson Highway corridor:

i.e. Badger, North Pole and Eielson/Salcha. As a result, Proc. HD 2 is simply one

large "corridor" that connects these three (3) population centers and, at the same time,

divides the three population areas among four Districts (1, 2, 3, and 6).[61] For example,

the Badger area is divided using the Chena Slough, with the Persinger Drive area

located in HD 1 and the Nordale Road area divided between HD 1 and 3. The Repp

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59 Exhbit 1, at 5
60 Id.
61 The Richardson Highway Corridor district is somewhat reminiscent, on a smaller scale, of the infamous North Carolina
    12th Congressional District which followed the I-85 Highway corridor for 160 miles. In *Shaw v Reno*, 509 U.S. 630
    (1993), the Court stated that the district's irregularities "provide strong indicia of a potential gerrymander". The
    Richardson Highway Corridor district is only 40 miles, but of course, contains only about 1/35th the population.

Road portion of the Badger area is located in HD 3. Of course these portions of the Badger area are connected by a system of bridges across Chena Slough on Persinger Drive, Nordale Road, Repp Road and Maule Lane. Closer to North Pole, HD 2 crosses the Chena Slough dividing the Maule Lane area, locating residents south of Maule Lane in HD 2 and residents north of Maule Lane in HD 3. Similarly, the Nelson Road area east of the City of North Pole is divided with half the area in HD 2 and the other half (Nelson Road portion of the area) in HD 3. Finally, the Eielson area is divided by HD 6 "wrapping around" the southern portion of HD2 to divide that portion of Salcha between the Tanana River and Eieslon Air Base from the Eielson/Salcha area. major portions of the Moose Creek The residents of the segmented areas must all travel through District 2 to reach the Fairbanks core area. Thus, the entire District is a "corridor" district, which is one of the "odd shapes" that the Court in *Hickel* held to be indicative of gerrymandering.

Narrow highway corridor districts are generally indicia of gerrymandering. In particular, the Richardson Highway Corridor district is somewhat reminiscent, on a smaller scale, of the infamous North Carolina 12th Congressional District which followed the I-85 Highway corridor for 160 miles. In *Shaw v Reno*, 509 U.S. 630 (1993),

the Court stated that the highway corridor district's irregularities "provide strong

indicia of a potential gerrymander". While the Richardson Highway Corridor district

is only a quarter the length of the "I-85" Corridor questioned in *Reno v Shaw*,

(approximately 40 miles) it contains only about 1/35th the population.

The <u>relative</u> non-compactness of Proc. HD 2 from a subjective perspective is

also demonstrated by a comparison to the Modified RIGHTS Plan, which divides the

area encompassed by Proc. HD 2 into two areas: i.e. MRP HD 5 and 6.[62] This approach

remedies the slicing and dicing of the Badger, North Pole and Eielson/ Salcha

population centers caused by the "corridor" structure of the Proclamation District.

The Modified RIGHTS Plan demonstrates that the area may be configured without the

artifices of 'corridors', 'wrap around districts' or other odd-shapes, which the *Hickel*

Court held to be indicative of gerrymandering.

There is no justification for the non-compactness manifested by the Proc. HD 2

Richardson Corridor District. As discussed above, the district actually conflicts with

the the area's geography and population is relatively dense and more rationally

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62 Supra.

accommodates a compact district shape. Proc. HD 2 is not required by "Alaska's

irregular geography." There is no legal consideration having priority over Alaska's

constitutional requirement for compactness. The Richardson Corridor District does

not implicate US Constitutional issues, and Proc. HD 2 is not a Native effective or

influence district subject to VRA scrutiny. VRA considerations are simply irrelevant.

There is nothing in the record that explains why this Richardson Corridor District was

necessary.

E. PROCLAMATION HOUSE DISTRICT 37.[63]

Proc. HD 37 is a district that includes Bethal, the Kuskokwim Delta, and crosses

the Bering Sea to include Nunivak Island, Saint Matthew Island, the Pribilof Islands,

and all the western Aleutian islands.[64] On its face, Proc. HD 37 violates any

reasonable interpretation of compactness or contiguity, both by dividing the

geographic and cultural unity of the Aleutians and by combining the western

Aleutians with Bethel-area communities hundreds of miles north on the other side of

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63 Dist. 37 was not contained in the Riley Plaintiff's complaint, but was challenged in the FNSB complaint. This Court has allowed the Riley Plaintiffs to assert claims that the FNSB could have raised under their complaint. See Order of Nov. 3, 2011. Of course, the implications of District 37 relative to Fairbanks are intriguing. Given the Senate pairing of Dist 37 and 38 under the Proclamation Plan as Senate District S, the residents of Goldstream and Ester face the rather bizarre potential that they are part of a Senate District that stretches to a comparable distance between Des Moines and Los Angles. See Exhibit 9 Under this plan, Ester/Goldstream could have a Senator from Bethal and a Representative from Attu.

64 See Exhibit 8 (Map of HD 37) at ARB00006052. See also ARB00006046 (District Descriptions)

Proc. HD 36.

The Proclamation Plan divides the Western Aleutian Islands (in HD 37) from

the Eastern Aleutian Islands (in HD 36). The plan divides Akutan (in HD 37) from

the rest of the Aleutians East Borough (in HD 36). This is not the first time that a

redistricting plan has looked to do strange things to the Aleutians to solve districting

problems. This approach was used in the 1990 redistricting process, and found to

have violated the Alaska constitution. In *Hickel,* splitting the Aleutians was found to

violate of the contiguity standards set out in Alaska Constitution.[65] But the problem

presented by Proclamation HD 37 is more complex than the lack of contiguity. It also

violates the Alaska Constitutional standards respecting compactness.

Without question, the District fails the objective prong of compactness analysis.

Applying the Reock Test to HD 37 results in a score of .00.[66] This score essentially

means that District lacks any compactness whatsoever. This score is substantial

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65 This is the subject of a contemporaneously filed motion challenging the contiguity of HD 37. Specifically, the Court in
   Hickel held
      The Board's plan divides the Aleutian Islands between two districts. The eastern Aleutians are in District 39, and
      the western Aleutians in District 37. On its face this severance violates the contiguous territory requirement of
      article VI, section six of the Alaska Constitution.[30] Although the parties did not raise this issue, the separation of
      the Aleutian Islands is so plainly erroneous that we address the issue *sua sponte.* Thus, in exercise of our authority
      under article IV, section two of the Alaska Constitution, we hold that the separation of the Aleutian Islands into two
      districts violates article VI, section six of the Alaska Constitution. *Hickel, supra at 54.*
66 See Exhibit 1

outside the the Proclamation Plan's standard deviation (.13).[67]   In an objective sense, a

.00 score means the District is simply not compact.[68]

But the "bizarreness " of Proclamation HD 37 is more evident considering

subjective factors. While the Court in *Hickel* invalidated splitting the Aleutians

principally upon contiguity grounds, the Court also addressed the main problem

presented by Proc. HD 37 in terms of compactness. The most obvious aspect of HD 37

is the near 800 mile expanse over the Bering Sea between Nunivak Island and Attu., or

the near 500 mile expanse over the Bering Sea between the Kuskokwim Delta and

Unalaska. It is assumed that the Board will argue that contiguity within HD 37 is

bridged by these open expanses of the Bering Sea. As the Court stated, "(A)

contiguous district may contain some amount of open sea. However, the potential to

include open sea in an election district is not without limits. If it were, then any part of

coastal Alaska could be considered contiguous with any other part of the Pacific Rim.

To avoid this result, the constitution provides the additional requirements of

compactness and socio-economic integration."[69]   HD 37 would seem to present an

---

67 Id. It is also more compact than the alternative corresponding District in the Modified RIGHTS Plan. Id.
68 The District's failure under the Reock tests has limited significance, and relates to Alaska's irregular geometery.
    Specifically, the District crosses the International Date line, which may be largely responsible for the zero compactness
    measurement.   Cf. The Modified Rights Plan, which also scores a zero compactness score.
69 Hickel *Hickel*, 846 P.2d at 45

extreme example of the this principle. It is mere common sense that the limits upon

the use of open sea to bridge areas that are non-contiguous via land have been

reached when the Board creates a district in which the closest parts of a District range

between 500 and 800 miles of separation over open sea. Such shapes are precisely the

sort of "bizarre" and "odd-shaped" district that the constitutional requirements

prohibit.[70]   The open sea expanse is the equivalent of an unpopulated "corridor" that

extends to include a populated area within a district that may violate the requirement

of compact districting.[71] Clearly, Nunivak Island and the Kuskokwim Delta are

sparsely populated areas. And the Western Aleutians are populated, albeit even more

sparsely. But the Bering Sea is clearly an unpopulated corridor of theoretical

contiguity that is being offered to justify what would clearly otherwise be a non-

contiguous district. This is clearly the type of "contiguity" that violates the

"compactness" requirements of the Alaska Constitution.

       The <u>relative</u> non-compactness of the District is also easily demonstrated by a

comparison of the comparable district contained Board Options 1 and 2. [72]   Board

70 *Hickel,* 846 P.2d at 45-46.
71 *Hickel, 486 P.2d, at 455-46*
72 Cf. Exhibit 10. The Board record relating to the adoption of Board Option 1 and 2 can be found at ARB0002645-2826
    (Hrg. Transcript 4/13/11), Map of Board Option 1at ARB00006091, and Map of Board Option 2 at ARB00006092.

Option HD 37 is a district that is contiguous by land which includes all the Aleutians, the Alaska Peninsula and most of the Bristol Bay region.[73] Equally, the Modified RIGHTS Plan follows a similar structure.[74] Clearly, more compact alternatives are available.

There is no justification for this non-compactnees. While the Alaska Peninsula and the the Aleutians are clearly one of the most pronounced aspects of "Alaska's irregular geography," that irregularity does not justify the lack of compactness displayed by Proclamation HD 37. "Simple geographic logic would dictate that these islands should be together and joined to the peninsula from which they spring."[75] Indeed this is a resolution that is common Benchmark, Board Option 1 and 2, and the Modified RIGHTS Plan.

Equally, there is no VRA necessity that would require splitting of the Aleutians . According to the the Board's VRA Expert, Dr. Handley, the Benchmark House District 37, which encompasses the Aleutian Islands and portions of the Bristol Bay region,

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73 There is no significant difference in HD 37 contained in Options 1 and 2.
74 Exhibit 11 (Modified RIGHTS Plan map)
75Exhibit 12 Expert's Report of Theodore S. Arrington, PH.D. at 15.

presents a specific analysis. Benchmark "District 37 has consistently elected minority-preferred candidates despite being less than 41% Alaska Native VAP" because "most of the contests in House District 37 were not (racially) polarized."[76] Thus, Dr. Handley opines that a District drawn in this area would be an "effective" VRA district with less than 41% Native VAP.[77] The Modified RIGHTS Plan demonstrates that a relatively compact and contiguous district (i.e. MRP HD 37) may be drawn that includes much of Benchmark HD 37 and would have a Native VAP of 46%.[78] Thus, the violation of the Alaska Constitutions requirement of compact and contiguous districts is not necessitated by the VRA.

CONCLUSION

For the above reasons, the Court should grant Plaintiffs' motion for summary judgment and hold that Proclamation House Districts 1, 2, and 37 are not compact and therefore violate Article VI, Section 6 of the Alaska Constitution.

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76 ARB000133498-00013349.
77 Id.
78Exhibit 11 Expert's Report of Theodore S. Arrington, PH.D. at 9

Date: December 5, 2011

(signature)
Michael J. Walleri
Attorney for Plaintiffs
Alaska Bar No. 7906060

<u>Certificate of Service</u>
I certify that a true and correct copy of the foregoing
was served by e-mail on this December 5, 2011 to:

Mr. Michael D. White	Mr. Thomas F. Klinker
Patton Boggs, LLP	Birch, Horton, Bittner, & Cherot
601 5ᵗʰ Ave., Suite 700	127 W. 7ᵗʰ Ave.
Anchorage, AK 99501	Anchorage, AK 99501

(signature)
Michael J. Walleri

Report on Compactness of Alaska Proclamation Plan and Demonstration Plan of Attorney Michael Walleri

Prepared by Leonard Lawson

Scope of the Project:
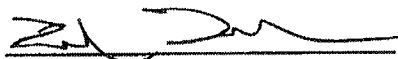
I was hired by attorney Michael Walleri to create a demonstration plan and run compactness analysis on both the demonstration plan and the Proclamation Plan prepared by the Alaska Redistricting Board.

Professional Background and Experience

I have a Bachelor of Science in Mathematics with a Concentration in Physics. I led a redistricting project by the Alliance for Reproductive Justice that created and presented more than 6 complete redistricting maps to the Alaska Redistricting Board. I have attended the National Conference of State Legislatures Redistricting Seminar held over four days in Washington DC. I was trained on the Maptitude software by the software's developers Caliber Corporation during three days of training at their company headquarters in Newton, Massachusetts. I work as a database administrator for the past three years most recently for the Alaska Democratic Party. Redistricting software and geographic information systems on which it is based is solely merging of databases with the visual display of information on a map. These disciplines are closely related.

Compactness Analysis:

Using Maptitude for Redistricting version 6.0 I created the Demonstration Plan for Attorney Mike Walleri. Maptitude is a well-recognized expert in GIS software used by multiple Federal government agencies such as Housing and Urban Development and the US Census Bureau. I also uploaded the Proclamation Plan from the shapefiles obtained directly from the AK Redistricting Board. Using the Maptitude Software I conducted all eight compactness measures provided by the Caliper on both the Proclamation and Demonstration Plans and attached them as Attachments A and B.

Leonard Lawson   Oct. 17 2016

Exhibit 1
Page 1 of 6

Measures of Compactness Reports

Maptitude for Redistricting computes seven measures of compactness: Reock, Schwartzberg, Perimeter, Polsby-Popper, Length-Width, Population Polygon, Population Circle, and Ehrenburg.

The following references were used to develop these measures:

Cox, E. P. A method of assigning numerical and percentage values to the degree of roundness of sand grains. *Journal of paleontology*, 1:179–183, 1927.

Hofeller, T., and B. Grofman. Comparing the compactness of California congressional districts under three different plans: 1980, 1982 and 1984. In B. Grofmann, editor, *Toward Fair and Effective Representation*, pages 281–288, New York, 1990. Agathon.

Niemi, R. G., B. Grofman, C. Carlucci, and T. Hofeller. Measuring compactness and the role of a compactness standard in a test for partisan and racial gerrymandering. *Journal of Politics*, 52(4):1155–1181, 1990.

Polsby, D. D., and R. D. Popper. The third criterion: compactness as a procedural safeguard against partisan gerrymandering. *Yale Law and Policy Review*, 9:301–353, 1991.

Reock, E. C., Jr. Measuring the compactness as a requirement of legislative apportionment. *Midwest Journal of Political Science*, 5:70-74, 1961.

Schwartzberg, J. E. Reapportionment, gerrymanders, and the notion of compactness. *Minnesota Law Review*, 50:443–452, 1966.

Young, H. P. Measuring the compactness of legislative districts. *Legislative Studies Quarterly*, 13(1):105–115, 1988.

Ehrenburg 1892, see Frolov, Y. S., Measuring the shape of geographic phenomena: a history of the issue, Soviet Geography 16, 676–87, 1995.

Iowa State Legislature Web Site:
HTTP://WWW.LEGIS.STATE.IA.US/REDIST/JUNE2001REPORT.HTM.

Reock Test

The Reock test is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact. The Reock test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan.

See [Reock 1961] and [Young 1988].

Schwartzberg Test

The Schwartzberg test is a perimeter-based measure that compares a simplified version of each district to a circle, which is considered to be the most compact shape possible. This test requires the base layer that was used to create the districts. The base layer is used to simplify the district to exclude complicated coastlines.

For each district, the Schwartzberg test computes the ratio of the perimeter of the simplified version of the district to the perimeter of a circle with the same area as the original district. The district is simplified by only keeping those shape points where three or more areas in the base layer come together. Water features and a neighboring state also count as base layer areas. This measure is usually greater than or equal to 1, with 1 being the most compact. Unfortunately, the simplification procedure can result in a polygon that is substantially smaller that the original district, which can yield a ratio less than 1 (e.g., an island has a 0 ratio). The Schwartzberg test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan.

See [Schwartzberg 1966] and [Young 1988].

Perimeter Test

The Perimeter test computes the sum of the perimeters of all the districts. The Perimeter test computes one number for the whole plan. If you are comparing several plans, the plan with the smallest total perimeter is the most compact.

See [Young 1988].

Polsby-Popper Test

The Polsby-Popper test computes the ratio of the district area to the area of a circle with the same perimeter: $4\pi Area/(Perimeter^2)$. The measure is always between 0 and 1, with 1 being the most compact. The Polsby-Popper test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan.

See [Cox 1929], [Polsby and Popper 1991], and [Niemi, Grofman, Carlucci, and Hofeller 1990].

Exhibit 1
Page 3 of 6

Length-Width Test

The length-width test computes the absolute difference between the width (east–west) and the height (north–south) of each district. The bounding box of a district is computed in longitude-latitude space, and the height and width of the box through the center point are compared. The total is divided by the number of districts to create the average length-width compactness. A lower number indicates better length-width compactness. This measure of compactness is designed for contiguous districts, since the bounding box encloses the entire district.

See HTTP://WWW.LEGIS.STATE.IA.US/REDIST/JUNE2001REPORT.HTM.

Population Polygon Test

The population polygon test computes the ratio of the district population to the approximate population of the convex hull of the district (minimum convex polygon which completely contains the district). The population of the convex hull is approximated by overlaying it with a base layer, such as Census Blocks. The measure is always between 0 and 1, with 1 being the most compact. The Population Polygon test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan.

See [Hofeller and Grofman 1990] and [Niemi, Grofman, Carlucci, and Hofeller 1990].

Population Circle Test

The population circle test computes the ratio of the district population to the approximate population of the minimum enclosing circle of the district. The population of the circle is approximated by overlaying it with a base layer, such as Census Blocks. The measure is always between 0 and 1, with 1 being the most compact. The Population Circle test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan.

See [Hofeller and Grofman 1990] and [Niemi, Grofman, Carlucci, and Hofeller 1990].

Ehrenburg Test

The Ehrenburg test computes the ratio of the largest inscribed circle divided by the area of the district. The measure is always between 0 and 1, with 1 being the most compact. The Ehrenburg test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan.

See [Frolov 1975].

Plan Name: Test VRA strenghten
Plan Type: House
Date: 10/4/2011
Time: 3:47:21PM
Administrator: Leonard Lawson
User: llawson

Measures of Compactness

10/4/2011

DISTRICT	Reock	Schwartzberg	Perimeter	Polsby-Popper	Length-Width	Population Polygon	Population Circle	Ehrenburg
1	0.51	1.62	739.58	0.26	4.95	0.87	0.84	0.44
2	0.26	2.34	1,461.21	0.13	36.22	0.26	0.25	0.38
3	0.50	1.29	281.13	0.37	16.13	0.59	0.58	0.45
4	0.53	1.64	671.48	0.26	5.88	0.75	0.48	0.40
5	0.32	2.19	1,601.91	0.15	10.36	0.25	0.04	0.15
6	0.53	1.46	51.61	0.29	1.65	0.92	0.83	0.44
7	0.32	1.58	335.62	0.23	42.66	0.40	0.18	0.32
8	0.38	1.40	267.39	0.30	2.29	0.28	0.18	0.45
9	0.66	1.23	12.78	0.64	0.35	0.96	0.72	0.49
10	0.33	2.08	57.70	0.19	3.66	0.45	0.34	0.34
11	0.46	1.35	806.42	0.46	45.62	0.06	0.05	0.41
12	0.41	1.37	154.91	0.42	2.24	0.70	0.05	0.50
13	0.56	1.53	31.14	0.38	0.50	0.88	0.74	0.52
14	0.45	1.31	28.28	0.54	4.33	0.89	0.69	0.38
15	0.35	1.56	141.31	0.34	20.47	0.35	0.19	0.52
16	0.56	1.28	149.37	0.55	12.40	0.43	0.18	0.49
17	0.38	1.53	14.89	0.30	0.94	0.92	0.81	0.32
18	0.41	1.30	50.75	0.55	0.88	0.50	0.22	0.50
19	0.53	1.47	8.93	0.44	0.00	0.83	0.62	0.46
20	0.35	1.69	8.93	0.33	1.22	0.82	0.54	0.25
21	0.55	1.35	7.98	0.53	0.73	0.91	0.75	0.46
22	0.50	1.47	11.68	0.45	1.45	0.88	0.48	0.53
23	0.35	1.62	16.18	0.37	1.60	0.70	0.36	0.39
24	0.58	1.40	10.92	0.49	0.79	0.85	0.58	0.47
25	0.35	1.43	11.04	0.48	1.69	0.91	0.42	0.33
26	0.45	1.31	49.09	0.57	5.74	0.62	0.28	0.57
27	0.42	1.39	10.71	0.49	1.70	0.85	0.62	0.41
28	0.44	1.24	26.63	0.62	1.90	0.88	0.30	0.61
29	0.47	1.23	9.68	0.65	0.13	0.94	0.50	0.58
30	0.56	1.37	19.16	0.47	0.36	0.80	0.42	0.59
31	0.38	1.45	19.45	0.40	2.84	0.73	0.41	0.41
32	0.16	2.19	1,578.76	0.13	244.61	0.63	0.04	0.22
33	0.34	1.44	71.89	0.43	16.35	0.93	0.70	0.29
34	0.50	1.83	562.01	0.18	15.84	0.43	0.12	0.44
35	0.44	1.45	791.31	0.36	11.52	0.34	0.33	0.42
36	0.16	2.02	2,893.38	0.11	391.20	0.72	0.36	0.22
37	0.00	3.34	5,897.20	0.02	629.73	0.13	0.03	0.09
38	0.23	2.47	2,924.54	0.08	61.51	0.58	0.28	0.23
39	0.20	2.27	4,158.20	0.13	354.90	0.04	0.03	0.22
40	0.29	1.56	2,343.65	0.31	255.53	0.99	0.13	0.39
Sum	N/A	N/A	28,288.84	N/A	N/A	N/A	N/A	N/A
Min	0.00	1.23	N/A	0.02	0.00	0.04	0.03	0.09
Max	0.66	3.34	N/A	0.65	629.73	0.99	0.84	0.61
Mean	0.40	1.63	N/A	0.36	55.32	0.65	0.39	0.40
Std. Dev.	0.14	0.43	N/A	0.17	132.92	0.28	0.25	0.12

Exhibit 1

1   Page 5 of 6

Measures of Compactness

10/5/2011

DISTRICT	Reock	Schwartzberg	Perimeter	Polsby-Popper	Length-Width	Population Polygon	Population Circle	Ehrenburg
1	0.45	1.82	46.12	0.26	1.51	0.53	0.42	0.39
2	0.19	2.03	76.51	0.18	1.64	0.75	0.70	0.30
3	0.32	1.65	338.42	0.22	38.75	0.22	0.19	0.34
4	0.46	1.39	19.48	0.46	0.16	0.92	0.57	0.64
5	0.39	1.53	236.03	0.28	12.10	0.32	0.20	0.58
6	0.37	1.82	1,333.77	0.20	98.95	0.46	0.13	0.37
7	0.46	1.49	642.29	0.37	30.45	0.31	0.11	0.57
8	0.46	1.74	44.27	0.30	0.70	0.76	0.59	0.45
9	0.28	1.74	34.39	0.30	5.81	0.80	0.48	0.35
10	0.46	1.44	151.71	0.38	0.34	0.84	0.06	0.54
11	0.51	1.40	184.69	0.40	5.91	0.40	0.18	0.41
12	0.45	1.58	66.34	0.35	3.30	0.46	0.41	0.32
13	0.40	1.53	32.01	0.39	1.70	0.49	0.29	0.48
14	0.37	1.46	8.97	0.46	1.76	0.85	0.41	0.29
15	0.47	1.58	11.91	0.39	0.07	0.81	0.51	0.36
16	0.39	1.58	12.09	0.36	1.61	0.80	0.40	0.48
17	0.42	1.45	8.48	0.45	0.95	0.90	0.64	0.39
18	0.46	1.38	16.38	0.45	1.38	0.83	0.43	0.34
19	0.47	1.35	51.24	0.53	5.59	0.42	0.35	0.57
20	0.27	1.67	20.66	0.31	3.29	0.72	0.46	0.27
21	0.42	1.23	27.23	0.59	2.47	0.85	0.33	0.58
22	0.43	1.41	12.57	0.49	1.39	0.85	0.34	0.49
23	0.52	1.32	13.26	0.56	1.52	0.91	0.50	0.41
24	0.46	1.36	15.19	0.52	1.75	0.85	0.44	0.40
25	0.39	1.36	13.69	0.46	0.90	0.98	0.58	0.28
26	0.52	1.24	89.72	0.52	8.50	0.75	0.50	0.56
27	0.35	1.49	148.30	0.38	16.26	0.73	0.34	0.31
28	0.51	1.53	455.67	0.34	9.81	0.46	0.12	0.25
29	0.38	1.60	81.45	0.36	10.61	0.88	0.75	0.27
30	0.47	1.37	336.58	0.41	24.11	0.57	0.37	0.46
31	0.43	1.41	217.30	0.25	12.91	0.86	0.80	0.38
32	0.18	2.71	1,096.12	0.09	74.44	0.45	0.36	0.17
33	0.56	1.48	680.42	0.34	2.82	0.81	0.78	0.40
34	0.20	2.44	1,527.33	0.12	99.76	0.26	0.25	0.22
35	0.08	3.13	2,843.66	0.06	302.89	0.42	0.04	0.09
36	0.29	2.12	3,460.58	0.12	38.51	0.27	0.06	0.44
37	0.00	2.51	3,858.25	0.02	673.80	0.04	0.02	0.13
38	0.22	1.86	2,138.45	0.20	296.01	0.21	0.03	0.20
39	0.20	2.31	4,301.76	0.12	354.90	0.04	0.03	0.19
40	0.35	1.46	2,164.37	0.36	241.29	0.99	0.14	0.40
Sum	N/A	N/A	26,817.65	N/A	N/A	N/A	N/A	N/A
Min	0.00	1.23	N/A	0.02	0.07	0.04	0.02	0.09
Max	0.56	3.13	N/A	0.59	673.80	0.99	0.80	0.64
Mean	0.37	1.67	N/A	0.33	59.77	0.62	0.36	0.38
Std. Dev.	0.13	0.42	N/A	0.14	134.49	0.27	0.22	0.13
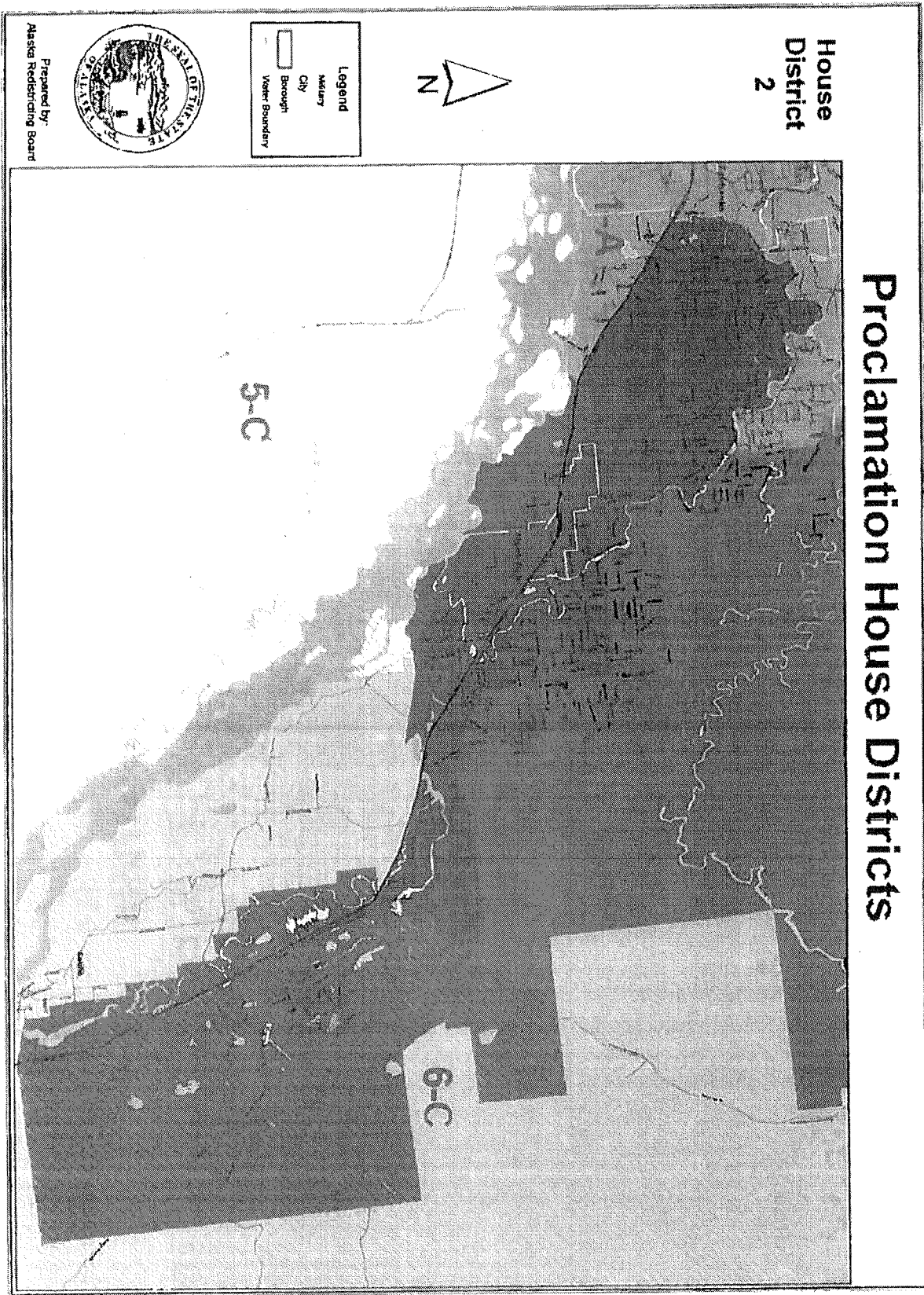
Exhibit 1
1   Page 6 of 6

Proclamation House Districts

House District 2

Legend
Military
City
Borough
Water Boundary

Prepared by:
Alaska Redistricting Board

THE SEAL OF THE STATE OF ALASKA

5-C

6-C

Exhibit 2
Page 1 of 1

Proclamation House Districts

House District 1

N

Districts shown on map: 2-A, 1-A, 3-B, 5-C

Cities: North Pole, Steele Creek, Farmers Loop, College, Fairbanks, Loch Van Horn

Exhibit
Page
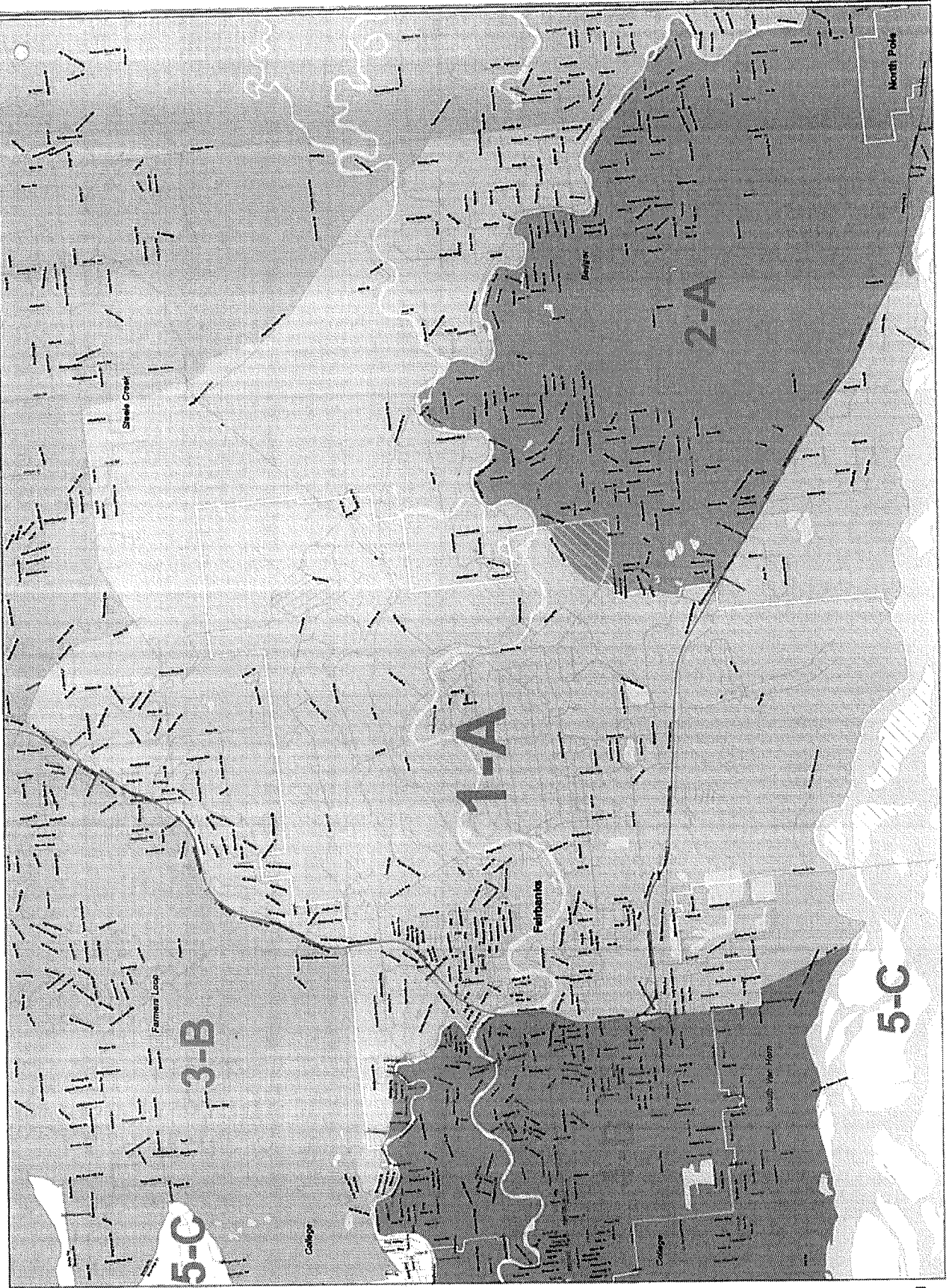
Alaska Redistricting Board

Board Option 1 - District 10

11-F

7-D

10-E

6-C

9-E

8-D

Exhibit 4
Page 1 of 1
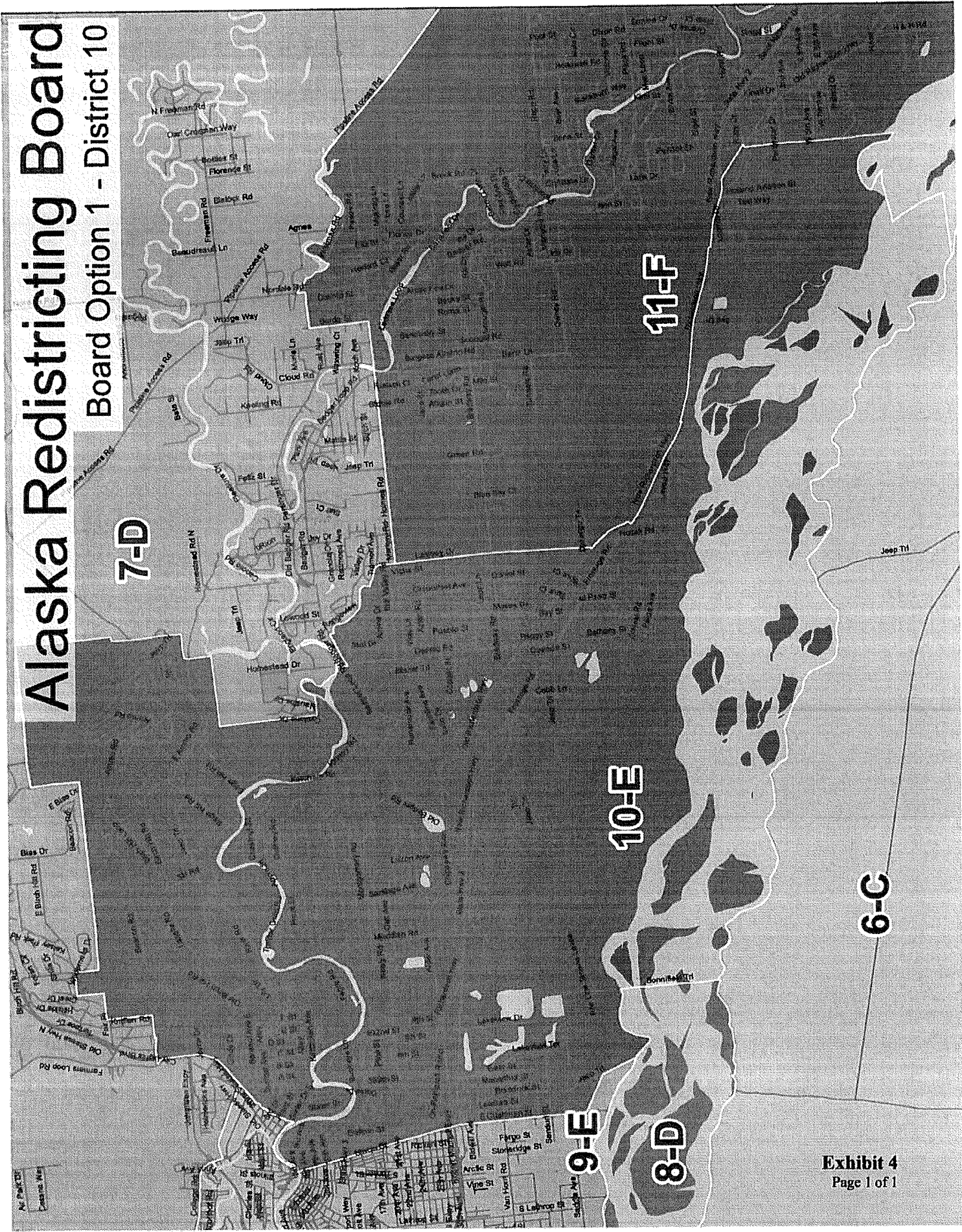
1   IN THE SUPERIOR COURT OF THE STATE OF ALASKA

2   FOURTH JUDICIAL DISTRICT AT FAIRBANKS

3 -

IN RE 2011 REDISTRICTING
4 CASES.
                                              /
5 Consolidated Case No. 4FA-11-2209 CI
                          4FA-11-2213 CI
6   1JU-11-782 CI

7

8

9

            DEPOSITION OF JIM HOLM
10

11

          Tuesday, November 15, 2011
12   11:05 a.m.

13

Taken by Counsel for Fairbanks North Star Borough
14   at
          Patton Boggs, LLP
15   601 West 5th Avenue, Suite 700
          Anchorage, Alaska
16

17

18

19

20

21

22

23

24

25

Page 10

1 A. I don't know. I don't recall. It was very
2 short. It wasn't long at all.
3 Q. Did you place the call or did the call come from
4 his office?
5 A. Which call?
6 Q. The first call.
7 A. I placed the first call.
8 Q. Would you have phone records from that period of
9 time? I take it it was a long-distance phone call,
10 correct?
11 A. I don't know.
12 Q. Do you have -- did you use a cell phone or a land
13 line?
14 A. I don't remember.
15 Q. Okay. You have the phone records from that
16 period of time?
17 A. I would have no idea where it would have come
18 from. If I was in my truck, it would be on my cell
19 phone records, but I would have no idea.
20 Q. Would you mind checking and finding and getting
21 us a copy of the --
22 A. I have no way to do that, that I know of.
23   MR. WHITE: Hold on. If you want anything,
24 you can send me a letter or request the information from
25 me. The client is not going to do anything at your

Page 11

1 request.
2 BY MR. WALLERI:
3 Q. The second phone call, can you describe what
4 happened in that phone call?
5 A. Like I said, he asked me if I really wanted to do
6 it, and then he told me that he was going to appoint me.
7 Q. Was that -- how long do you think that phone call
8 was?
9 A. Very short.
10 Q. Did he say that he was considering anybody else
11 for the appointment?
12 A. Not to my knowledge.
13 Q. Were you aware of his considering anybody else
14 for that appointment?
15 A. Not to my knowledge.
16 Q. Did you make any -- did you make any contacts
17 with any other person seeking support for the
18 appointment?
19 A. Not that I recall.
20 Q. Now, you served in the legislature from when to
21 when?
22 A. 2002 to 2004, and 2004 to 2006.
23 Q. And then 2006 -- in 2004, your opponent that year
24 was Scott Kawasaki; is that correct?
25 A. That's correct.

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1 Q. And you defeated him by, I believe, 56 votes?
2 A. I don't remember.
3 Q. But you did defeat him in the 2004 election,
4 correct?
5 A. Uh-huh.
6 Q. And in the 2006 election you faced Mr. Kawasaki
7 again?
8 A. Uh-huh.
9 Q. And that year, Mr. Kawasaki won the election,
10 correct?
11 A. That's correct.
12 Q. In that election, that was kind of a bitter
13 election, wasn't it, the 2006 election?
14 A. I wouldn't characterize it as bitter.
15 Q. How would you characterize it?
16 A. I don't think it's germane. I don't think it's
17 necessary for me to talk about that.
18 Q. Well, I'll tell you what, how about if we let --
19 if your attorney has an objection to it, he can state it
20 and we can sort it out.
21   But isn't it true that a number of unfair
22 accusations were made by you -- against you by
23 supporters of Mr. Kawasaki?
24 A. I'm not sure they were supporters of Kawasaki per
25 se. I would have no way of knowing. There was a

Page 13

1 gentleman by name of Dave Miles who couldn't have voted
2 for Kawasaki if he had to, so I suspect he was a
3 Democratic operative.
4 Q. And he said some pretty mean things about you?
5 A. He did.
6 Q. Let's not go into the details -- well, do you
7 think that they were fair comments about you?
8 A. They were political comments.
9 Q. But did you think that they were fair?
10 A. I don't believe life is fair.
11 Q. But he made a number of -- he made a number of --
12 well, let's put it this way: I believe that in his
13 website -- he did a website, that you're aware of?
14 A. That's correct.
15 Q. Okay. And in that website --
16   MR. WHITE: By "him," you mean Kawasaki or
17 Miles?
18 Q. I believe Miles. Is that who you meant?
19 A. I have no idea who put the website up. There was
20 a bad website.
21 Q. And it accused you of trying to destroy the
22 dividend, correct?
23 A. Correct.
24 Q. And it also accused you of not caring about
25 unpaid billions in oil royalties and the Exxon Valdez

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1   and all of that, correct?
2   A. I don't know.
3   Q. Do you think that these accusations by Mr. Miles,
4   or whoever was doing these, were unfairly personal and
5   misleading?
6   MR. WHITE: I object, because that's
7   compound. You can go ahead and answer, if you can.
8   Q. Let's try first unfair.
9   A. Like I said, I don't believe life is fair. So
10 what people say is to promote their own goodwill, and I
11 didn't -- I have been around politics all my life, and I
12 didn't expect the truth to be said about me all the
13 time.
14 Q. And isn't it true that some of the things that
15 were said about you were not true?
16 A. That's correct.
17 Q. And you didn't particularly like that, did you?
18 A. I don't know of anyone who would like that.
19 Q. Now, you mentioned a couple of things that I
20 would like you to elaborate on. First of all, you said
21 that you have been around politics all your life,
22 correct?
23 A. Uh-huh.
24 Q. And how is it that you have been around politics
25 all your life?

Page 15

1   A. My grandfather was Secretary of State of
2   Minnesota for 33 years. My grandmother -- or not my
3   grandmother. My father was in the House of
4   Representatives for State of Alaska from 1962 through
5   '72.
6   My mother was Republican National Committeewoman
7   from, I want to say, 1968 to 1972, or maybe even longer.
8   Oh, yeah, I have been around politics a long
9   time.
10 Q. And almost -- and all of the family members have
11 actually been members of the Republican Party?
12 A. That's correct.
13 Q. You also, in your response earlier, you made a
14 reference to a Democratic operative, Mr. Dave Miles was
15 a Democratic operative?
16 A. Uh-huh.
17 Q. Why do you believe that was the case?
18 A. I ran against him in the borough assembly one
19 time, he filed against me. And just the way he was
20 living at the time with Nillo Koponen, who was a former
21 Democratic representative from Fairbanks, so a man is
22 known by the company he keeps.
23 Q. And the -- of course, the borough assembly is a
24 non-partisan position, correct?
25 A. Supposed to be.

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1   Q. Do you think it is?
2   A. No.
3   Q. And why is that?
4   A. Because of just the way it is.
5   Q. So that's just kind of the reality of the
6   situation?
7   A. I think so.
8   Q. Partisan politics affect even the local
9   situation, correct?
10 A. Of course.
11 Q. And when -- do you think in the campaign with
12 Mr. Miles and ultimately your two campaigns against
13 Mr. Kawasaki, do you think that the Democrats -- you
14 talk about Democratic operatives.
15   Do you know if other Democratic operatives were
16 involved in the process?
17 A. I don't know of any actual people. I'm sure
18 that's true, but like all political cases, I mean, every
19 time you have a political run, there is people on both
20 sides.
21 Q. Did this -- would you agree with me that,
22 particularly in the 2006 campaign, that it was a much --
23 that the attacks on you were much more vitriolic than
24 they were in 2004?
25 A. I don't know why that's germane to anything here.

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1   Q. Well, we'll sort that out. Is it fair to say --
2   A. I don't think it's a fair characterization.
3   Q. So they were equally vitriolic?
4   A. I don't like the word "vitriolic." I don't use
5   it.
6   Q. You understand what vitriolic means, correct?
7   A. Pardon me?
8   Q. You understand what the word means?
9   A. Of course.
10 Q. So my use of the word, is it fair to say that one
11 race was more vitriolic than the other?
12 A. I don't know.
13 Q. Then they were essentially the same in the
14 vitriol?
15 A. I don't know.
16 Q. Now, did you talk to any other -- prior to your
17 appointment to the board, did you talk to anybody else
18 associated with the Republican Party about the
19 redistricting process?
20 A. I don't remember talking to anybody specifically
21 about the redistricting process.
22 Q. This is prior to your appointment.
23 A. That's what you're saying, yeah, that's what I'm
24 talking about.
25 Q. And Mr. Randy Ruedrich?

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1 Fairbanks?
2 A. Absolutely.
3 Q. And in doing that, you -- at that time, you
4 indicated that you did not know where the incumbents
5 lived?
6 A. That's correct.
7 Q. When was it that you learned where the incumbents
8 lived?
9 A. When did I learn where the incumbents live? I
10 knew where Kawasaki lived, because I used to represent
11 the area and I knew exactly where he lived, or where he
12 used to.
13 Q. Where did he live?
14 A. Central -- I could walk to his house. I couldn't
15 tell you which street, whether it was Central, but it's
16 in Aurora.
17 Q. You know his parents too, don't you?
18 A. Well, his dad is dead, but his mother, Cookie, I
19 have known her for many, many, many years.
20 Q. In relationship to her house, do you know where
21 Mr. Kawasaki lived?
22 A. No, I don't, but it's across the street or right
23 in the same neck of the woods.
24 Q. That's your understanding?
25 A. That's my understanding.

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1 Q. He lives across the street?
2 A. Yeah.
3   (There was a break.)
4 BY MR. WALLERI:
5 Q. Can you tell me who assisted you in drawing up
6 the Fairbanks plans in April, the district plans for
7 Fairbanks in April?
8 A. Eric, one of our staff.
9 Q. Eric Sandberg?
10 A. Sandberg.
11 Q. And at that time, you came up with a plan, and
12 four days later the board adopted the Fairbanks -- your
13 proposed Fairbanks plan as part of Board Option 1 and
14 Board Option 2; is that correct?
15 A. Yes.
16 Q. Now, they were pretty much -- that was pretty
17 much -- Board Option 1 and Board Option 2 both
18 incorporated your proposed Fairbanks plan, correct?
19 A. I don't recall. I assume so.
20   (Exhibit No. 1 marked.)
21 Q. Now --
22 A. This was before -- is this the one before we did
23 the final?
24 Q. Yeah, I'll represent to you that this is Board
25 Option 2. This is what was known as Board Option 2 that

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1 was produced in the April 13th -- adopted as part of
2 April 13th. Does that look familiar to you?
3 A. Not really.
4   MR. WHITE: There is no board record number
5 on this?
6   MR. WALLERI: No, this is just off your
7 website.
8 A. I did hundreds of iterations.
9 Q. This is District 9, and it also shows that under
10 your plan, as you originally came up with, you had a
11 senate pairing of District 9 -- looking at Exhibit
12 No. 1, you have a pairing of District 9 and District 10,
13 correct?
14 A. I assume so. I didn't put senate pairings on
15 here, but I assume that's what that is.
16 Q. Okay.
17 A. That was done prior to, I suspect.
18 Q. That was done prior to the board -- prior to your
19 plan or after your plan?
20   MR. WHITE: I have to object. I think
21 that's ambiguous. I'm not sure what the question means.
22 A. I'm not sure either. I didn't do senate pairings
23 on this one. They may have done senate pairings, but I
24 don't recall how they were done.
25 Q. Did you ever have a discussion -- of course --

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1 let's back that up.
2   Under this plan, House District 10 includes --
3 well, House District 9 is basically the western part of
4 the City of Fairbanks, correct?
5 A. Correct.
6 Q. And District 10 is the eastern part of the City
7 of Fairbanks, correct?
8 A. And Fort Wainwright.
9 Q. Yeah. Actually, Fort Wainwright is inside the
10 City of Fairbanks, isn't it?
11 A. I believe so.
12 Q. And so District 10, under this, House District 10
13 is basically the eastern half of the City of Fairbanks,
14 correct?
15 A. I assume so, yeah.
16 Q. And under this option, the option has the two
17 house -- the two house seats -- the two house seats
18 within the City of Fairbanks paired into one senate
19 district; is that correct?
20 A. That's what it looks like.
21 Q. Do you know why that was done as the Board Option
22 2?
23 A. No. We knew, as everyone knew, that this was
24 only a preliminary, and until we knew what was happening
25 with the Voting Rights Act, we could not come up with

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1 folks, based upon the -- at least 1500, based upon the
2 change in the size of the districts. 9 was 1500 less
3 than what our ideal was.
4 Q. And so you brought people into 4 from where,
5 comparing what was 9?
6 A. I have to look at 9 originally.
7 Q. Here is 9 right there.
8 A. That's not 9 originally. You're talking about
9 nine from Option 2?
10 Q. Yeah.
11 A. Well, yeah. I mean, this area, you can see how
12 this area has been added. And then I took and I used
13 the slough as the other boundary, except I needed more
14 people, so I took Lemeta.
15 Q. Could you put -- on your --
16 A. This is Lemeta.
17 Q. So if you could put an X and then could you put a
18 little arrow and an L, indicate that by L. Okay.
19   So you just got through marking -- for the record
20 you just got through marking where Lemeta is?
21 A. Uh-huh.
22 Q. And you added that to District 4?
23 A. Uh-huh.
24 Q. Okay. That portion was already in District 9
25 under the Option 2 plan, correct?

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1 A. I have to look at it. Looks like it.
2 Q. But you did take out another area, in particular,
3 in Proclamation 1 there is a pink area. If you could
4 mark this little area here.
5 A. Okay.
6 Q. And if you could just mark that -- what is that
7 area?
8 A. That's Johnson, I believe.
9 Q. Okay. Just put a J there. Why was that put in
10 to -- why was that moved from the option plan into the
11 Proclamation plan?
12   MR. WHITE: First of all, I'm going to
13 object as mischaracterizing his testimony. You're
14 assuming he is working off of Board Option 1 when
15 creating the Proclamation plan, and that's assuming
16 facts not in evidence.
17 Q. What plan were you working off of?
18 A. I redrew the whole thing. I started with -- I
19 don't know. I would have to look at the computer. I
20 don't have a clue, but I didn't start with this
21 particularly. I redid the whole thing.
22 Q. But in doing so, is there a reason that the area
23 that you have marked as J was brought into the
24 Proclamation, was added to the east Fairbanks district
25 as opposed to the west Fairbanks city district?

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1 A. Not particularly, other than population.
2 Q. Do you know who lives in that area?
3 A. No. I found out later.
4 Q. Who lives in that area?
5 A. Kawasaki's sister apparently lives there, but
6 there is a lot of people live there. It's Johnson
7 Subdivision. I used to have a nursery right across the
8 street.
9 Q. Would it surprise you to know that the area that
10 you described earlier as the house across from his
11 mother's is now in Proclamation A-1?
12 A. You mean in this district here?
13 Q. Yes, or 1-A?
14 A. I made no decisions based upon where anyone
15 lived.
16 Q. Would it surprise you to know -- you said you
17 knew where Mr. Kawasaki lived.
18 A. Yeah, because I used to represent the district.
19 Q. He lived across the street from his mother's,
20 correct, is where you thought he lived?
21 A. That's correct.
22 Q. Would it surprise you that --
23 A. But I don't know if he lived across the street
24 from his mother. I was told that, but I don't know that
25 for a fact.

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1 Q. Would it surprise you that his mother's house
2 remained in District 4-B?
3 A. I have no idea.
4 Q. But his sister's house is in 1-A?
5 A. I don't know. I don't have any idea.
6 Q. Did you ever have discussions about compactness?
7 A. Absolutely. It's a constitutional requirement.
8 Compactness is one of the aspects of our constitutional
9 requirements, to the extent that we can comply with the
10 Voting Rights Act.
11 Q. In your understanding, the protrusion, if I can
12 characterize that, beginning roughly where you have
13 marked L going to J on Exhibit No. 2, in your mind, is
14 that compact, or how would you characterize that
15 relative to compactness?
16 A. I think the whole house districts around
17 Fairbanks are all compact.
18 Q. Well, it does represent -- it does look like a
19 corridor between two other house districts, doesn't it?
20   MR. WHITE: Object to the characterization.
21 Q. 3 and 4?
22 A. It's not my characterization, no.
23 Q. So you would not characterize an area between L
24 and J, marked L and J, as a corridor between -- for
25 District 1, between Districts 3 and 4?
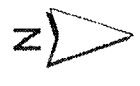
Proclamation House Districts

House District 2

1-A

3-B

2-A

6-C

5-C

Fairbanks

North Pole

Badger

House Creek

Salcha

Eielson AFB

N

Legend
Military
City
Borough
Water Boundary

SEAL OF THE STATE OF ALASKA

Exhibit 7
Page 40

Prepared by:
ka Redistricting Board

House District 37

Proclamation House Districts

Legend
☐ City
Borough
Water Boundary

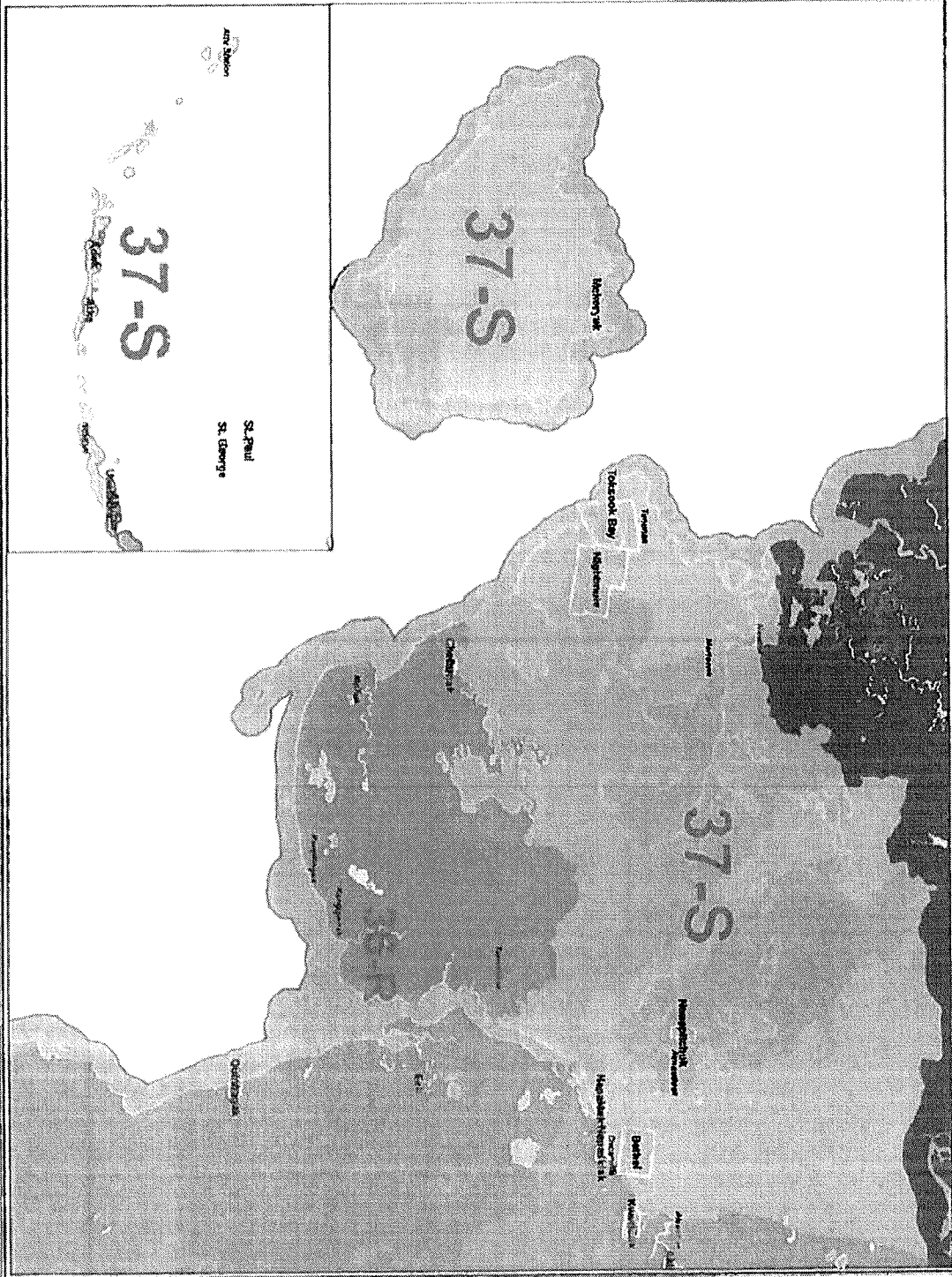Prepared by:
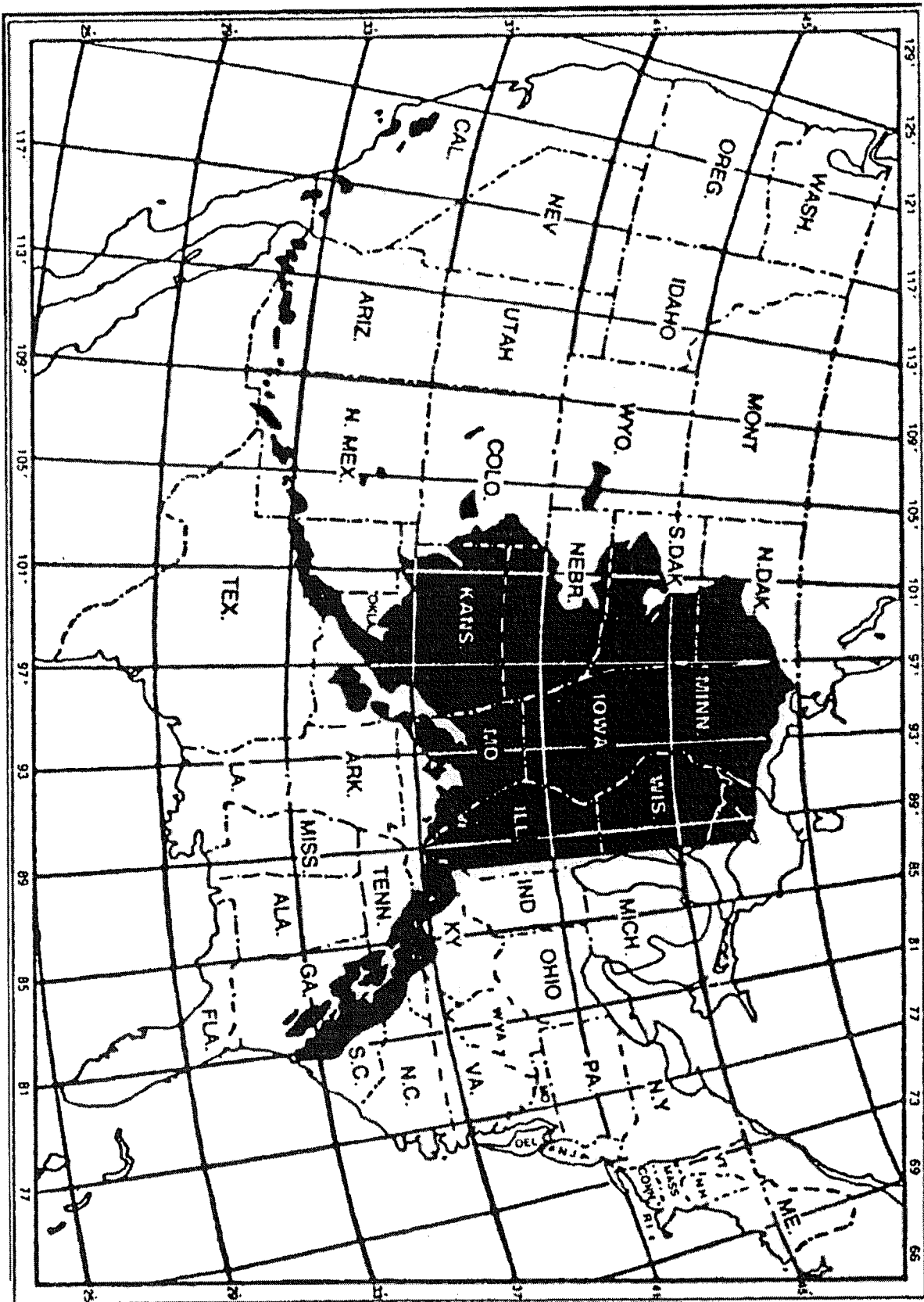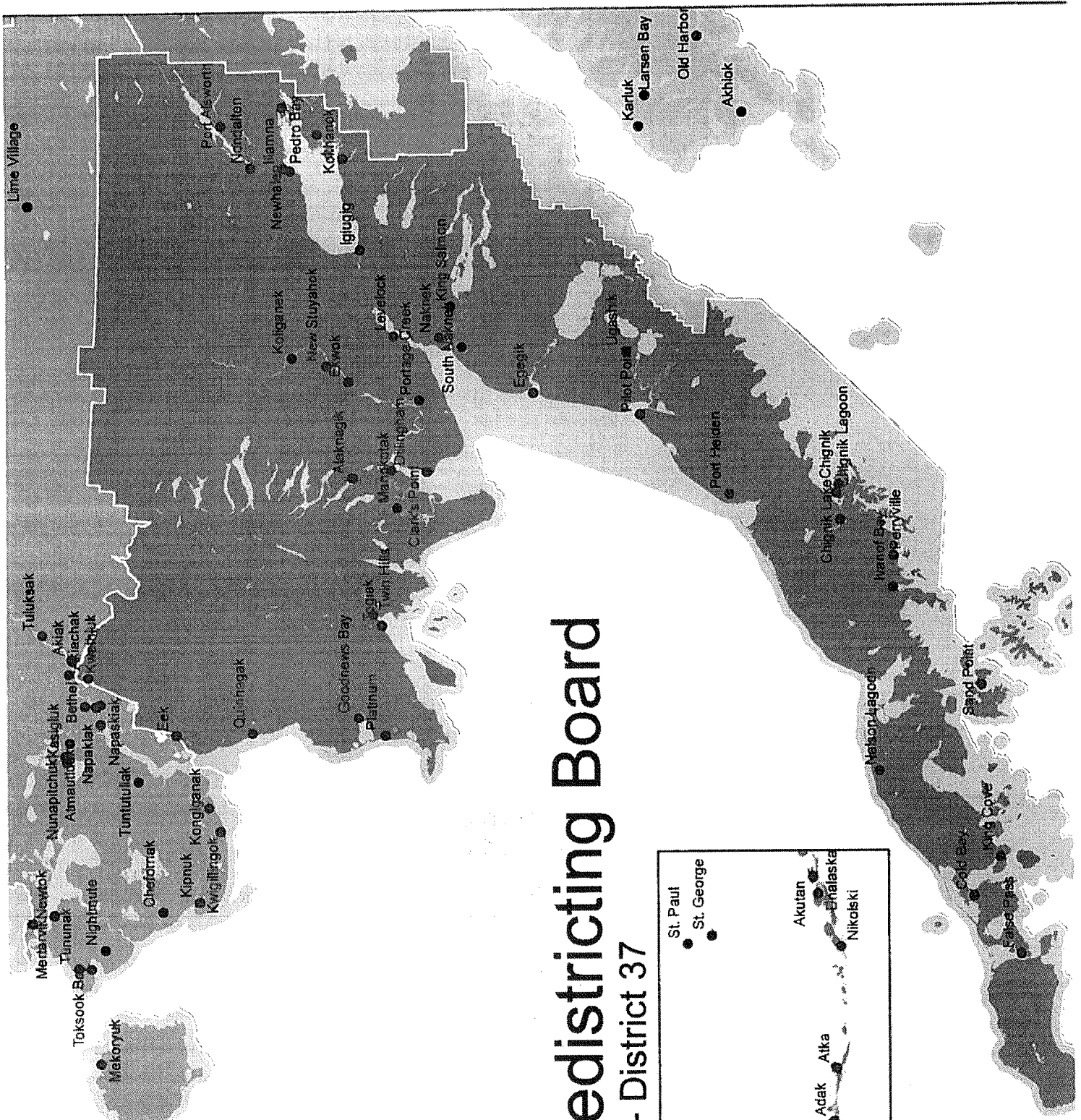Alaska Redistricting Board

37-S

37-S

37-S

Exhibit 8
Page 1 of 1

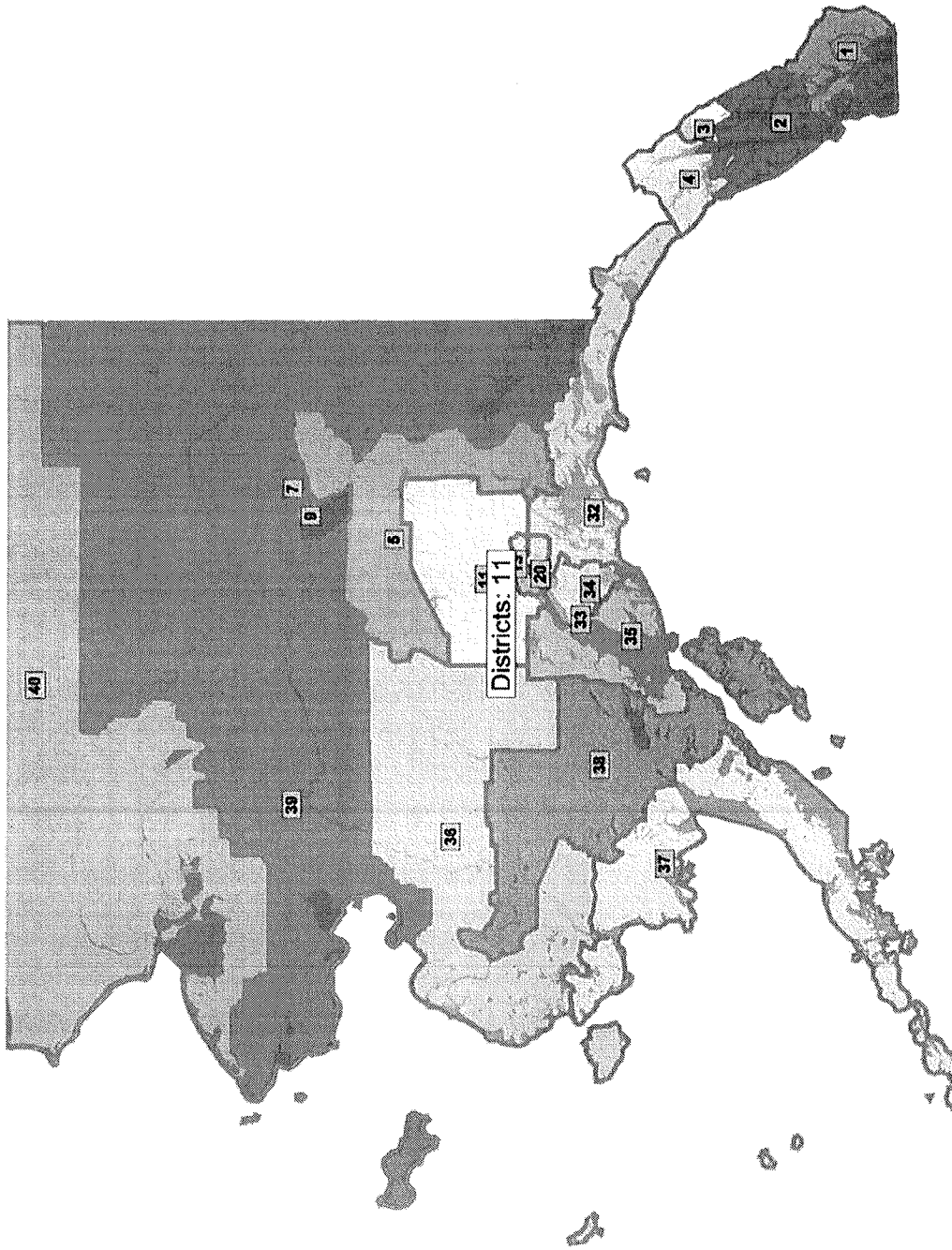**Exhibit 9**
Page 1 of 1

Alaska Redistricting Board
Board Option 1 - District 37

Lime Village, Port Alsworth, Nondalton, Iliamna, Pedro Bay, Kokhanek, Newhalen, Igiugig, Koliganek, New Stuyahok, Levelock, Ekwok, Naknek, King Salmon, South Naknek, Portage Creek, Dillingham, Egegik, Ugashik, Pilot Point, Port Heiden, Chignik Lake, Chignik, Chignik Lagoon, Ivanof Bay, Perryville, Aleknagik, Manokotak, Clark's Point, Twin Hills, Ekuk, Togiak, Platinum, Goodnews Bay, Quinhagak, Eek, Tuluksak, Akiak, Akiachak, Kwethluk, Nunapitchuk, Kasigluk, Bethel, Atmautluak, Napakiak, Napaskiak, Tuntutuliak, Napakiak, Mertarvik, Newtok, Tununak, Nightmute, Chefornak, Kipnuk, Kongiganak, Kwigillingok, Toksook Bay, Mekoryuk, Nelson Lagoon, Sand Point, Cold Bay, King Cove, False Pass

Karluk, Larsen Bay, Old Harbor, Akhiok

St. Paul, St. George, Akutan, Unalaska, Nikolski, Adak, Atka, Attu Station

Exhibit 10
Page 1 of 1

Districts: 11

Exhibit 11
Page 1 of 1

IN RE 2011 REDISTRICTING CASES

Case No. 4FA-11-02209CI (consolidated)
4FA-11-02213CI
1JU-11-00782CI

EXPERT'S REPORT OF THEODORE S. ARRINGTON, PH.D.

1.   I am a recognized expert in the fields of districting, reapportionment, racial and partisan voting patterns, and voting processes in the United States and Canada. I have been retained by Fairbanks North Star Borough plaintiffs, Riley et.al., and the City of Petersburg, et.al to provide expert testimony in this case. I am compensated for my time at the rate of $250 per hour.

OBJECTIVES OF DECLARATION

2.   I have been asked to analyze the expert's report of Dr. Lisa Handley on redistricting in Alaska and her testimony before the Alaska Redistricting Board. I have also been asked to compare the Proclamation plans for the Alaska House and Senate to new Demonstration plans created for this litigation. These Demonstration plans are similar to plans submitted to the Redistricting Board from the RIGHTS Coalition (The Coalition to Protect Redistricting Integrity, Governmental-boundaries, and Legal Voting Rights). I have also been asked to examine the Proclamation and Demonstration plans for contiguity of districts.

vote received by the Native preferred candidate in the Benchmark district is ten percentage points higher than in the Demonstration district, while in another the Demonstration district is 13 percentage points higher. In several elections the two performed equally well or within a few percentage points of each other.

33. Dr. Handley describes Benchmark District 6 as having a "50/50" pattern, and this is also the way I would describe Demonstration District 38. Both districts offer Native voters the ability to elect a candidate of their choice, but neither offers a better than even chance.

CONTIGUITY

34. Contiguity is a basic requirement of any entity that is called a "district." As I wrote in my published refereed article on redistricting cited above:

> The very definition of a "district" seems to imply a single piece of territory, not a disconnected series of pieces. Thus contiguity is generally regarded as a necessary characteristic of a district, but there are no Supreme Court decisions directly on this point. The usual definition of contiguity is simply that one could move from anywhere in the district to any other place without leaving the district. Surpris-ingly, contiguity has not always been mandated for congressional districts, and as Altman shows, recent cycles have produced more discontiguous districts. The increase is probably caused by equal population requirements.
>
> Virtually all states, however, mandate or assume contiguity. Some states, such as Iowa, forbid what is called "point contiguity" where parts of the district are only connected across an infinitesimal point such as two black squares on a checkerboard. Other states (including until recently, North Carolina) actually use this feature. Sloppy computer work in the creation of districts using block level
> data and GIS programs can sometimes unintentionally result in small polygons with little or no population being disconnected from the rest of the district, including what O'Rourke calls "double cross-overs" (two connections by point contiguity, one within the other).

13

Exhibit 12
Page 2 of 4

But the main questions about contiguity involve water bodies. Backstrom provides a good discussion of water-body problems. Some would argue that bridges or public ferries, if they exist, must connect across water bodies for the district to be contiguous. Others have proposed that contiguity means the ability to reach every part of the district by public roads or public conveyance. Similar questions can be raised with regard to freeways without an overpass within the district or mountain ranges without a pass within the district. In any case, there is no consistency among the states with regard to how contiguity is defined in statute, constitution, or practice (pp. 17-18, citations omitted).

35. While there may not be a specific U.S. Supreme Court case which defines contiguity, other than listing it as a "traditional districting principle," the Alaska Supreme Court has indicated that contiguity in districts is required, with the necessary adjustments for islands in *Hickel v. Southeast Conference*, 846 P.2d 38 (Alaska 1992):

> Contiguous territory is territory which is bordering or touching. As one commentator has noted, "[a] district may be defined as contiguous if every part of the district is reachable from every other part without crossing the district boundary (i.e., the district is not divided into two or more discrete pieces)." Grofman, *Criteria for Districting: A Social Science Perspective*, 33 UCLA L.Rev. 77, 84 (1985). Absolute contiguity of land masses is impossible in Alaska, considering her numerous archipelagos. Accordingly, a contiguous district may contain some amount of open sea. However, the potential to include open sea in an election district is not without limits. If it were, then any part of coastal Alaska could be considered contiguous with any other part of the Pacific Rim. To avoid this result, the constitution provides the additional requirements of compactness and socio-economic integration.

The superior court's Memorandum and Order in the 1992 redistricting litigation further noted:

> The court believes that requirements for compactness and contiguity are meant to be read to avoid geographic manipulation of districts for voter dilution or enhancement. By requiring physical limits, those requirements avoid sacrificing groups for the benefit of those doing reapportionment.

Exhibit 12
Page 3 of 4

> Contiguity is widely recognized as an important consideration in redistricting.
>
> If the practice of keeping districts contiguous were seriously eroded, the ability of district drawers to accomplish partisan goals would be enormously enhanced and, for better or for worse, substantial departures from geographic representation would become possible. A requirement of contiguousness is the most straightforward method of avoiding this problem. D. Lowensteen and J. Steinberg, *The Quest for Legislative Districting in the Public Interest: Elusive or Illusory?*, 33 U.C.L.A.L.Rev. 1, 21 (1985).

36.   Alaska may have special problems with contiguity given the vast open spaces and complicated mountain and island geography. But the Proclamation Senate plan has an obvious non-contiguous District R. Two parts of that district are separated on the mainland by many miles of Senate District C.

37.   I also question the way in which the Aleutian Islands are joined in House District 37 and Senate District S to a part of the mainland that is hundreds of miles to the north. The island chain itself is split. Unimak Island, the easternmost island in the Aleutians, is in Proclamation District 36, the remainder of the Aleutian chain is in Proclamation District 37. Simple geographic logic would dictate that these islands should be together and joined to the peninsula from which they spring. This is the way they are treated in the Demonstration plan.

37.   The Demonstration plan has none of these problems with contiguity.

38.   Contiguity is an essential element in forming districts. Without this element the term "district" has no clear meaning, as the Alaska Supreme Court indicates. One could construct polka dot districts if contiguity is not required. The entire

15

Exhibit 12
Page 4 of 4

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT

IN RE 2011 REDISTRICTING CASES	**ORDER GRANTING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT: CONTIGUITY HD 37**

Case No. 4FA-11-02209 CI.

Upon motion of Plaintiffs Riley, et. al. , and the Court being apprised of the

premises therein,

IT IS HEREBY ORDERED, that Plaintiffs motion for partial summary judgment that

Districts 1, 2, and 37 of the Final Plan for the redistricting of Alaska's legislative

districts adopted by the Alaska Redistricting Board,   does not comprise a compact

area within the meaning of Article VI, Section 6 of the Alaska Constitution.is hereby

GRANTED.

DATED this _____ of December, 2011.

_____

Michael P. McConahy