In the Matter Of:

ALASKA REDISTRICTING BOARD

BOARD MEETING

March 26, 2012

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ALASKA REDISTRICTING BOARD

BOARD MEETING

March 26, 2012

1:01 p.m.

411 West Fourth Avenue, Suite 302

Anchorage, Alaska

A-P-P-E-A-R-A-N-C-E-S

BOARD MEMBERS PRESENT:

John Torgerson, Chairman
PeggyAnn McConnochie
Robert B. Brodie
Marie N. Greene
Jim Holm

STAFF PRESENT:

Taylor Bickford
Jim Ellis

ALSO PRESENT:

Michael D. White
PATTON BOGGS, LLP
601 West 5th Avenue, Suite 700
Anchorage, Alaska 99501

Randy Ruedrich
Steve Aufrecht
Joe McKinnen
Kay Brown
Joel Leveque
Marcia Davis
Geran Tarr
Barbara Bachmeier
Dan Joling
Steve Colligan
Tom Begich
Lance Roberts

Court Reporter:

Sonja L. Reeves, RPR
PACIFIC RIM REPORTING
711 M Street, Suite 4
Anchorage, Alaska 99501

PROCEEDINGS

CHAIRMAN TORGERSON: We'll call the meeting to order. The time is one minute after 1:00. Roll call of the members, please.

MR. BICKFORD: John Torgerson?

CHAIRMAN TORGERSON: Here.

MR. BICKFORD: PeggyAnn McConnochie?

BOARD MEMBER MCCONNOCHIE: Here.

MR. BICKFORD: Marie Greene?

BOARD MEMBER GREENE: Here.

MR. BICKFORD: Jim Holm?

BOARD MEMBER HOLM: Here.

MR. BICKFORD: Bob Brodie?

BOARD MEMBER BRODIE: Present.

MR. BICKFORD: All board members are present.

CHAIRMAN TORGERSON: Thank you. Approval of the agenda is the next thing on the agenda.

BOARD MEMBER MCCONNOCHIE: Move for approval of the agenda as presented.

BOARD MEMBER BRODIE: Second.

CHAIRMAN TORGERSON: Addition or corrections or discussion? All opposed -- anyone opposed to the adoption of the agenda? I'll get it out sooner or later.

Hearing none, the agenda is adopted as presented.

That brings us to the executive director's report.

MR. BICKFORD: I don't have much to report on, just a few housekeeping items before we get started. Each of you has a binder in front of you, and it has the Supreme Court's recent decision, the Superior Court's decision and then the Hickel decision.

And we wanted to include that, given the nature of the Supreme Court's order, so we'll probably be referring to all of this throughout the week.

For those listening online, we have some materials for today posted on the website, so you can go and download those. We have the agenda, some maps, and we have a legal memo that Mike is going to roll through here in a minute.

Other than that, like Mike said, we have got a court reporter here today. We figured it would make -- it would make things a little easier, we wouldn't have to wait as long for the transcripts, and we'll have higher quality transcripts as a result.

Other than that, I don't have anything else to report.

CHAIRMAN TORGERSON: I talked to the court

reporter. If she can't hear us or if we're mumbling, she'll wave her hand back here and we'll start over again, so she can -- at that point so she can properly record the transactions of the board.

Next thing is the legal review of the Supreme Court decision. We were presented a memo from legal counsel. Mr. White?

MR. WHITE: Thank you, Mr. Chairman. We do have a memorandum in front of you dated March 14th, that basically gives an executive summary or a summary of the Supreme Court's order issued the day after oral argument.

Primarily, the most important -- I break it down into three areas. First of all, the Court found that the so-called Hickel process from Footnote 22 was a mandatory process.

You can agree, disagree, whatever you want with the rationale, but that is the world in which we now live, according to the Supreme Court's order. According to them, this board is required to first create a plan that it believes complies with the Alaska Constitution, then test that plan against the VRA.

And then if it complies, you adopt the plan and everything is good. If it doesn't comply with the VRA, then you're required, obviously, to make changes to

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that plan, the Court using the language, "Devise a plan to the least degree reasonably necessary to ensure compliance with the Voting Rights Act."

Summarized in the memorandum, they had some other stuff to say as to the rationale why, talking about what this process apparently is supposed to do. I'll leave that -- it was pretty simple language. I don't think there is any real necessity to explain that, unless anybody has any questions on that.

Substantively, the Court did rule or give guidance in two areas. The first was on the Fairbanks or the City of Fairbanks' proportionality claim. You recall the trial court had ruled on the basis of our argument that there was no violation, because the City of Fairbanks didn't have enough population to control an entire seat of its own, and, therefore, at the first level, they kicked that claim out and ruled in our favor.

The Supreme Court has said that the trial court got that legal analysis wrong, and that as long as apparently now the law is, if you have more than 50 percent, 50 plus one, you at least raise -- you have the ability to raise a proportionality claim.

The trial court did not throw out any other districts or rule against the board's districts of

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Fairbanks for the City of Fairbanks. What it said was the Court used the wrong legal standard and it needs to go back and, if necessary, then do an analysis to see: One, is the City of Fairbanks a politically salient class and, two, was there any intentional discrimination.

So basically the takeaway from that portion of the Supreme Court's opinion is that proportionality is now raised clearly if you have more than 50 percent.

How that fits into the whole there is no entitlement district proportionality, that is difficult to say. They don't really provide any guidance on that. What they do do is reject that you have to have the amount of population for an entire district before that claim becomes a viable legal claim.

The second legal issue that they ruled on was the whole trial court's "more Native VAP than necessary argument." And the Supreme Court made clear that that was not a rationale for claiming that districts drawn, as we claim, 37 and 38 were configured the way they were in order -- necessary in order to comply with the Voting Rights Act.

And if you recall, the trial court, in a very short paragraph, basically said that he couldn't find that it was necessary, because there were other

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Native districts -- all the Native districts had more Native VAP than necessary.

The Supreme Court made clear in, I think the last sentence is the most important takeaway from that was that urban has to be added to rural, and under those circumstances that makes it clear that the trial court's rationale for saying that 37 and 38 weren't necessary -- or basically what the Supreme Court said was that the trial court rejected our claim, our Voting Rights Act defense based upon necessity, the rationale that we used was wrong, because you have to add urban and rural.

The trial court's rationale was wrong. I take away from the Supreme Court's opinion; meaning that it has rejected the trial court's argument, rationale, whatever you want to call it, that because there were Native VAP in some of the districts or in all of the districts higher than was necessary for it to be effective under the effectiveness standard, that that rationale was wrong. And so that we don't have to worry about that in moving forward with the plan.

In the end, the Supreme Court provided a little bit of guidance on what it thought should be done in Footnote 15 of its decision. In effect it says: One, you draw a plan that you -- I take meaning this board decides whether it believes it complies with the

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Alaska Constitution.

Then measure that plan against the Voting Rights Act, which I would suggest requires that we send the plan to Lisa Handley to review and to tell us does this comply with the Voting Rights Act.

If it does, then you take the first entry out and that becomes the new proclamation plan, it's adopted and you do all the administrative stuff necessary in order to have it adopted and go back to the trial court.

If it doesn't, then you have to take that plan, modify it, and to the least degree necessary in order to comply with the Voting Rights Act, you have to change the districts and then make findings as to why we're doing these things.

My kind of takeaway from the Supreme Court's decision is that they couldn't really -- it seemed that they couldn't really tell whether or not 37, 38 were justified based on the Voting Rights Act, and so they are asking this board to make the record clear to that effect, if that's what the board determines to do.

There is -- other than that, there is no other -- they didn't rule -- we got no guidance on 37. The trial court did not throw out or rule in favor of anybody on the other claims on 38. Whether it's

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1 necessary to take population out of Fairbanks, the
2 Supreme Court's decision or rationale that you have to
3 add urban to rural, which it essentially adopted, by
4 quoting from the trial court's decision, in fact it had
5 found that, makes it so we understand that -- I mean,
6 they have accepted that rationale, as we all know, as
7 the actual facts that you have to add urban to rural in
8 order to provide enough population in the rural
9 districts to comply with the protection of one
10 person/one vote.
11 So that's pretty much the summary that I
12 have. I would be happy to answer any questions anybody
13 has.
14 CHAIRMAN TORGERSON: I'll start. The
15 proportionality claim is a two-prong test by which you
16 got to fail or pass or whatever. One being the
17 50 percent plus one, right? The other one is the
18 politically salient class, you didn't discriminate
19 against a politically salient class?
20 MR. WHITE: Well, first, they have to be a
21 politically salient class. There is not a lot of
22 guidance in the cases from the past that what
23 constitutes a politically salient class.
24 As you know, does a city within a borough
25 constitute a separate political -- the citizens of a

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1 city who are completely encompassed within a borough
2 constitute a separate politically salient class from the
3 residents of the borough?
4 The Court didn't say one way or the other.
5 It said to the trial court, "You need to actually look
6 at that decision if that issue is still before us when
7 the plan comes back up."
8 And then, third, it said you have to have
9 intentional discrimination against that politically
10 salient class. So in the end, it didn't throw out the
11 Fairbanks districts based upon that senate pairing. It
12 just said the trial court didn't go far enough in its
13 analysis, and it may need to do so if the plan is
14 unchanged upon coming back up to the Court.
15 CHAIRMAN TORGERSON: Other questions? Go
16 ahead, PeggyAnn.
17 BOARD MEMBER MCCONNOCHIE: That was just
18 what I was going to ask, because the sentence, "Thus the
19 trial court must evaluate the merits of the Riley
20 plaintiffs voter dilution," I was going to ask you just
21 to restate for me, but you just did, so thank you. That
22 answers that question.
23 CHAIRMAN TORGERSON: Other questions the
24 board may have of legal?
25 BOARD MEMBER BRODIE: Is it common usage for

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1 attorneys and courts to incorporate so many double
2 negatives in a sentence? I mean, one would infer that
3 they are writing these papers for the general population
4 of the State of Alaska, and I found two of these little
5 sections to be -- you had to study them at length to
6 figure out where it reversed and came back on itself.
7 So --
8 MR. WHITE: I guess my response to that, Mr.
9 Brodie, is that the decision is what the decision is. I
10 am not surprised by the lack of clarity. I was hoping
11 for more, but we deal with what we have.
12 And so this board's job at this point in
13 time, based upon its collective work and through
14 consultation with its experts and consultants, is to do
15 the best job it can in ferreting out and interpreting
16 what this opinion actually means and the intent.
17 It's not the first time I have seen that.
18 It won't be the last time I have seen that, both of
19 judges and of lawyers, and can at times, I agree with
20 you, be less than clear.
21 BOARD MEMBER BRODIE: I would just hope that
22 judges of that elevation with multiple college degrees
23 can write simple declarative sentences so the majority
24 of the population can figure out what it is they want to
25 do; just an editorial comment.

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1 BOARD MEMBER GREENE: Thank you. Have we
2 had any comments from our consultant, Lisa Handley, on
3 what's -- on the ruling? Just curious.
4 MR. WHITE: Lisa is aware of the ruling.
5 It's been sent to her. And her job really is more in
6 the future, based upon future plans. So she is aware of
7 it. She knows that the board is considering how best to
8 comply with that order.
9 And she is on standby to review plans that
10 the board determines it may adopt for this type of
11 compliance under the Hickel process that this board is
12 now mandated by the Supreme Court to follow.
13 BOARD MEMBER GREENE: And the following
14 question I have is: Is she going to be available?
15 We're not going to have the challenges we had when we
16 first started, are we, with her availability?
17 MR. BICKFORD: Marie, I talked to Lisa late
18 last week. She is available all week. She is available
19 through the 31st. Then she has a vacation planned, but
20 it doesn't start until after our meetings are noticed,
21 so she, like Mike said, she is on standby.
22 She knows that we're going to be sending her
23 things this week and we're going to need rapid feedback
24 from her, so we don't anticipate having any problems.
25 BOARD MEMBER GREENE: Thank you.

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1 CHAIRMAN TORGERSON: Other discussion?
2 Questions of legal?
3 MR. BICKFORD: Just one question. You go
4 into a little bit here about what the next step is for
5 the board.
6 Not necessarily in-depth on the timeline,
7 but can you just outline what we do next? We adopt the
8 plan and then you talk about here submitting it back to
9 the court.
10 MR. WHITE: Oh, sure. So as I read the
11 process from the Supreme Court, they are saying the
12 Hickel process requires the adoption of a plan that the
13 board believes complies with the Alaska Constitution, or
14 as nearly as practicable as that can be done.
15 Then you test that plan against the Voting
16 Rights Act. That's done by review of legal and Lisa
17 Handley, our VRA expert. If it complies, like I said,
18 then the board process is done.
19 If it doesn't, then they have to come back
20 and work on another plan, which they believe -- I think
21 the important -- to the least degree reasonably
22 necessary to ensure compliance with the VRA.
23 So, to me, that's the new standard that the
24 Supreme Court has made clear on that that is what you
25 have to do, that the changes have to be reasonably

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1 necessary in order to ensure compliance with the VRA.
2 Assuming that that's what happens, the board adopts its
3 plan. After the board adopts its new plan, whatever
4 it's called, the new proclamation plan, amended
5 proclamation plan, the verbiage is not all that
6 significant, once that is done and they're adopted, the
7 board would adopt a new proclamation, just like it did
8 last time.
9 And then we would go back to the trial court
10 and ask the Court to -- basically, we file the new plan
11 with the Court and say, "This plan complies with the
12 Alaska Constitution. Please enter final judgment on
13 it."
14 The Court then will allow objections and set
15 a timeline. As many of you know, the day after the
16 Supreme Court issued its opinion, the trial court I
17 think got a little bit ahead of itself and issued a
18 scheduling order, which we asked them to reconsider,
19 given the fact that he didn't have the authority to tell
20 us how to run our process, and it didn't make any sense
21 to have a litigation schedule in place before we even
22 know when the new plan is going to go up to him.
23 And he vacated that order. I would assume
24 that once it gets back to him, he will follow pretty
25 closely that same sort of schedule for the litigation

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1 process, and that is, basically that the plan goes
2 before the board, the people are given a chance to
3 object to the new plan. The board is given a chance to
4 respond to the objections. The Court determines whether
5 it believes any new hearing is required.
6 If there is no hearing required, the Court
7 would rule on the decision. If there is a hearing, they
8 would probably have a hearing that would be just like a
9 trial, a couple of days tops, I would suggest.
10 The trial court would then issue its
11 decision, and then we are back in the petition for
12 review process, back up to the Supreme Court, if
13 somebody determines that they want to do that.
14 Essentially, the trial court looked at the
15 process that was done ten years ago, followed very
16 closely the same schedule that they used then. Once, of
17 course, the litigation is done, we have new lines and we
18 have to go back to DOJ and get preclearance of the new
19 plan, and that would be done on an expedited basis.
20 We know right now that the deadline, filing
21 deadline for the August primaries is June 1st, which
22 means that the plan is supposed to be in place by then.
23 The last time the plan was in place by
24 June 1st, but it wasn't pre-cleared before June 1st, but
25 since the changes that were made didn't affect, except

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1 for one small area, the Native districts, nobody really
2 -- there wasn't -- nobody really cared. They obtained
3 preclearance I think on June 16th or 17th, so within a
4 couple of weeks after the deadline. They just didn't do
5 anything with it.
6 There is nothing, as far as I can tell, that
7 prohibits that same type of process again. The only
8 thing is if you don't get preclearance, then you can't
9 use that election map in August or whenever the primary
10 is.
11 So if we submitted a plan to DOJ and it
12 doesn't get pre-cleared, then we would have to --
13 obviously, we'll be back here doing more work.
14 So I think that's the process as it lines
15 out right now.
16 BOARD MEMBER BRODIE: What I infer from your
17 comment there then is if we go past the June 1st
18 deadline and we get rejected by the Department of
19 Justice, then is there a petition for that plan to be
20 good for two years or what's the process? We got
21 66 days to hit June 1.
22 MR. WHITE: There is a number of different
23 decision trees then that would have to be made. In the
24 past, they have actually moved primaries. In the '90s,
25 they actually pushed the primaries back into September

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1 to August.
2 You could petition to have an interim plan
3 put into place, as the Supreme Court suggested or talks
4 about in its opinion, saying if the board doesn't think
5 it can get its work done by the deadline, to petition
6 the Court and put the interim plan into place for this
7 election, allowing the board the time necessary to
8 complete the plan.
9 That is something that -- a process that is
10 open to the board, that they could consider that.
11 Whether you want to or not, you know, that's a decision
12 the board would have to look at.
13 If you go through this process that we're
14 doing and we get it to DOJ and DOJ rejects it, then it
15 seems obvious to me that we're going to be back before
16 the Supreme Court looking for some sort of interim plan.
17 The one question that is unresolved in my
18 mind yet is, because the Supreme Court in its order
19 said, "Do the interim plan, but you would have to fix 1
20 and 2 in Fairbanks." That's the changes to the lines.
21 Does that mean you have to get the interim plan
22 pre-cleared before it can go into effect?
23 And like most of you know, I was gone last
24 week, so I haven't got the research completed yet,
25 whether an interim plan ordered by a court has to obtain

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1 pre-clearance from the Department of Justice or not.
2 I think I remember some cases that, those
3 were federal courts, I know it -- I can't answer that
4 question right now, but we're doing the research.
5 BOARD MEMBER BRODIE: Could you leave the
6 current districts in place for two more years?
7 MR. WHITE: No. They won't allow that to
8 happen, because they are, by definition,
9 mal-apportioned, meaning that you have all the districts
10 with 22 percent -- the Court will order some sort of
11 interim plan. It will not just allow the current
12 districts to remain in place.
13 MR. BICKFORD: Under the scenario you
14 described where if the board were to petition for an
15 interim plan and they were to change Districts 1 and 2,
16 wouldn't that be similar to what was done ten years ago,
17 in that the Native districts wouldn't be changed and so
18 preclearance is more a formality?
19 MR. WHITE: I would suggest that that would
20 be the case. I mean, we would be able to go to -- if
21 preclearance is required, it's far less of a process
22 than actually obtaining preclearance.
23 We just go to DOJ and say, "Working on the
24 plan. The Supreme Court has said there is
25 constitutional issues. We're going to put this plan

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1 into place. This has already been pre-cleared, except
2 we had to make some changes to non-Native districts.
3 They don't accept that. Can you pre-clear the interim
4 plan?"
5 And I would suggest that if under that
6 scenario that preclearance should be able to be obtained
7 on the interim plan if necessary in time to meet the
8 deadlines, or, if not, fairly shortly thereafter.
9 MR. BICKFORD: And if it wasn't, could the
10 board be comfortable moving past the June 1st deadline
11 like they did ten years ago?
12 In other words, if we knew that only
13 Districts 1 and 2 were changed and you hadn't heard back
14 from Justice yet, would you still move forward with the
15 plan?
16 Because like you said, ten years ago, they
17 didn't hear back from Justice until, what, June 15th or
18 16th?
19 MR. WHITE: 16th or something like that.
20 That's a good question, Taylor. I would suggest that
21 given the fact that it's an interim plan and there is no
22 changes to the Native districts, I would find it
23 difficult to believe that DOJ would care or have any
24 problems with allowing the 2012 elections to go forward
25 under that interim plan.

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1 CHAIRMAN TORGERSON: I will point out the
2 Court's under their scheduling order would render a
3 decision by May 15th, which would more than likely mean
4 we won't get preclearance by June 1st.
5 If he does adopt the same schedule, then
6 we're looking at May 15th, which is only 15 days to get
7 something through Justice, which that doesn't mean
8 things can't happen earlier.
9 But part of our reason for asking for a
10 vacation of this was he basically opened the entire
11 process back up again, even to interested individuals,
12 besides the parties and amicuses, anybody could submit
13 another plan.
14 We were to act, in my opinion, like a Court,
15 as to determine whether or not third-party plans are
16 constitutional, which is something the board, at least
17 in my opinion, does not want to get into.
18 So we have had several inquiries from
19 different groups as to whether or not we would accept
20 third-party plans. And basically the response that was
21 given was we're a public agency, so if you want to
22 submit things, e-mails of plans or whatever, you're
23 welcome to do that.
24 But it wasn't my intent that the board would
25 consider third-party plans, we'd focus on our duties as

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1 to making our plan, the basis for the plan
2 constitutional under the Hickel process and then move
3 forward into the next phase as to whether or not we use
4 the Voting Rights Act or not.
5 Clearly, the Court punted on this issue and
6 punted it back to us. So we'll have to look at this
7 through the Hickel process or whatever and come up with
8 what we want.
9 Any other discussion? So in earlier
10 discussions with legal, I was trying to paint him into a
11 corner, best I could, and say, "When should we petition
12 the Court for implementation of our proclamation plan as
13 the interim plan," and there is no clear answer to that
14 until we see all the pieces.
15 There are many decisions that the board
16 needs to consider, one of which is just physically
17 drawing the Hickel process map to see where our
18 beginning point is and see what changes.
19 It could very well be we'll come back to the
20 same map we have now, or could be there might be a
21 change or two here or there. The only ones we know of
22 for sure are going to be changed is 1 and 2, that I know
23 for sure, because we didn't oppose the order that was
24 given from the trial court.
25 And the Supreme Court recognized that and

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1 said if you're going to petition us for the interim plan
2 to be the plan, then fix 1 and 2, as I guess you would
3 say a court order, prerequisite to getting this
4 approved.
5 So there is a lot of moving pieces, and,
6 hopefully, they become more clear the next two or three
7 days as we work through this process. I'll just leave
8 it at that.
9 Any other questions of legal? Seeing none,
10 then we are now going to take about a ten-minute recess
11 and then we are going to come back in executive session.
12 So I have a motion for executive session?
13 BOARD MEMBER MCCONNOCHIE: I move to go to
14 break first and then go into executive session.
15 CHAIRMAN TORGERSON: For the purposes of?
16 BOARD MEMBER MCCONNOCHIE: For the purpose
17 of discussing matters, legal matters.
18 MR. WHITE: Litigation matters.
19 BOARD MEMBER MCCONNOCHIE: Litigation
20 matters.
21 CHAIRMAN TORGERSON: Is there a second?
22 BOARD MEMBER BRODIE: Second.
23 CHAIRMAN TORGERSON: Discussion on the
24 motion? Hearing none, we will stand in recess. For
25 those of you on teleconference land, I will disconnect

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1 and hook back up.
2 Mr. White, how long do you anticipate --
3 MR. WHITE: I don't think we'll be 20,
4 30 minutes tops, if that.
5 CHAIRMAN TORGERSON: So 2:30 p.m. We'll
6 come back on the record at 2:30 p.m., or we'll try to,
7 unless we get bogged down in executive session, I guess.
8 But for scheduling purposes, we will stand
9 in recess until 2:30 p.m.
10 Anything else right now? Hearing none, we
11 are in recess.
12 (There was a break.)
13 (Board moves into executive session.)
14 CHAIRMAN TORGERSON: Let's call the meeting
15 back to order. The time is 2:45 p.m. All board members
16 are present. Legal is around here somewhere. He'll be
17 joining us in a minute.
18 First, we're going to start with
19 presentation of some draft Hickel plans that the staff
20 had put together, but first Mr. Brodie has a
21 presentation on the Fairbanks fix to 1 and 2, I guess
22 would be the proper way to tee that up.
23 As we know, the Supreme Court -- or the
24 trial court ruled against us on 1 and 2 for compactness,
25 and the board did not challenge those. So Bob,

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1 Mr. Brodie, took a wing at it.
2 BOARD MEMBER BRODIE: After the Supreme
3 Court hearing the other day, I came back to the office
4 and just started fooling around. Because we had not
5 contested Districts 1 and 2, I just went around, came
6 back and fooled around with changing them.
7 What I did was I pushed 2 further down and
8 squared it off. It was more linear going up this road
9 here. It went up into here a little bit, so I kind of
10 squared it off. I didn't touch the bottom part. I
11 didn't touch this east side.
12 And then over here, I moved 4 100 percent
13 within the Fairbanks city limits. And then moved 1 as
14 100 percent in as I could with, what is it, .89, I
15 think. Then I had to pick up a little more, so I went
16 east this way enough to make two distinct districts.
17 It made me have to change 3 and 5 a little
18 bit up on this border, so this changed a little bit up
19 here, but I tried to be within the Fairbanks city limits
20 as much as I could wherever I could, kind of like what
21 we did when I was doing Palmer and that other town,
22 Wasilla.
23 You can see here that the deviations, they
24 are all about 300 over. 3 has got a couple extra, just
25 because sometimes when you click a block, you get more

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than you want and then it makes it kind of ugly, because you got a jagged area.

So I tried to keep them nice and square, go on highways and use the river a little bit. And so in the town here you can see -- I don't know if the streets are on or not. You can see what highways I used.

You don't have the streets on, Jim?

MR. ELLIS: I don't, but if you hit "transportation," that bullet should turn them right back on.

BOARD MEMBER BRODIE: So this is pretty much the City of Fairbanks boundary there. Got a funny jagged tooth down here. There is the northern part -- I tried to use the river, but I had to -- there is the city limits there.

So 4 is entirely within city limits, and 1, except for the eastern boundary too. Here is the city limits here.

CHAIRMAN TORGERSON: This little piece up here straight up, is that -- why do we have that one, off to the right?

BOARD MEMBER MCCONNOCHIE: Between 1 and 4, right there.

BOARD MEMBER BRODIE: That's one of those crazy -- you can't just grab that. It takes up a whole

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bunch.

Here I went across the river, but there is nobody lives here. I used the road instead of the river, so I guess one could easily put that over. Then on this east side is mostly where it spilled over.

So I don't know anything about Fairbanks, so I just tried to use the lines and rivers and stuff that were there.

CHAIRMAN TORGERSON: Same question on the bottom of 1. You have a long tail. I assume that's a block or a census block. Oh, that's the railroad track. Okay.

BOARD MEMBER BRODIE: You end up with a bunch of stuff here, so --

CHAIRMAN TORGERSON: Does anybody live in there? I suppose there is.

MR. ELLIS: If you want, I can turn on population, Bob.

BOARD MEMBER BRODIE: Yeah.

CHAIRMAN TORGERSON: Well, that just looks a little strange.

BOARD MEMBER BRODIE: It does.

CHAIRMAN TORGERSON: Yeah, I didn't think there was. So do we worry about that, if there is nobody in there?

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MR. ELLIS: It looks like it could be moved.

BOARD MEMBER BRODIE: We can change it to green.

CHAIRMAN TORGERSON: I would suggest we look at that, move that into 2 or something. There is nobody there anyway.

BOARD MEMBER BRODIE: Use the highway instead of the railroad. It doesn't matter.

BOARD MEMBER MCCONNOCHIE: It's a long appendage.

MR. WHITE: Let's try to talk at once, guys. Remember we're getting a transcript.

CHAIRMAN TORGERSON: We're testing her making sure she is good.

MR. BICKFORD: So, Bob, this was drawn assuming that -- I'm assuming you draw this off of the proclamation plan template?

BOARD MEMBER BRODIE: Yes.

MR. BICKFORD: So this takes population from 38 out of Fairbanks and from 6 out of Fairbanks?

BOARD MEMBER BRODIE: Yeah. I did not change those boundaries at all.

MR. BICKFORD: And you just did that, because that's what you started with, right?

BOARD MEMBER BRODIE: Just what I started

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with the afternoon after the Supreme Court opinion.

CHAIRMAN TORGERSON: Can you move out, just so I can --

BOARD MEMBER BRODIE: Sure. I don't know where people really live up there. I suppose you could come -- I think I tried to come across here, but the blocks were kind of funny.

This one runs up that way and looks weird, so I used this river here.

CHAIRMAN TORGERSON: "Here" means Badger, just because she is transcribing this.

BOARD MEMBER MCCONNOCHIE: The answer is yes.

BOARD MEMBER HOLM: You used the Chena River though, so that's pretty clean.

BOARD MEMBER BRODIE: So it was just something I was playing with. It came down -- it needed at least 300-some in all five of those districts.

CHAIRMAN TORGERSON: So District 1 is 100 percent Fairbanks city limits?

BOARD MEMBER BRODIE: No, 4.

CHAIRMAN TORGERSON: Oh, 4.

BOARD MEMBER HOLM: District 4.

BOARD MEMBER BRODIE: We can rename them if we want.

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CHAIRMAN TORGERSON: I just misunderstood. Oh, yeah, District 4. You're right. Okay.

MR. WHITE: Bob, does this include the -- help me remember, Taylor. Isn't there some change to the City of Fairbanks, some change to the boundaries that they were trying to make a big deal out of at the trial court level?

MR. BICKFORD: Oh, the Wal-Mart?

MR. WHITE: Well, the boundaries of the City of Fairbanks are different than what is in the census data TIGER blocks.

MR. BICKFORD: There is a Wal-Mart, that's the only difference, or a Fred Meyer.

MR. WHITE: Actually, if I recall, talking to Senator Paskavan, there were two different areas. There was the Wal-Mart or something else, but then there was some area where he lived which used to be outside the city limits but inside the city or something like that.

BOARD MEMBER HOLM: It's within this contiguous area though. It's in Riverview, or that area there. There is an area that was incorporated into the city fairly recently that used to be kind of a little island that was not within the city, but now it's within the city.

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And also Fred Meyer, which is on the southeast portion of 4, is newly in the city. They did that for financial reasons.

BOARD MEMBER BRODIE: I just used the data that came up.

MR. WHITE: It just seems to make sense now that we know of that to find out where that is and incorporate it.

BOARD MEMBER HOLM: It's on Airport Way and it is in the corner right -- well, it's on Airport Way though, South Airport Way. It's that corner right there.

Go up with your arrow a little bit, up, up up, up, left. Right there towards Airport Way, towards Airport Way. See where Mitchell Avenue is? Fred Meyer sits between Mitchell Avenue and Airport Way.

BOARD MEMBER BRODIE: So is that Fred Meyer?

BOARD MEMBER HOLM: No. It's adjacent to Airport Way.

BOARD MEMBER MCCONNOCHIE: That's a block without any people in it, so you could square that off.

BOARD MEMBER HOLM: There is 111 people in there somehow, but I'm not sure that they are all in the city.

BOARD MEMBER BRODIE: We just have to

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confirm with the City of Fairbanks what's --

BOARD MEMBER HOLM: I'm not sure they took any of the people on Mitchell Avenue. I'm just not sure. You probably need to research that, because I don't think they did. I think those folks are not in the city.

MR. BICKFORD: I would suggest that we can download the new shape files from the city and check that.

CHAIRMAN TORGERSON: You can do that tonight?

MR. BICKFORD: Yeah.

BOARD MEMBER BRODIE: So this was just my little doodlings.

BOARD MEMBER MCCONNOCHIE: But there is some things we can square off there and make it look a little more compact.

CHAIRMAN TORGERSON: You want to square off city limits?

BOARD MEMBER BRODIE: No, we're within the city limits.

BOARD MEMBER MCCONNOCHIE: I'm not squaring off the city limits, but there is just a couple, Bob, there that I saw there was no people there, but there was an appendage that was sticking out.

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For example, the little -- yeah, right there.

BOARD MEMBER BRODIE: Well, that's the city limits. I went with -- all the blue, all of number 4 is 100 percent within the city limits.

BOARD MEMBER MCCONNOCHIE: I didn't realize that. So they have a little appendage there so they can deal with that.

BOARD MEMBER HOLM: Probably some businesses or something that they want to derive taxes from.

CHAIRMAN TORGERSON: Can you zoom back out again, Bob? So, Mr. White, I suppose appendages that are city limit boundaries are not a concern of ours, because if we adopt this we would be following city limits?

MR. WHITE: I think that's a logical rationale for drawing boundaries the way that you do, by following city limits.

I would have a hard time believing that a successful challenge could be mounted that there is an appendage that was used to incorporate the city limits.

BOARD MEMBER BRODIE: There is that red line that goes all the way up here and here, and then it comes all the way down here.

Just this area is that excess population you

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needed to make 1 a whole district. You have -- it has 300 people over, 306.

MR. WHITE: Does this, Taylor, solve the issue from the lieutenant governor's office about the -- remember there was some people that were in the wrong precincts or something?

MR. BICKFORD: The Base issue?

MR. WHITE: Yeah.

MR. BICKFORD: I think that it does, but that's something we need to look at.

BOARD MEMBER BRODIE: I didn't do anything down around the Base, or at least the Air Force Base.

MR. BICKFORD: It was Wainwright.

BOARD MEMBER BRODIE: It was Wainwright?

MR. BICKFORD: Yeah. We'll look into that tonight.

BOARD MEMBER BRODIE: Wainwright is all in this area.

MR. BICKFORD: The eastern edge of the city limits is Wainwright in the city, eastern edge, so to the right.

BOARD MEMBER BRODIE: This is the city, over here.

MR. BICKFORD: We'll get the shape files tonight and just double-check that.

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CHAIRMAN TORGERSON: Bob, what did you do to 5, if anything?

BOARD MEMBER BRODIE: I think 5 I had to change slightly over in the -- up here in the interface between 3 and 5, because I changed 3 down here.

Once I got this one, this one and this one, I had to adjust this a little bit up here to make my populations closer.

CHAIRMAN TORGERSON: I assume those spikes up above on the left-hand side are part of the census block?

BOARD MEMBER BRODIE: Yeah, I didn't -- I didn't mess with those.

CHAIRMAN TORGERSON: North of the tracks, okay.

BOARD MEMBER BRODIE: I didn't do anything on the 38 border. There is some odd little things here, but I could probably pick this 25 people up, but I thought it would look more spikey. So it's only -- what is it?

Well, 180 people difference between 3 and 5, about 140 people, which we could certainly play around with, but I tried to use nice-looking stuff.

MR. WHITE: Can you pull all the way back out so I can look?

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BOARD MEMBER MCCONNOCHIE: There is kind of an odd thing on the other side of the railway, which is 3 that comes around.

MR. WHITE: I'm trying to see 2.

BOARD MEMBER BRODIE: This here?

BOARD MEMBER MCCONNOCHIE: No, up above, up north.

BOARD MEMBER BRODIE: Just a second. Let me look at 2. Oh, I didn't do anything between 6 and 2.

MR. BICKFORD: But you did fix 2, right?

BOARD MEMBER BRODIE: Yeah.

CHAIRMAN TORGERSON: Yeah, there you go. Primarily by moving Eielson Farm District back out of 6 and putting it into two.

BOARD MEMBER HOLM: Out of 5 and 2.

MR. BICKFORD: It looks like he added Badger.

BOARD MEMBER BRODIE: These islands can go either direction. I think some of this was 5, and I put it back into -- everything on that side of the river I left in 2.

CHAIRMAN TORGERSON: Does that fix our corridor issue, Michael?

MR. WHITE: Can you pull it all the way out, Bob, so I can see the whole thing?

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CHAIRMAN TORGERSON: Looks like it does.

MR. WHITE: We have -- so you didn't take anybody out of 6 at all?

BOARD MEMBER BRODIE: No.

MR. BICKFORD: Except for the Eielson Farm area, didn't you?

BOARD MEMBER BRODIE: No, I don't remember doing that.

CHAIRMAN TORGERSON: I think there is 300-some people in the -- would be to the left of where it says "Eielson Air Force Base," left of the road.

BOARD MEMBER HOLM: That came out of 5.

BOARD MEMBER BRODIE: Over in here?

MR. BICKFORD: That's in 6.

BOARD MEMBER HOLM: They came out of 5, I think, Jim.

BOARD MEMBER BRODIE: We can check. I don't remember if I did anything with 6.

CHAIRMAN TORGERSON: I think, Jim, the original you put them in with Delta, the Eielson Farm.

BOARD MEMBER HOLM: Yeah, they were with Delta.

CHAIRMAN TORGERSON: So that would be 6.

BOARD MEMBER BRODIE: Is that this area here?

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CHAIRMAN TORGERSON: Yeah.
BOARD MEMBER BRODIE: We can check that. I don't remember that. Maybe I did.
BOARD MEMBER HOLM: We can check.
BOARD MEMBER BRODIE: 6 still has very close to the same numbers.
CHAIRMAN TORGERSON: 6 might be a less deviation than it was.
BOARD MEMBER BRODIE: 393. Anything else? You said something, PeggyAnn?
BOARD MEMBER MCCONNOCHIE: Just you see where it says "Alaska Railroad," just right up there above College, north, and you see that purple?
BOARD MEMBER BRODIE: That's the --
BOARD MEMBER MCCONNOCHIE: No, on the right. Just kind of drums down there. Is that something that could easily be changed?
BOARD MEMBER BRODIE: Let's see what happens.
BOARD MEMBER MCCONNOCHIE: You see how it just kind of -- 3 just kind of comes down and winds its way there.
BOARD MEMBER BRODIE: Where is my --
MR. BICKFORD: On the left.
BOARD MEMBER HOLM: The purple between the

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blue and pink there, that whole piece.
MR. BICKFORD: Probably 5.
BOARD MEMBER BRODIE: Or 38.
MR. BICKFORD: 38.
BOARD MEMBER BRODIE: One is the --
CHAIRMAN TORGERSON: Doesn't look like anybody lives there.
BOARD MEMBER BRODIE: One is the river and one is the railroad.
BOARD MEMBER MCCONNOCHIE: It just makes it easier.
MR. WHITE: Cleaner.
BOARD MEMBER BRODIE: They said geographic boundaries. See that jumped way down there.
BOARD MEMBER MCCONNOCHIE: That's not the one I was talking about. You got the one that I recognized was --
BOARD MEMBER BRODIE: Sure.
BOARD MEMBER MCCONNOCHIE: Following along the railroad is much easier in that particular portion.
BOARD MEMBER BRODIE: You could have gone further up and done some things way at the top there, but I started worrying if you got boundaries out here too far, one guy lives on one side of the road, has to drive way over here to vote, and the other guy has to

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drive way over there.
If you make the changes closer to town, you would think the precincts wouldn't be so far to go.
CHAIRMAN TORGERSON: When is Eric coming up?
MR. BICKFORD: Wednesday.
CHAIRMAN TORGERSON: Other questions of Bob? All right. Taylor?
BOARD MEMBER GREENE: Thank you, Bob.
MR. BICKFORD: John, did you want to talk about what this is, or do you want me to explain?
CHAIRMAN TORGERSON: What I want you to do is explain the basis that I gave you to start with for drawing the plans, and then I'll ask Michael to chime in on those also, or we can go right to Michael.
MR. BICKFORD: So the idea behind what we're looking at here is after we got the decision back from the Court, John asked us to start coming up with some options for the board to consider for using as a starting point for the Hickel process.
And so the guidance he gave us was to basically incorporate any aspects of the current plan where no Voting Rights Act justifications existed; in other words, parts of the plan that were really drawn under a Hickel process to begin with, parts of the plan that were drawn with only the Alaska Constitution in

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mind and not the Voting Rights Act.
And so obviously, the Anchorage District, for example, those were drawn originally to state constitutional standards, had nothing to do with the Voting Rights Act. The Mat-Su, the Kenai Peninsula, and the Kodiak District and Southeast.
Now, Southeast, we had originally drawn an influence district in Southeast, but we didn't ever claim in Southeast that we had to stretch the state constitutional requirements in order to comply with the Voting Rights Act.
And if you remember Judge McConahy ruled that District 32 was compact enough, period, on Alaska constitutional grounds. And so that's why we incorporated Southeast also. Even though there wasn't any influence districts down there, the Court found that it was constitutional without getting into a Voting Right Act justification.
So this was the starting point. So I started by importing the Southeast districts. I then imported the Kodiak districts, the Kenai Peninsula districts, the Anchorage districts, the Mat-Su districts, the Highway District and then the North Slope.
And the reason behind importing the North

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1 Slope, first of all, we never, again, never claimed that
2 that was built on Voting Rights Act grounds. If you
3 remember in our proclamation, we listed some districts
4 that were created on Voting Rights Act grounds, and
5 District 40 wasn't one of them.
6 And we also have the prior court decisions
7 that have said don't mix essentially the North Slope
8 area or the Northwest Arctic Borough area with the
9 Interior/Athabascan areas. And so it just made sense
10 for those reasons to just start out by importing
11 District 40.
12 And what this allowed us to do is
13 essentially see what's left over. And you will see that
14 all -- everything from Aleutian West down, you know, to
15 the Richardson Highway is left empty. And those are
16 areas that have traditionally been put in Alaska Native
17 areas. And those are the areas that we knew our plan,
18 our original plan had been drawn on Voting Rights Act
19 grounds.
20 And those are the parts that we need to
21 essentially to start over with and only draw them on
22 state constitutional grounds. So before we started
23 filling anything in, we started this this template.
24 CHAIRMAN TORGERSON: Mr. White?
25 MR. WHITE: How many districts then need to

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1 be drawn? How many districts exist in the template
2 right now, just total number?
3 MR. BICKFORD: The total number of districts
4 would be 36. And what you're left with is between all
5 the unassigned areas, all the parts of our plan that
6 were included in a Native district that we had drawn
7 with the Voting Rights Act in mind, it comes out to
8 62,240 people. And --
9 CHAIRMAN TORGERSON: Could you repeat that
10 for me?
11 MR. BICKFORD: The total number of the
12 unassigned areas here -- and another thing to point out
13 is that I kept -- when I started with this template, I
14 didn't -- I also erased Fairbanks, because we knew that
15 Fairbanks would have to be redrawn in some way.
16 So the 62,000 doesn't count in what's left
17 in Fairbanks. It just counts in the rural areas. So
18 what's left in those rural areas is 62,240 people, which
19 is approximately 3.5 House districts.
20 Now, if you draw a House district down to
21 its lowest possible deviation at, say, negative five,
22 you come out to 16,867 people.
23 MR. WHITE: Average deviation?
24 MR. BICKFORD: Negative five. It's not an
25 average. That's a negative five for one district. So

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1 if you take four districts, which you know you are going
2 to have to draw, at that minimum number of negative five
3 deviation, the number is 67,468.
4 And so what this means is that four
5 districts at their minimum size -- or actually, yeah,
6 four districts at their minimum size is 67,468. What's
7 left in those rural areas is 62,240.
8 And what this --
9 MR. WHITE: So that means there is 5,228
10 people short of meeting the minimum negative standard of
11 negative deviation of 5.0?
12 MR. BICKFORD: And so what this told me is
13 that no matter what you do in these rural districts,
14 you're going to have to add at least 5,228 people from
15 some urban area to get to your fourth district, without
16 any Voting Rights Act concerns. This had nothing to do
17 with Native VAP.
18 This is purely one person/one vote and state
19 constitutional standards. You're still left with
20 approximately 5,228 people that need to be added into
21 those rural areas.
22 MR. WHITE: And your numbers are based upon
23 the census data?
24 MR. BICKFORD: Yes.
25 BOARD MEMBER MCCONNOCHIE: Okay. So if I

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1 have this correct, and please chime in if I'm not,
2 according to the Alaska Constitution, we have got:
3 District 40 is okay. Anchorage is okay. Mat-Su is
4 okay. Southeast is okay. Kodiak is okay. And
5 Kenai/Soldotna are all okay. Correct?
6 MR. BICKFORD: Yes.
7 BOARD MEMBER MCCONNOCHIE: Okay. If that is
8 then true, then I would go ahead and make a motion that
9 we accept those districts as being -- meeting the
10 constitutional standards of the State of Alaska.
11 So Kodiak, Kenai, Soldotna, Anchorage,
12 Mat-Su, Southeast and District 40, and that we should
13 accept those and then move forward with the other ones
14 and try to figure those out.
15 CHAIRMAN TORGERSON: I might just ask that
16 you consider us going through the rest of the
17 presentations and then let's pick this up at the end, if
18 you don't mind.
19 BOARD MEMBER MCCONNOCHIE: That's fine.
20 CHAIRMAN TORGERSON: Would that be all
21 right? I would like to see -- I mean, if somebody wants
22 to second it, that's fine too, but I would like to see
23 the rest of Taylor's plans that he has drawn.
24 And I think logically we're probably going
25 to come back to that, but I would like to see the rest

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of them. Is that all right with you?
BOARD MEMBER GREENE: I agree.
BOARD MEMBER MCCONNOCHIE: It just seems like that was pretty much your baseline, so -- fine, no problem.
CHAIRMAN TORGERSON: Can you remove your --
BOARD MEMBER MCCONNOCHIE: Excuse me. I will formally remove my motion, Mr. Chairman.
CHAIRMAN TORGERSON: Go ahead, Taylor.
MR. BICKFORD: So I just wanted to start with this to show you guys where our starting point is. Again, what John and Michael, we had come to that conclusion that these are parts of the plan that were drawn, under a Hickel process, that were drawn with only the state constitution in mind.
And from there, what I then did is now we have some options and some things to look at in terms of what can be done with the unassigned areas and what's left.
So I have got three different options to look at. If you don't have any more questions about this, I can just jump right into those.
MR. WHITE: Let's just make clear on the record, you're saying that contained within the white area of the map - and let's make sure that a copy of

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this gets into the board's record - 62,240 people live in that area, other than the Fairbanks, which --
MR. BICKFORD: Other than the Fairbanks, yes.
MR. WHITE: So the rural areas have 62,000. In order to meet the minimal requirements of the Alaska Constitution Article 6, Section 6, it needs, at a minimum, 67,468 people.
MR. BICKFORD: Right.
MR. WHITE: And that means you have four districts that are all underpopulated by 5 percent?
MR. BICKFORD: That's right.
MR. WHITE: So in order to reduce those deviations down further to get closer to the ultimate goal of equal representation for all residents of the State of Alaska, you would have to add more people into that district to reduce -- into the rural area in order to reduce the deviations below 5 percent?
BOARD MEMBER MCCONNOCHIE: And that's the 5,228?
MR. BICKFORD: Yes. And so that gets you to your minimum all four of these districts at negative five. Now, if you wanted to, like Mike said, if you wanted to bring the deviations down further, then you would essentially be adding more urban to those

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districts.
Should I go on and move to the first option of redrawing the rural?
CHAIRMAN TORGERSON: I'm thinking.
MR. BICKFORD: I could tell.
CHAIRMAN TORGERSON: Yeah, I will probably have some questions later on, but I can't formulate it good enough right now.
Other questions of Taylor at this point? Okay. Go ahead, Taylor, to your next presentation.
MR. BICKFORD: All right. So I'm opening the map that's labeled Hickel 01. These are all available on the website. If you go to the home page, there is right on the font page you can download these maps, along with the template we just talked about.
Okay. So, again, we started with the template that we just looked over, and from there, it was just a matter of filling in the rest. And what I essentially did was started with the Aleutians.
Under state constitutional standards, we had to assume that the Aleutians should be put back together if there is no Voting Rights Act considerations in play, given the Court's guidance and what the Court said in the past, we just put the Aleutians back together as a starting point.

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BOARD MEMBER MCCONNOCHIE: Taylor, can you move your district down to the lower part, please?
MR. BICKFORD: Yes. One thing I'll point out is that you will see that this contains all the Native data, all the VAP percentages.
This was something I did not take into consideration in any way in drawing this. It was all about deviations, and, honestly, following the traditional district lines as closely as possible.
MR. WHITE: By "traditional," you mean benchmark?
MR. BICKFORD: Yeah, the benchmark. You will see that District 36 is very similar to what Benchmark District 37 looks like. And I just started at Aleutians West and worked my way up. And in drawing these Native districts, I was trying to get them as close to negative five as possible, in order to minimize the amount of people that would need to get taken out of urban.
So we know that if they are all at negative five, they we need exactly 5,228. If they start to get -- if they are all negative four, that means more are going to need to be taken out of urban.
So I tried to keep them all as close to negative five as possible and just basically built from

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1 Aleutians West, worked my way up and then -- I worked my
2 way up through Aleutians East, Lake and Peninsula,
3 Bristol Bay, Dillingham.
4 And at that point, we were still short
5 population, and I worked my way up into the Bethel
6 census area, only to the extent necessary to get us
7 within negative five percent.
8 From there, the District 38 basically drew
9 itself and you just incorporated as much of the
10 remaining Bethel census area and had to go a little bit
11 outside of that in order to pick up population. So I
12 had to go into Wade Hampton a bit.
13 Then in drawing District 39, I started by
14 adding the Nome census area and what was left of the
15 Wade Hampton census area, and then had to go a little
16 bit outside of Wade Hampton into the Yukon area in order
17 to get to, you will see here, about negative 4.9.
18 So once that was done, what I was left with
19 was this -- all of what you see here is 37, again, being
20 unassigned. And I had assigned 40, 39, 38 and 36, and I
21 was left with this area here.
22 And what was left was about 9,232 people.
23 And you're going to -- that number looks a little off,
24 and it's because Denali Borough wasn't involved. So you
25 add all of this, and then basically had to go into

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1 Fairbanks and add -- I'm sorry. It was 11,058 people
2 once you added the Denali Borough, and that's before
3 going into any urban area.
4 CHAIRMAN TORGERSON: Explain that. You lost
5 me. 11,000 people unassigned?
6 MR. BICKFORD: I kind of confused myself
7 there. Once you built 40, 39, 38 and 36 on this map,
8 you are left with 9,000 -- I'm sorry.
9 Then you added basically what was left of
10 the Interior villages, down the highway here. Before
11 adding Denali, you're left with -- or you had 9,232
12 people in that district.
13 Once you added Denali, you then had 11,058
14 people in the district, which left you 5,809 people
15 short of that minimum negative 5 percent district size.
16 So from there on this first option, I chose
17 to go into Fairbanks, like we had done in the
18 Proclamation Plan, and just pick similar areas and tried
19 to pick the minimum amount up in order to get, you will
20 see here it's at about negative 4.65.
21 So it's about the minimum number that could
22 be taken out of Fairbanks in order to meet the one
23 person/one vote requirement for District 37.
24 MR. WHITE: So 37 is 4.65 negative?
25 MR. BICKFORD: Yep.

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1 BOARD MEMBER GREENE: So, Taylor, before you
2 went -- Mr. Chairman?
3 CHAIRMAN TORGERSON: Yes, go ahead.
4 BOARD MEMBER GREENE: Before you went into,
5 did you say Denali, with the deviation of 4.65, what was
6 it -- how high was it before then?
7 MR. BICKFORD: Marie, before I went into
8 either Denali or Fairbanks, only adding the Yukon sort
9 of Interior villages areas, that was a total of 9,232
10 people.
11 Then once you added the Denali Borough, it
12 brought it up to 11,058. And then after that, I took
13 the rest of the population we needed out of Fairbanks.
14 BOARD MEMBER GREENE: I was just curious,
15 Mr. Chairman, about the deviation, because I know it
16 will go over minus five.
17 CHAIRMAN TORGERSON: Pardon me?
18 BOARD MEMBER GREENE: I was thinking it
19 shouldn't go minus five, but I was just wondering how
20 high.
21 BOARD MEMBER MCCONNOCHIE: If you took out
22 the Fairbanks portion?
23 CHAIRMAN TORGERSON: How high could we go?
24 What's our plus size, to stay under ten? We could go a
25 little above five, I guess, is where I'm getting at, not

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1 that we would want to, or is five the highest?
2 MR. WHITE: There is nothing that says that
3 you have to over or under -- keep it under 5 percent, as
4 long as -- we know that the range in non-urban areas is
5 still the federal standard of 10 percent.
6 So I suppose you could try to go higher. Of
7 course, by doing that then you affect the
8 representation, underrepresentation. Essentially means
9 that those areas have more representation than other
10 areas of the state, because the less people you have per
11 representative means overrepresentation, et cetera.
12 So under this plan, what's the overall
13 deviation?
14 MR. BICKFORD: You will see here that it's
15 7.7, but I would suggest that you couldn't necessarily,
16 even if you said 37, we're comfortable with it going up
17 to negative 8 percent, that's not the only
18 consideration.
19 And the reason why is under this plan, and
20 this is the final piece of this plan, once I built all
21 the rural, I was then left with the rest of Fairbanks
22 being unassigned.
23 So the first thing I did was I took the
24 Highway District completely out of Fairbanks. And the
25 reason I did that was to look at can we, under this kind

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1 of a plan, only split the Fairbanks North Star Borough
2 boundary once?
3 And so you -- once I took the Highway
4 District out of Fairbanks, you will see that the Highway
5 District is at a negative -- a deviation of negative 3
6 percent, so it works there.
7 And what you essentially -- what I
8 essentially did is I imported Bob's plan for Fairbanks,
9 which you will see similar to what he did, having the
10 western part of Fairbanks --
11 MR. WHITE: Entirely within the city limits?
12 MR. BICKFORD: Right. Well, mostly. And
13 then, again, District 2, you will see that the
14 deviations are really high for the Fairbanks districts.
15 Once you basically take in what you need to
16 take out for rural and nothing else, the deviations in
17 Fairbanks go up to positive 3 percent to positive almost
18 4 percent.
19 So the range between them is about 1
20 percent, which is similar to what we have in Anchorage,
21 but my point is: If you're taking less out of rural,
22 that is going to add more to Fairbanks, and you could
23 only go so far.
24 MR. WHITE: What's the highest deviation in
25 Fairbanks?

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1 MR. BICKFORD: 3.98.
2 MR. WHITE: But the overall range within the
3 city is essentially the same, about 1 percent?
4 MR. BICKFORD: Yes.
5 MR. WHITE: You said that 1 was not entirely
6 within the city. Is there a reason for that?
7 MR. BICKFORD: Just the adjusting process of
8 having to add 1500 people back into the plan just caused
9 everything to be changed a little bit, but I can tell
10 you that if you were to -- under this I renumbered these
11 to pair the city back together.
12 If you were to do that you would have -- I
13 don't have the exact number in front of me, but it's
14 over 80 percent of the City of Fairbanks would be in a
15 Senate district.
16 MR. WHITE: Where is the rest of the city?
17 BOARD MEMBER HOLM: It's to the right of 1,
18 about half of 2.
19 MR. WHITE: How is it 80 percent then? You
20 confused me. The entire city -- you have some of the
21 city --
22 CHAIRMAN TORGERSON: It looks like above.
23 MR. WHITE: -- in 3?
24 MR. BICKFORD: My goal here was really to
25 just take Bob's districts and to smooth things out for

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1 population reasons and to show that it could work.
2 You can't just take -- you couldn't just
3 take Bob's districts, because you had a 1500-person
4 swing by taking the highway out.
5 MR. WHITE: So you had to spread basically
6 300 people?
7 MR. BICKFORD: Every district had to be
8 overpopulated as a result.
9 MR. WHITE: You had to add 300 people to
10 each five district?
11 MR. BICKFORD: What I'm telling you is Jim
12 Ellis ran the numbers on the city, and if you were to
13 pair 1 and 2 together, it would have over 80 percent of
14 the Senate district. It's not, I don't think, very hard
15 to see, because the only parts that are outside is
16 essentially this chunk. And --
17 MR. WHITE: And the top, right?
18 BOARD MEMBER BRODIE: 3 comes down into the
19 city a little bit, the top, right?
20 MR. BICKFORD: Yes.
21 BOARD MEMBER HOLM: I would look at that,
22 because it looks like 5 does too up at the top.
23 MR. BICKFORD: I guess a little bit right
24 here. I wasn't --
25 BOARD MEMBER BRODIE: We can clean those up

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1 if you want to.
2 MR. BICKFORD: I wasn't drawing this as a
3 final plan for Fairbanks. I was just showing that you
4 could make the population work.
5 CHAIRMAN TORGERSON: Is this primarily what
6 you used, Taylor, in Hickel 2 and 3, the same kind of
7 Fairbanks configuration?
8 MR. BICKFORD: I always started with Bob's,
9 but because those plans treat Fairbanks differently,
10 there is going to be some variation between them.
11 CHAIRMAN TORGERSON: So do you -- the
12 89 percent -- 8.9 percent of the population all within
13 the city limits?
14 MR. BICKFORD: It's going to be very similar
15 amongst all the plans.
16 CHAIRMAN TORGERSON: Okay. Questions on
17 this? Anything else? You got any other --
18 BOARD MEMBER MCCONNOCHIE: Can you go back
19 out and then take off the place names so we can see a
20 little bit more? Thank you.
21 CHAIRMAN TORGERSON: So this really isn't a
22 total Hickel plan or process, or not process -- totally
23 to our constitution, because we had to divide Fairbanks
24 or had to take some out for the rural areas.
25 Or are we assuming that since the Court

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1 upheld our Fairbanks findings that it was all right to
2 go into Fairbanks?
3 MR. BICKFORD: What I found after filling in
4 the districts is that you have to go in, even if it has
5 nothing to do with the Voting Rights Act. Even under
6 state constitutional standards of equal population, you
7 still have to go into an urban area.
8 BOARD MEMBER MCCONNOCHIE: You got to get
9 people.
10 CHAIRMAN TORGERSON: Just asking the same
11 question ten times so we get it on the record.
12 MR. WHITE: There is just no way to draw
13 four additional districts without taking urban, what
14 we're calling urban population from somewhere in the
15 state.
16 MR. BICKFORD: Right.
17 MR. WHITE: And we know from the trial
18 Court's decision that the board's decision to go into
19 Fairbanks was considered reasonable and rational for the
20 reasons that we provided.
21 So the only potential issue here would be
22 whether House District 37 would be considered relatively
23 socioeconomically integrated.
24 And since that is a relative standard,
25 that's the only way we would argue that this meets the

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1 Alaska constitutional standard of relatively
2 socioeconomically integrated, given the Fairbanks
3 connection to Interior Alaska, the hub for rural Alaska,
4 those type of facts that we know are undisputed and were
5 so found by the trial court.
6 MR. BICKFORD: I think what you will see as
7 I go through a couple more of these plans, Michael, is
8 that you are always going to have one district,
9 whichever district combines urban and rural, there is
10 always going to be socioeconomic integration questions
11 about it, but they can't be avoided.
12 This was one way of doing it. And if there
13 aren't any more questions on this, I'll go to the next
14 option.
15 CHAIRMAN TORGERSON: Other questions? Okay.
16 Let's go to the next one.
17 MR. BICKFORD: Okay. So the second option,
18 which we're calling Hickel 02 - again, these maps are on
19 our website - starts from the same premise of the
20 template we showed.
21 And this plan, what I did was I actually
22 followed the same process for drawing District 37 or
23 what's called District 37 under this plan, which is the
24 Aleutians District, the Bethel District, the Wade
25 Hampton/Nome District. That's all the same.

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1 So what I wanted to look at in this plan was
2 if you add all of the Interior village areas, again,
3 that brings you to the number we discussed earlier,
4 which was 9,232 people. You add the Denali Borough,
5 that brings you to 11,058.
6 And you're looking for 5,809 additional
7 people to add to this district in order to get to your
8 minimum negative 5 percent number.
9 BOARD MEMBER MCCONNOCHIE: Can we go down
10 and look at the deviations in those districts?
11 MR. BICKFORD: Sure.
12 BOARD MEMBER MCCONNOCHIE: Thank you.
13 MR. BICKFORD: So they are going to be the
14 same. District 40 again we kept that same. That's part
15 of the template. District 39 is a negative 4.9 percent.
16 It's the same as the last plan I showed.
17 District 38 is a negative 4.1. It's the
18 same as the last plan I showed. And District 37, which
19 was 36 in the last plan, is negative 4.95 percent. So
20 you see they are all right up against that negative five
21 number.
22 And so what I wanted to see is if you're
23 going to add -- essentially recreate Benchmark District
24 6, this horseshoe, can you recreate it and instead of
25 adding Fairbanks add another urban area and what would

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1 that look like. Under this plan instead of going into
2 the Fairbanks North Star Borough, I went into the Mat-Su
3 Borough.
4 CHAIRMAN TORGERSON: Sorry I left. Did you
5 need the same number of people when you went into the
6 Mat-Su as you did in Fairbanks?
7 MR. BICKFORD: What I was just explaining,
8 John, is I went through the same process and built the
9 Aleutians, the Bethel, the Wade Hampton/Nome Districts
10 all in the same way as the last plan.
11 I then filled in the Interior villages in
12 the same way. And then instead of going into Fairbanks,
13 looked at potentially going into Mat-Su.
14 CHAIRMAN TORGERSON: You still need 5,500 or
15 800 people?
16 MR. BICKFORD: It's the same number, 5,809.
17 CHAIRMAN TORGERSON: That's what I wanted to
18 know.
19 MR. BICKFORD: Okay. So, again, I didn't go
20 into Fairbanks under this plan. I brought this
21 horseshoe district into western Mat-Su. And I basically
22 added -- I won't turn on the precinct lines here, but I
23 added Trapper Creek precinct, the Susitna precinct, the
24 Willow precinct and the Houston precinct.
25 And after doing that, I was at a negative

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5.18 percent deviation, which was 16,836 people.
MR. WHITE: Trapper Creek, Willow, Houston.
MR. BICKFORD: Trapper Creek, Susitna, Willow and Houston.
CHAIRMAN TORGERSON: Where was your 5 percent deviation?
MR. BICKFORD: So after adding those four precincts, I was at negative 5.18. And then I needed to add 31 more people to get to that minimum number, and I ended up adding just a little bit more than that.
You can never find the exact block you want, but it was about as close as I could get, which was a negative 4.1. After I did that, that obviously changed Mat-Su, but I started by -- let's see here. What's the best way to show this? So I basically had to reconfigure the Mat-Su districts.
CHAIRMAN TORGERSON: How much excess population did they have?
MR. BICKFORD: Well, the Mat-Su doesn't have any.
CHAIRMAN TORGERSON: So under the strip proportionality rule they have how many seats?
MR. BICKFORD: Five.
MR. WHITE: 5.01, I believe.
CHAIRMAN TORGERSON: So you are probably

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violating the proportionality rules or the dilution rules or anti-dilution by taking population out of it?
MR. BICKFORD: Well, it's split three ways now, because --
CHAIRMAN TORGERSON: I understand that, or I didn't. All right.
MR. BICKFORD: So you have got --
CHAIRMAN TORGERSON: You made my point. They didn't have excess population to give to begin with.
MR. WHITE: Exactly how many people did you take out of Mat-Su under this configuration?
MR. BICKFORD: I want to say 5,000 -- 5,800. It's not exactly that. It's 5,820 or so.
MR. WHITE: Find that exact number when you can, but roughly a third of the district taken out?
MR. BICKFORD: Let's see. I can do it real quick. It's 65.
CHAIRMAN TORGERSON: Could I have those communities? Trapper Creek, Willow, Houston, Susitna, and Talkeetna? No? Yes? Looks like Talkeetna also.
MR. BICKFORD: It's not Talkeetna. It's Trapper Creek, just short of Talkeetna.
MR. WHITE: So it was 5,865.
MR. BICKFORD: The amount that was taken out

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of the Mat-Su was 5,874. So by doing -- so I then had to adjust the Mat-Su districts, and, again the point of me doing this was to try to build compact districts and to smooth over the deviations to show that it could be done, understanding that if the board were to pick this as a Hickel option, that you might ask me to go in and relook at Mat-Su, but I just wanted to show that the numbers were there, that you could build compact districts that were within the deviations.
So the Mat-Su districts are 7 through 11. And so you have four districts that are entirely within the Matanuska-Susitna Borough's boundaries. And then you have District 11, which a majority is within the Mat-Su, but you will see some spills over into Anchorage, which is similar to what we have under the Proclamation Plan. And then District 6 had to be pulled out of the Mat-Su in order to free up some population.
District 6 then runs up to Fairbanks, and because you weren't taking the chunk out of west Fairbanks for the rural district, I then brought the Highway District back into Fairbanks, because we know that there is excess population there and some of it has to go somewhere.
So if you're not -- under the last plan, I took it out of west Fairbanks into the rural district

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and didn't come in with the Highway District. Under this plan, I didn't come in with the rural district and instead came in with the Highway District and took population out of Fairbanks out of District 6.
MR. WHITE: How much?
MR. BICKFORD: I don't know that exact number, Michael.
CHAIRMAN TORGERSON: So you only divided Fairbanks once then under this particular one?
MR. BICKFORD: Yeah.
CHAIRMAN TORGERSON: You divided Mat-Su how many times?
MR. BICKFORD: Three.
CHAIRMAN TORGERSON: And that's primarily because of District 6, or is it primarily because you had to come in and take out what was already a pretty well apportioned five districts?
MR. BICKFORD: I think it was probably a little of both. It was the chunk that was taken out for rural, and then I basically brought District 6 as far into Fairbanks -- let's go to the Fairbanks District.
Feasibly District 6 could be brought farther into Fairbanks and you might be able to pull it all the way out of the Mat-Su. The first drawing of this plan I didn't have time to look at that option, but that's

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1 something that could potentially be done.
2 You will see that the Fairbanks districts
3 here are all overpopulated. You could feasibly take
4 more population out of Fairbanks, put it into 6 and then
5 potentially pull 6 out of the Mat-Su, which then will
6 create two splits.
7 Under this plan, I was again just looking at
8 -- I imported Bob's Fairbanks districts and was looking
9 at making minimal changes, based on the fact that now we
10 aren't taking 5,500 people out of the western portion
11 here and still trying to keep as much of 1 and 2 in the
12 city as I could.
13 So you will see that 1 is entirely within
14 the city and then 2 spills over a little bit to the
15 north, a little bit to the east.
16 CHAIRMAN TORGERSON: You're pretty high
17 deviations there also.
18 MR. BICKFORD: Right, so I think something I
19 could look at was bringing 6 further into Fairbanks and
20 then pulling it out of the Mat-Su.
21 MR. WHITE: Because 6 right now is negative
22 2.81?
23 BOARD MEMBER MCCONNOCHIE: Right.
24 MR. BICKFORD: And the Fairbanks districts
25 are all overpopulated. So I don't know if you could

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1 take enough with 6 out to bring it out of the Mat-Su,
2 but it's something we could definitely look at.
3 What I decided to do was just basically
4 build these and just show that it could be done and then
5 see what you guys thought in terms of what I should work
6 on beyond this.
7 But the fundamental point of this plan was
8 to follow what I did in the first plan, but instead of
9 going into Fairbanks, to go into Mat-Su.
10 CHAIRMAN TORGERSON: I get concerned about
11 overpopulating some of the fastest growing areas of the
12 state and underpopulating where we're having out
13 migration. We would be mal-apportioned in a year. We
14 might already be, since we're using 2010 data and we're
15 two years beyond the census.
16 Just as a general statement, at almost a
17 plus five in Fairbanks and almost a plus five in rural
18 Alaska doesn't -- it may meet a standard of under ten,
19 but I'm not sure it passes the red-face test.
20 MR. WHITE: So by looking at this map, first
21 of all, obviously we have potentially socioeconomic
22 integration problems with House District 6.
23 You now have portions of Mat-Su that are
24 connected all the way around to the other portion of the
25 state.

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1 MR. BICKFORD: You mean 36, Mike?
2 MR. WHITE: I'm sorry. Is it 36, the purple
3 one. That one there.
4 MR. BICKFORD: That's 36.
5 MR. WHITE: So you go into Mat-Su, including
6 Willow, Susitna, Houston, and connect it around clear
7 over to the other side of the state with no indication,
8 or at least I'm not aware of any evidence that would
9 show that Mat-Su and that area has any sort of
10 socioeconomic integration with the other parts of that
11 district.
12 Up to Denali I suppose on the road system,
13 but once you get up further into the urban area or the
14 rural areas in the Alaska Native villages, particularly
15 around over to the eastern portion, I don't think there
16 is anything in the record at this point in time that
17 would establish any sort of socioeconomic integration
18 between those areas.
19 So that's a potential problem. This plan
20 splits the Mat-Su three ways, but you're saying you
21 might be able to fix it. At a minimum, you're going to
22 have two splits, because you're taking population out of
23 five districts that don't have any excess to give.
24 So there is no excess population in the
25 Mat-Su at all. I mean, 12 people, 17 people, something

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1 like that. You say it's three splits now, but you might
2 be able to fix it to two, but it's going to be two
3 splits minimum.
4 MR. BICKFORD: Right, and there are two
5 splits in the Proclamation.
6 CHAIRMAN TORGERSON: This sort of looks like
7 the old District 6 that we're currently under, except
8 for going into the Mat-Su.
9 MR. BICKFORD: So in drawing --
10 CHAIRMAN TORGERSON: But still, it's really
11 hard, I agree with Michael, it's really hard to make a
12 socioeconomic integration between -- I mean, there is no
13 hub, there is no airport, they don't share the same
14 airline service, they don't share the same newspaper.
15 BOARD MEMBER MCCONNOCHIE: Shopping.
16 CHAIRMAN TORGERSON: Shopping, I guess.
17 What were the other tests? They don't have a marine
18 highway system that they share.
19 So it doesn't look like that would pass the
20 socioeconomic portion of Article 6, Section 6.
21 MR. BICKFORD: From my perspective, having
22 -- we're going to go into the third plan here, but
23 having worked through this, you're going to, no matter
24 what you do, even in drawing a state constitutional plan
25 that has nothing to do with the Voting Rights Act, you

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are always going to have one district that combines urban and rural, the math dictates that.

And it's going to be up to you guys to decide which of those options does minimal harm. All of them are going to do some harm, because they are not necessarily socioeconomically integrated, but which of them does minimal harm. And I don't know the answer to that.

MR. WHITE: When you say "harm," I would characterize it, Taylor, more as which one is the most relatively socioeconomically integrated.

CHAIRMAN TORGERSON: The least violating our constitution. Any other questions on this? Let's go to your third option.

MR. BICKFORD: So this is a much different approach. I didn't think it would be fair to do this without building at least one plan that takes rural into Anchorage.

So this is probably pretty ugly, but the idea behind this was to start again with the template. And then we have tried Fairbanks, we have tried Mat-Su. And so for this third option I figured let's try to get one of the rural districts into Anchorage and see what that looks like.

What I did here was, again, 40 was already

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set, so I built 39 -- I built 39 similar to the horseshoe that we the built in the previous two plans, but because I know I can't go into Fairbanks to get 5,800 people, I have to get that 5,800 people from somewhere else.

I know I don't want to go into Mat-Su, because I have already tried that. I know that if I start going too far south, I'm going to make it impossible to draw districts in this region, so I went west into Nome to get population for District 39.

And you will see that District 39 is at -- I guess this one -- it looks like this one could go a little bit lower, but it's at about negative three and a half percent. After drawing that, I basically just --

CHAIRMAN TORGERSON: You go a little lower to do what?

MR. BICKFORD: Well --

CHAIRMAN TORGERSON: Just to get to your hypothetical minus five?

MR. BICKFORD: Yes. So I just worked my way south and started with 38 by adding the Denali Borough, picking up everything that 39 hadn't touched here on the southern border and then taking -- you will see Wade Hampton, I think all of Wade Hampton, and then working my way down into the Bethel census area to pick up

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population.

So District 38 is at minimum tolerance, about a negative 4.95 percent. I then built, because I knew that -- again, I knew that something was going to have to go into Anchorage. It looked like it was probably going to be what was left over here.

I built the Aleutian Chain District next, to kind of build myself into a box here for what could eventually be taken into Anchorage and see what that population would look like.

So I built 36 similar to what I have done in the other plans. It was a little bit different. Instead of going -- instead of after adding the Aleutian, after adding Lake and Pen, Bristol Bay and Dillingham, instead of going north, I went -- I picked up this chunk over here.

And what that let me do is if I would have gone north, I would have blocked off access to Anchorage for the rest of this district, so I built 36 to a reasonably minimal tolerance at negative 4.3, and then I took everything that was left over in 37, turned out to be 10,660 people, basically this whole green area here, the rest of the rural area was 10,660 people.

In retrospect, that would have changed a little bit if I would have brought 39 all the way down

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to negative five, but the idea is still the same. I then had to add 6,027 people from Anchorage in order to get this district within tolerance.

CHAIRMAN TORGERSON: Are you using the water for connectivity?

MR. BICKFORD: That's all I have got. So I come through here and I came into west Anchorage and picked up basically Kincaid, part of Lake Spenard precinct, part of the Turnagain number one precinct and part of Inlet View number two precinct.

I'm not suggesting that this is a good idea. I just again wanted to show we have got urban areas to choose from, here are our options, let's look at what it would actually look like if we were to do that.

There have been some suggestions over the course of the process: Why didn't you look into Anchorage, you could have went into Anchorage. Well, this is what it would look like, or this is at least one option for doing that.

CHAIRMAN TORGERSON: What kind of excess population does Anchorage have?

MR. BICKFORD: Anchorage has about a third of a district. I think it's 16.3. And so what I did is after I took this chunk out, I just adjusted the Anchorage districts in order to get them within

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1 tolerance, but I didn't try to make a perfect Anchorage
2 plan.
3 I tried to make them as compact as I could
4 and stay within tolerance. So you will see that if you
5 were to go with this option, Anchorage would need to be
6 worked on and smoothed over. I at least wanted to show
7 that there is enough population here to make it work.
8 MR. WHITE: So then you take the excess,
9 remaining excess from Anchorage and combine it up in
10 Mat-Su?
11 MR. BICKFORD: I just left the northern
12 border how it was previously.
13 MR. WHITE: So here there is two splits of
14 the MOA?
15 MR. BICKFORD: Right. I'm sure there is
16 other options. I guess I could have went into downtown.
17 You could go into south Anchorage, but I went to the
18 closest possible landing point.
19 BOARD MEMBER MCCONNOCHIE: That's
20 reasonable. You could have a water connection.
21 MR. BICKFORD: What else should I show?
22 CHAIRMAN TORGERSON: So that probably meets
23 socioeconomic integration, because it's a hub.
24 MR. WHITE: Pull back out again, would you?
25 BOARD MEMBER HOLM: I don't think so.

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1 MR. WHITE: Bethel and Anchorage. I suppose
2 you could argue it. I mean --
3 CHAIRMAN TORGERSON: I could argue it. I
4 would like to. I would probably lose.
5 MR. WHITE: Could you turn on place point,
6 sir?
7 MR. BICKFORD: What do you want to see,
8 Mike?
9 MR. WHITE: Go in a little bit on 37.
10 MR. BICKFORD: So this goes from Bethel to
11 Anchorage, but, again, you're going to have to find
12 5,800 people from somewhere, and this is one of your
13 options.
14 MR. WHITE: In this instance, you have to
15 find a little more than 5,800, just based on the way --
16 MR. BICKFORD: Right. It could be tweaked
17 to get it. I think I grabbed 6,000. If I would have
18 tweaked it, it would have been closer to 5,800, but the
19 concept is still the same.
20 If you were to -- if the board were to -- if
21 you liked this plan or you wanted me to look at it
22 further, then I would just go back to the drawing board
23 and clean things up, but I would say that of any of the
24 plans.
25 MR. WHITE: Under the same concept, what

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1 about Kenai?
2 MR. BICKFORD: Under the same concept, you
3 could go to Kenai. I ran out of time. I just worked my
4 way south to the different urban options. I would
5 suggest that if you were to go to Kenai, this plan, it
6 could be something like this where you have a Bethel
7 sort of district and instead of jumping the water here
8 to Anchorage, you would jump the water to Kenai.
9 I think you could also go with a Chain-type
10 of district that runs up the Chain, and instead of going
11 over to Bristol Bay and Dillingham, it would jump over
12 to the Kenai, or even Anchorage. That's another option
13 for doing it.
14 I can certainly draw that if it's something
15 you want to see, but I would suggest it's in concept not
16 a whole lot different than what we're looking at here.
17 CHAIRMAN TORGERSON: Can you do that
18 tonight?
19 MR. BICKFORD: Yep.
20 MR. WHITE: Neither Anchorage nor Kenai has
21 enough excess population to fill up the need in the
22 rural areas?
23 MR. BICKFORD: Mike, I think Kenai has about
24 a third of a district also.
25 CHAIRMAN TORGERSON: Well, yeah, because we

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1 put it in 35.
2 MR. BICKFORD: Once you have taken the
3 southern tip out, you don't have quite that. I think
4 you would have -- you would run into some problems going
5 into Kenai.
6 I don't know that you would have the
7 population to make three districts once you have done
8 that.
9 BOARD MEMBER HOLM: Let's take a look at the
10 deviation.
11 MR. BICKFORD: Kenai? We're going 28, 29
12 and 30. So, no, you wouldn't be able to do it.
13 CHAIRMAN TORGERSON: It was just a little
14 over three, but we took some of it into Kodiak to 35.
15 MR. WHITE: Do you have the Kenai numbers
16 there?
17 MR. BICKFORD: You can bring a district down
18 to about negative 888 to be at that negative 5 percent.
19 So you see to bring those three districts down to
20 negative 888 would be --
21 BOARD MEMBER BRODIE: 3,500, 3,600.
22 MR. BICKFORD: So Kenai actually is not an
23 option, unless you want to -- let's put it this way: If
24 you were to bring a rural district into Kenai, you wold
25 not have enough population to draw three districts. You

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could only draw two districts, and then you would have to take the third somewhere outside of Kenai to fill it in.

CHAIRMAN TORGERSON: Same issue as Mat-Su. Your proportionality would be -- you have more people maybe in Mat-Su.

MR. BICKFORD: The difference with Mat-Su is the population was there. I didn't have to take it anywhere new. Whereas with Kenai, it would have to fundamentally probably change the plan, because you would have to take it -- I don't know --

BOARD MEMBER BRODIE: You would scoot it all up. You would have to take it out of Anchorage, which would take it out of Mat-Su, which would take it out of Fairbanks.

CHAIRMAN TORGERSON: Yep.

MR. BICKFORD: So given that, John, I don't know that I could do all of that tonight. I could do some of it.

CHAIRMAN TORGERSON: I'm not sure we need it. I just wanted to ask the question. I don't want to look like we're leaving out an area, if something would work.

MR. WHITE: I mean of the five urban areas that we're calling urban for our purposes, that would be

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Fairbanks, Anchorage, Mat-Su, Kenai, and then Southeast, which we don't need to consider for this portion of our project.

But I would think just taking a quick look to see what it was, I don't think it could be done either, but it's worth a look.

CHAIRMAN TORGERSON: The same issue with Mat-Su, the socioeconomic integration is not going to be there between the two, contrary to some other comments that a lot of people go bear viewing over in some area or another really has nothing to do with the socioeconomic integration.

MR. WHITE: I would suggest if you were looking at the two --

BOARD MEMBER BRODIE: Atu and Homer?

CHAIRMAN TORGERSON: Yeah. There was a comment made by one of the people testifying how socioeconomically integrated they were, because they all apparently fly over to Lake Clark to look at bears. I never have, but it's all minus one, I guess.

MR. WHITE: Of the two, obviously, there would be more links between Anchorage and the Bethel area than there would be, I would suggest, between Kenai and that same area.

The bottom line is that the same issues that

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we have with the plans that you have looked at for Anchorage, Fairbanks and Mat-Su would apply to any plan of Kenai, the same number of people.

You have to have 5,800 people in order to add into the rural areas in order to comply with both the federally protected clause and the population requirements of Article 6, Section 6.

I think with this plan you're looking at potential issues with 39, obviously, for socioeconomic integration, possibly compactness, given that you can draw 39 in different shapes in different areas.

When you run 38 all the way up, you have the Denali Borough, right?

BOARD MEMBER MCCONNOCHIE: Let's go back and see that. Move closer, if you wouldn't mind, in 38 and see where it is on the eastern border. Thank you.

MR. BICKFORD: Under this plan, again, the only direction that Fairbanks North Star Borough population is going is into District 6, but it's not -- I don't think it's taking as much.

Let me check here. Because Mat-Su didn't have to change at all, this follows the border of 6 as we currently have it drawn, and then it goes into Fairbanks. You can see it's creeping pretty close lto being at its maximum range of plus five.

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And then, again, I just took Bob's plan and just adjusted it to account for the changes and what chunks were being taken out.

MR. WHITE: You have deviations that are all over four or pushing four.

MR. BICKFORD: Yeah, and so again it's -- and you wouldn't really be able to -- you could add a couple hundred people into District 6, but then District 6 would be at its maximum amount.

MR. WHITE: You have District 7 at 4.82?

MR. BICKFORD: Yep.

MR. WHITE: That's the Mat-Su one, right.

BOARD MEMBER MCCONNOCHIE: District 7 is at 4.6.

MR. WHITE: Okay. I can't see that far. District 7 in this plan is the Mat-Su plan, Mat-Su District?

CHAIRMAN TORGERSON: Yeah.

MR. BICKFORD: Yeah.

MR. WHITE: All of the Mat-Su districts are overpopulated?

MR. BICKFORD: Yes.

MR. WHITE: So the fastest growing area of the state, could be the fastest growing area of the nation in some areas, are all overpopulated.

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1 BOARD MEMBER MCCONNOCHIE: That's not a good
2 thing.
3 MR. BICKFORD: The point I just wanted to
4 show in all of these cases with Fairbanks is that Bob's
5 fix, no matter which of these you choose, can be
6 applied.
7 It might have to be tweaked in a different
8 way, but fundamentally you can follow Bob's plan and
9 just tailor it for whatever rural configuration you go
10 with.
11 But the one thing that is just
12 overwhelmingly clear is that no matter what you do, even
13 on state constitutional grounds, urban is going to have
14 to be added to rural, it's going to have to be somewhere
15 in that range, about 5,800 people, and your options,
16 none of them are very good.
17 And if they are socioeconomically
18 integrated, it's all in a relative sense of what's
19 possible. You don't have an easy fix anywhere. There
20 isn't some magic bullet out here where there is just an
21 enclave of people that can be easily added to rural to
22 make up that gap. It's got to be added from one of
23 these urban areas.
24 BOARD MEMBER MCCONNOCHIE: Can we go back
25 and look at map one again, please?

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1 MR. BICKFORD: Sure. So, PeggyAnn, this is
2 Hickel 01, and this is the one that goes --
3 BOARD MEMBER MCCONNOCHIE: Takes the
4 population out of Fairbanks.
5 MR. BICKFORD: Takes the population out of
6 Fairbanks. Quite frankly, I chose the same area that's
7 taken out of the Proclamation Plan just because that
8 was, first of all, it fit in the best with what Bob had
9 drawn and it was the easiest to do, given that that's
10 what we had already done.
11 BOARD MEMBER MCCONNOCHIE: Can you put place
12 points on, please, and then just go out a little bit so
13 I can kind of remember all of these darn things.
14 Thanks.
15 MR. BICKFORD: Did you say zoom out more?
16 BOARD MEMBER MCCONNOCHIE: Yes, please.
17 MR. BICKFORD: It's going to be hard to see.
18 BOARD MEMBER MCCONNOCHIE: Yeah, but that's
19 what I needed.
20 CHAIRMAN TORGERSON: Fairbanks had .5 excess
21 house.
22 BOARD MEMBER HOLM: .49.
23 CHAIRMAN TORGERSON: So somewhere around
24 9,000.
25 BOARD MEMBER HOLM: Yeah.

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1 BOARD MEMBER MCCONNOCHIE: Now move south a
2 little bit, Taylor, please.
3 BOARD MEMBER HOLM: 80-some hundred.
4 BOARD MEMBER MCCONNOCHIE: Thank you.
5 MR. BICKFORD: From working through this, I
6 think this kind of a configuration represents the
7 minimal change from the Benchmark districts.
8 Really, it just shifts population out of the
9 -- between the western districts, and then it recreates
10 District 6 and just goes to find population to add to
11 it.
12 MR. WHITE: You may not have looked at this,
13 Taylor, but I would be interested to know what you
14 think. How does this compare to the board draft 1 and
15 2?
16 MR. BICKFORD: It's really similar. The
17 only difference is when we did board options 1 and 2, we
18 had the Voting Rights Act in mind, and we had that
19 35 percent standard in mind. And so some of Senate
20 pairings would have been different.
21 And I think in board option 1 and 2, this
22 Bethel District ran to the border of the Mat-Su, picked
23 up Denali, so slightly different, Mike, but it was -- I
24 think in concept it's pretty similar in the sense that
25 it was built from the Benchmark trying to make minimal

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1 changes, but part of the changes we were trying to make
2 were to satisfy that 35 percent Voting Rights Act
3 standard.
4 Whereas for this drawing, I totally threw it
5 out of the window and didn't look at Native VAP at any
6 point in drawing this.
7 CHAIRMAN TORGERSON: So, Taylor, have you
8 made note of the different issues that came up as you
9 were drawing the plans, like excess population and all?
10 Do you have a record of that somewhere?
11 MR. BICKFORD: I tried to trace my steps
12 pretty thoroughly in terms of what was added to the
13 districts and what it did.
14 CHAIRMAN TORGERSON: Have we covered all of
15 those issues that you wrote down, that you identified?
16 MR. BICKFORD: We have at least covered all
17 the ones that were really apparent to me and that I made
18 note of as I was going through it.
19 I have tried not to editorialize it too
20 much, just more to point out what it does.
21 CHAIRMAN TORGERSON: So in our quest to make
22 findings about a constitutional plan, have you done
23 enough that we'll be able to do that?
24 MR. BICKFORD: I don't know that I can
25 answer that. I would ask Mike.

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MR. WHITE: Mr. Chairman, I think after the board convenes today, I will meet with Taylor. I will look at all three plans this evening, and then provide with you tomorrow my thoughts on the constitutionality of the three plans.

I will do some preliminary thoughts on Kenai as well under the idea that Taylor will come up with a concept that looks at Kenai. And then provide those to you in written form for the board to consider tomorrow.

CHAIRMAN TORGERSON: What a way to segue into tomorrow.

BOARD MEMBER MCCONNOCHIE: That works.

CHAIRMAN TORGERSON: Any other questions or any maps you want to bring up, different?

So then for homework assignments, Michael, you just volunteered, you will look through Hickel, what we're calling Hickel 1, 2 and 3.

MR. WHITE: I will.

CHAIRMAN TORGERSON: And then you will give us your findings, I guess, or whatever. I don't know what to call them. Anyway, your explanation as to whether or not it complies with the Alaska Constitution.

MR. WHITE: I will.

CHAIRMAN TORGERSON: That's all we're concerned with at this point.

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MR. WHITE: That's all we're concerned with.

CHAIRMAN TORGERSON: Okay. Is there anything that anybody else wants -- Taylor, I'll just remind you that you are going to check on the Fred Meyer issue, try to clean up Fairbanks a little bit and the lieutenant governor voter issue.

That's all I have. What time tomorrow then, Mr. White, would you be -- I'm sure you will stay up all night long working on this, but 9 o'clock? Can you be ready by 9:00?

MR. WHITE: If that's what the board's --

CHAIRMAN TORGERSON: I think at this point we're going to be waiting on your report back to us before we do the next thing.

MR. BICKFORD: We're noticed for 10:00 tomorrow.

CHAIRMAN TORGERSON: We're noticed for 10:00.

MR. WHITE: I'll have it ready by 10 o'clock.

CHAIRMAN TORGERSON: That settled that question. We'll have an agenda out, but I intend to just have on it presentations of the draft Hickel plans again. It will be a pretty broad, so if any members have something they want to bring up we can at that

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point, and then what we just went through.

And then it will be my hope that we'll review and adopt a Hickel plan tomorrow, so that we can -- one plan, although I would be open to other plans, other one of these three I guess or some variation thereof.

We'll try to get that down to Lisa tomorrow night, so we can have her evaluation of whether or not we comply with the Voting Rights Act with our constitutionally-created plan. We will have executive session on the agenda tomorrow, but I don't know of any reason right now that -- I'll put it on there if necessary just in case we have to do that.

Is there anything else to come before us tonight? Seeing none, then we will stand adjourned at 4:15 p.m.

(Off record.)

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CERTIFICATE

I, SONJA L. REEVES, Registered Professional Reporter and Notary Public in and for the State of Alaska, do hereby certify that the proceedings were taken before me at the time and place herein set forth; that the proceedings were reported stenographically by me and later transcribed by computer transcription; that the foregoing is a true record of the proceedings taken at that time; and that I am not a party to nor have I any interest in the outcome of the action herein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 27th day of March 2012.

_____

SONJA L. REEVES, RPR
My Commission Expires 8/7/15

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In the Matter Of:

ALASKA REDISTRICTING BOARD

BOARD MEETING

March 27, 2012

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ALASKA REDISTRICTING BOARD

BOARD MEETING

March 27, 2012

10:00 a.m.

411 West Fourth Avenue, Suite 302

Anchorage, Alaska

A-P-P-E-A-R-A-N-C-E-S

BOARD MEMBERS PRESENT:

John Torgerson, Chairman
PeggyAnn McConnochie
Robert B. Brodie
Marie N. Greene
Jim Holm (via speaker phone)

STAFF PRESENT:

Taylor Bickford
Jim Ellis

ALSO PRESENT:

Michael D. White
PATTON BOGGS, LLP
601 West 5th Avenue, Suite 700
Anchorage, Alaska 99501

Randy Ruedrich
Steve Aufrecht
Kay Brown
Marcia Davis
Barbara Bachmeier
Craig Richards
Paul Gronholdt
Ernest Weiss
Natalie Lardreh

Court Reporter:

Sonja L. Reeves, RPR
PACIFIC RIM REPORTING
711 M Street, Suite 4
Anchorage, Alaska 99501

PROCEEDINGS

CHAIRMAN TORGERSON: We'll call the meeting to order. The time is 10:02 a.m. We have a roll call, please.

MR. BICKFORD: John Torgerson?

CHAIRMAN TORGERSON: Present.

MR. BICKFORD: PeggyAnn McConnochie?

BOARD MEMBER MCCONNOCHIE: Present.

MR. BICKFORD: Marie Greene?

BOARD MEMBER GREENE: Here.

MR. BICKFORD: Bob Brodie?

BOARD MEMBER BRODIE: Good morning.

MR. BICKFORD: Jim Holm is not online.

BOARD MEMBER HOLM: Yes, I am. Good morning.

MR. BICKFORD: I better call your name, Jim. Jim Holm?

BOARD MEMBER HOLM: Here.

CHAIRMAN TORGERSON: This is for the record, you know.

Could I have a motion for approval of the agenda?

BOARD MEMBER MCCONNOCHIE: I move for approval of the agenda.

BOARD MEMBER GREENE: Second.

CHAIRMAN TORGERSON: Is there additions or corrections to the agenda? Is there opposition to adopting the agenda? Hearing none, we will adopt the agenda. Normally, I would do a roll call vote on anything besides the agenda when we have somebody on teleconference, but I think we can figure out if somebody is going to object.

Okay. Jim, we are going to recess, and for everyone else on teleconference land, we are going to recess until 11 o'clock. Our attorney, legal counsel, Michael White, has other issues that he needed to take care of this morning, and his ETA is 11 a.m., so we are going to -- we will recess until 11:00.

Is there anything else to come before us now? Seeing nothing, we will stand in recess until 11 o'clock. Thank you.

(There was a break.)

CHAIRMAN TORGERSON: Let's call the meeting back to order. The time is 11:42 a.m. Jim, Mr. Holm, are you online?

MR. HOLM: I surely am.

CHAIRMAN TORGERSON: Then all board members are present, Jim telephonically. Executive director is here, and we're represented by counsel.

We delayed for an hour and a half waiting

for some additional information and for Counsel to get some of his thoughts prepared. We're first going to start out with a presentation on -- by staff on using the Kenai Peninsula as the location to gather excess population.

We'll go through the same questions that we did yesterday. Primarily what we're doing is taking the four metropolitan, urban areas of Fairbanks, Mat-Su, Anchorage and Kenai Peninsula and seeing if we can draw plans out of there and what they would look like and find the anomalies, the good things, the bad things and put all of those on the record.

So Taylor, it's yours.

MR. BICKFORD: Okay. So what I'm going to show you guys today is what we're calling Hickel 04. And this is essentially based off of the Hickel 03 template, the only difference being instead of 37 going into Anchorage to pick up its urban population, it instead goes into the Kenai.

So I just basically took Hickel 03, retraced my steps back out of Anchorage, and then instead, like I said, took 37 into the Kenai. So District 40 is the same. District 39 is the same. District 38 is the same. District 36 is the same. And everything else that was incorporated as part of the Hickel template is

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also the same, so the Highway District, Southeast, Anchorage, Mat-Su and so forth.

So I will just show you guys what I did and what the ramifications were of taking the population out of the Kenai. Like we showed yesterday --

CHAIRMAN TORGERSON: First, did they have excess population to give?

MR. BICKFORD: Kenai has a little bit of excess population to give, but less than what was needed in order to fill this district out.

BOARD MEMBER MCCONNOCHIE: What was the amount?

MR. BICKFORD: 3.3 districts. And so I'll show you what -- the underpopulation that occurred after taking what was needed out.

Like we showed yesterday, 37 was built as a result of basically building all the other districts and then filling in what was remaining, bringing it all the way to the edge of the Kenai Peninsula Borough here and going into the Tyonek area, picking up this precinct and then just basically jumping the water and moving into the Kenai Peninsula Borough itself.

There were a few different options for where to grab this population from. You could have grabbed it really from any of the coastal areas, but for this plan

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I just grabbed the closest possible -- the closest landing point.

And in concept, it wouldn't be any different if you chose population from Homer or some other part of the Kenai. Really, the concept is going to be the same, so I'll just show you what exactly I did.

I took population out of what was District 28 and basically just built -- moved District 37 into the Kenai until I was able to get just under the negative 5 percent threshold.

And the amount that I took out of Kenai, Mike, do you have that? I gave it to you. It was 6,500.

MR. WHITE: 6,587, I think.

MR. BICKFORD: So that was just how this plan worked out and what I needed to take out of the Kenai to get this within this threshold. And the impact of that was the Kenai districts, well, particularly District 28 was now over negative 30 percent underpopulated.

And so I just readjusted the Kenai districts so that both District 29 and District 30 were about as underpopulated as they could get to minimize the amount from Anchorage that District 28 would need to grab.

So I brought those down about as far as they

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could go. You will see District 30 is right under the 5 percent threshold. District 29 is within 4 and 5 percent also.

What I was left with for District 28 was I was short population. I don't have as good of accounting for some of the numbers as I did yesterday, because a lot of this I finished up this morning, but you will see I basically took 28 into Anchorage only to the extent I needed to to get under the 5 percent threshold.

So the chunk that I took out of Anchorage was basically everything from Whittier through Girdwood, Indian and into South Anchorage.

Once I did that and I got, you know, to this point here, sort of the edge, District 28 was at a negative 4.4 percent, which was about as comfortably close as I could get to negative five based on the blocks that were around here.

And then the project was just to see if you could smooth out the Anchorage districts. Similar to what I did yesterday, I didn't try to optimize the Anchorage districts. I just tried to show that they could be brought within range, and if this was the plan you guys wanted to go with for your Hickel plan, then we would do more work to smooth some things out.

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But I jus wanted to show that it was possible to come in with the Kenai, not just the change northern border and still have enough to work with here in the Anchorage districts.

So you will see that, obviously, this took a huge chunk out of District 27, which then forced me to go take District 27 up into part of District 25, District 23, and so there was just some shifting amongst these South Anchorage districts, but I was able to get them all within the green, so to speak.

This is really just another option. It's similar to what we looked out in Hickel number three, except instead of going into Anchorage, we went into the Kenai just to show what that might look like.

In my view, having worked through this, we probably covered all the major urban areas that could be taken. We went to Fairbanks, Mat-Su, Anchorage, and now Kenai.

CHAIRMAN TORGERSON: How many times did you divide the borough?

MR. BICKFORD: The Kenai Borough is now divided twice, because we had the Kodiak District.

MR. WHITE: Three times.

BOARD MEMBER MCCONNOCHIE: Three times, isn't it?

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1 MR. BICKFORD: Yeah, that's true. Three
2 times, because we have the Kodiak District coming and
3 grabbing some of the southern Peninsula tip here. And
4 then the -- of course, 37 coming in on the western side
5 here.
6 And then we had to do the split with
7 Anchorage in order to pick up population. Now, whether
8 you --
9 CHAIRMAN TORGERSON: Are you making any
10 assertions as to socioeconomic integration?
11 MR. BICKFORD: You know, I really didn't. I
12 didn't want to editorialize. I just came across and
13 picked people. I figured anybody in the borough is
14 socioeconomically integrated with each other anyway, so
15 I didn't try to make any delineation about which part of
16 the borough was better.
17 I just grabbed whatever was closest, and I
18 think you could do the same thing and pick a different
19 part of the borough and it's not going to change.
20 CHAIRMAN TORGERSON: I didn't mean within
21 the borough. I meant within the rest of 37.
22 MR. BICKFORD: I just took it, John, to -- I
23 think this part is obviously, an argument could be made
24 that this is socioeconomically integrating. I don't
25 have enough information to say whether or not --

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1 CHAIRMAN TORGERSON: That what is?
2 MR. BICKFORD: That the Bethel region of 37,
3 I guess probably wouldn't be, but I don't have any
4 information as to whether Kenai is socioeconomically
5 integrated with Bethel any more than any of the other
6 options we have seen.
7 So the impact of doing this, whether you
8 come in, you know, to this chunk of Kenai or you come
9 into another part, whether you maybe run a different
10 Native district into the Kenai, the impact is going to
11 be the same.
12 You're still going to be grabbing between
13 5,500 to 6,500 people and you're still going to be
14 forcing some readjustment in the Kenai districts, and
15 then as a result, some combination of Kenai and
16 Anchorage.
17 I think no matter what you do, if you're
18 going to choose the Kenai, you're going to have the
19 three splits, or at least the two splits. And then
20 you're going to have this joint Kenai/Anchorage
21 district, and you're going to have some reshuffling of
22 Anchorage.
23 I don't think that there would be any need
24 to necessarily mess with the northern Anchorage border,
25 unless you wanted to. You can find the population you

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1 need just within the rest of the Anchorage districts.
2 BOARD MEMBER MCCONNOCHIE: So long as you're
3 keeping in that 5 percent up or down?
4 MR. BICKFORD: That's right. Like I said, I
5 just brought it within tolerance. I didn't try to
6 optimize it or smooth it down as far as it could
7 probably go, until I got more direction from you guys.
8 MR. WHITE: Can you pull out?
9 CHAIRMAN TORGERSON: Where is the Pebble
10 Mine on your map?
11 MR. BICKFORD: I don't know. I could guess.
12 BOARD MEMBER BRODIE: 36. To the left.
13 CHAIRMAN TORGERSON: It's kind of in that
14 lower pink in the Lake Clark area. The upper part would
15 have the Chulitna coal, the CIRI gasification and the
16 Mt. Spur geothermal, which would probably radioact then
17 to the rest of that pink area.
18 Questions on this? Mike, any thoughts you
19 want to add?
20 MR. WHITE: I had a chance to look at it. I
21 didn't have as good a view as this, but I had a chance
22 to look at it, and I put my thoughts down in my
23 memorandum.
24 The only thing that I didn't realize,
25 because it was not set forth in the memorandum, is that

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1 under this configuration, Kenai would be split three
2 ways, obviously raising serious proportionality issues.
3 I have difficulty with the number of the
4 districts in this plan in terms of complying with the
5 Alaska Constitution, but if you want me to go into those
6 now, I can, or if you want to wait until --
7 CHAIRMAN TORGERSON: I just wanted to focus
8 on this one right now.
9 MR. WHITE: I think I got all my questions
10 answered here.
11 CHAIRMAN TORGERSON: Any other questions of
12 Taylor on Hickel 4? If not, then we'll move into the
13 next phase, which is basically Mr. White reviewed 1
14 through 4 last night and this morning, and I believe
15 that's what this memo is.
16 MR. WHITE: It is.
17 BOARD MEMBER HOLM: Can you fax me a copy of
18 that memo?
19 CHAIRMAN TORGERSON: It's on its way.
20 MR. BICKFORD: Should be in your inbox, Jim.
21 BOARD MEMBER HOLM: Thank you.
22 CHAIRMAN TORGERSON: So Mr. White put
23 together an analysis of all -- did you get to the Kenai
24 plan too?
25 MR. WHITE: I did.

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1 CHAIRMAN TORGERSON: So now I'll turn it
2 over to legal to let him give us his assertions here.
3 MR. WHITE: I'm just thinking maybe it might
4 be best to put the maps back up. There should be
5 attachments that are referenced here. They must still
6 be getting copied, the best maps and the population data
7 for those maps.
8 MR. BICKFORD: Are you going to start at
9 Hickel 1?
10 MR. WHITE: We can start with this one since
11 it's already up.
12 Basically, I looked at all four plans, the
13 Hickel four plans that we talked about. In the
14 introduction, I set forth the analysis or the starting
15 point for what was done, what I believe is required of
16 the board in order to comply with the Supreme Court
17 order in following this so-called Hickel process.
18 Number one, design a plan that complies with
19 the requirements of the Alaska Constitution, which we're
20 referring to as a Hickel plan.
21 Second is to measure that plan against the
22 requirements of the federal Voting Rights Act to
23 determine whether it complies with said statute.
24 And, finally, adopt a plan that deviates
25 from the requirements of the Alaska Constitution to the

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1 least degree regionally necessary to ensure compliance
2 with the Voting Rights Act.
3 The Supreme Court also recommended that the
4 board make findings on all of these matters as it moves
5 forward, and I agree with that recommendation. I think
6 that it's the appropriate thing for the board to do.
7 So basically, the memo goes on and
8 summarizes the starting point for the process and the
9 plans that were down, the fact that three plans were
10 presented yesterday, one today, the fact that they
11 started with the Hickel template, as I am calling it,
12 and the reason -- basically what the Hickel template is.
13 And then I go through the population data
14 that Taylor put on the record yesterday in terms of
15 essentially we're talking about looking at primarily
16 four different districts and that the population for
17 ideal on those is 71,020.
18 And then to draw to a 5 percent deviation,
19 you would need a population of 67,468, and that the area
20 represented by the white in the Hickel template only has
21 a population of approximately 62,240.
22 Then I go through and look at each of the
23 plans. I will flip to the fourth and start backward
24 since we have the map up here.
25 I don't believe that this plan would meet

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1 the Alaska constitutional standards for a number of
2 different reasons. First, looking at the urban/rural,
3 which is really what the issues are here.
4 In the four plans, you took four different
5 looks at how to combine the urban/rural, which we know
6 based upon the evidence in this case and the undisputed
7 record of the board and what Taylor talked about
8 yesterday, you have to add urban population from
9 somewhere into rural in order to comply with the equal
10 population requirements of the Alaska Constitution and,
11 of course, the federal constitution.
12 So the board took a look at the four urban
13 areas, as we're calling them, basically Kenai, Mat-Su,
14 Anchorage and Fairbanks.
15 If we look at the plan for Kenai, I think
16 you have serious issues on constitutional compliance in
17 a number of respects. First, I think House District 39
18 would probably be found not to be compact, and you would
19 probably have issues with socioeconomic integration as
20 well.
21 Basically since you're not justifying it
22 upon anything but the Alaska Constitution, I think that
23 using that standard, 39 would not comply with the Alaska
24 Constitution. I have some questions about 38 as well,
25 running the Denali Borough all the way over to the

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1 coast. That one is not as strong as 39, but there is
2 also potentially some compactness issues.
3 With 37 itself I think the major issue there
4 -- well, there is three. Number one, you have a
5 compactness. You have some kind of weird appendages
6 sticking up there at the top. Those are probably done
7 for populations reasons, so that might -- compactness
8 might not be an issue.
9 There is always the issue now since we're
10 going across the Cook Inlet, across water that the Court
11 might find that there is some contiguity issues with
12 that. It's a relatively short space across there, and
13 the Supreme has said in their earlier cases that some
14 amount of open water is allowed and it's been used in
15 the past. Whether this would comply or not, it's hard
16 to say.
17 I think the biggest problem you have with
18 House District 37 is socioeconomic integration. Unlike
19 some other areas of the state, I think it's just -- if
20 you zoom in down there for me, Jim. Down to where it
21 goes over the Kenai.
22 I think you have some real issues with
23 whether or not you can say the Kenai Peninsula Borough
24 in general, and which is what you look at, the Supreme
25 Court's teachings tell us you don't look at a particular

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1 area of a borough, but you look at the borough in
2 itself.
3 Even if you do that I think you have a
4 difficult time arguing that the Kenai Peninsula Borough
5 is socioeconomically integrated with the rest of that
6 district. The Kenai Borough is not, unlike Anchorage
7 and Fairbanks, a rural hub. It's not a transportation
8 hub. You have really very little socioeconomic ties
9 between the Kenai people and the rest of the district.
10 I know we heard it at trial that there might
11 be some people in Kenai, John mentioned it yesterday, go
12 bear hunting in part of that area over there, but that's
13 pretty minimal and doesn't really amount to what I would
14 consider to be the relative socioeconomic integration
15 that is required.
16 So in short, I would say that this plan has
17 serious constitutional problems. And if I was the one
18 on the fifth floor, as we lawyers call the Supreme
19 Court, I would have real problems, and I think our Court
20 would as well, whether this would be socioeconomically
21 integrated.
22 So as a whole, the effort to go into Kenai,
23 I think, establishes, like we discussed same with
24 Anchorage, that in order to do that, you have to kind of
25 change the traditional configuration from what we see in

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1 Hickel 1 and 2, which are, as we talked about yesterday,
2 pretty closely resemble what was done in board option 1
3 and 2 in the original drafts.
4 And there is -- they are probably the
5 closest plans to the Benchmark Plan or the plan that's
6 currently in place. So in short, I don't think Kenai
7 complies with the constitutional requirements of Alaska,
8 and, therefore, I cannot recommend that this be adopted
9 as your baseline plan.
10 Let's go to Anchorage, 3. The same, I
11 didn't mention in my memorandum, and I'll revise that,
12 and the revision is the fact that going into Kenai the
13 way that you have done, they only have a .3, so they
14 have less excess population than both Anchorage and
15 Fairbanks.
16 And by doing it in this manner, you have now
17 split the Kenai Peninsula Borough three ways, and that
18 raises proportionality issues with the residents of the
19 Kenai Peninsula Borough.
20 Hickel 3 is the Anchorage plan, which, as
21 Taylor mentioned to you, has the same District 39 and
22 38, and in effect 37 is essentially the same, except for
23 going into Kenai, you go into Anchorage. Is that a fair
24 assessment, Taylor?
25 MR. BICKFORD: Yeah. The only difference

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1 between 3 and 4 is which urban population center is
2 chosen.
3 MR. WHITE: As to 37 itself, I think you
4 have a stronger argument that Anchorage would be
5 socioeconomically integrated, at least with the Bethel
6 area. Through Bethel, I'm assuming -- I think I know
7 from practical experience, some of you who have lived
8 here a little longer probably know, most of the villages
9 there are going to funnel into Bethel and out of Bethel
10 back through Anchorage.
11 Is that fair, Marie?
12 BOARD MEMBER GREENE: Uh-huh.
13 MR. WHITE: So you can make an argument,
14 Anchorage, as they say and has been stated on the record
15 before, is the biggest Native village in Alaska. It has
16 the most population of concentrated Native Alaskans.
17 Unfortunately, as you all know, they are not
18 geographically cohesive enough to help us in our quest
19 to comply with the Voting Rights Act.
20 Here you could make an argument. You know,
21 I think it's stronger than Kenai. I don't think it's as
22 strong as Fairbanks. I don't think it's as strong as
23 Fairbanks. It's probably stronger than Mat-Su.
24 You look at here, and basically you have one
25 village and then the rest have crossed over into Bethel.

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1 You could argue that because Anchorage is the
2 transportation hub, it's the economic hub, a number of
3 the villages there, the Native village corporations and
4 regional corporations, Calista have offices in
5 Anchorage.
6 So I think there is probably sufficient
7 ties. I think it's a close call, but I think the
8 argument could be made that it would be considered
9 socioeconomically integrated. It does have the same
10 issues with potentially compactness and with the
11 contiguity issue that I mentioned before, since you're
12 hopping across Cook Inlet again.
13 I think those are arguments that could be
14 made. They raise potential issues. The bigger problem
15 here with this plan into Anchorage is what's required to
16 do -- how you're required to configure the rest of the
17 state in order to be able to configure a district that
18 goes into Anchorage.
19 And that, if you pull out for me, Jim, is
20 what we talked about with Kenai, House District 39, I
21 don't believe is either compact or socioeconomically
22 integrated. We have potentially the same issues with
23 Kenai -- or with 38, which, of course, takes the Denali
24 Borough and incorporates it into those areas.
25 The Denali Borough certainly is not a rural

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1 hub to any of those Alaska Natives. While they may have
2 -- some of the people there may be off the road system,
3 if you will, I think you have some serious questions
4 whether this strictly complies with the relativeness of
5 socioeconomic integration requirements.
6 So in my opinion, I don't believe this plan
7 complies with the Alaska Constitution, strictly
8 complies. And therefore, I could not recommend that you
9 adopt this as a baseline.
10 MR. BICKFORD: Mike, would you say -- a
11 couple questions. Would you say that the contiguity
12 jump is a bigger stretch in this plan than the last one?
13 And then also, what I hear you saying is
14 that there are -- that you don't just have a problem
15 with the socioeconomic integration of 37 under this plan
16 or the last plan, but you would also have it in
17 potentially District 39 and maybe District 38?
18 MR. WHITE: In answer to your first
19 question, I think it's probably about the same in terms
20 of the jump across. I mean, what is it, if you measured
21 it, I doubt it would be more than 50 miles. I don't
22 know, John might be able to know more than that in terms
23 of what the actual distance between the district in
24 Anchorage and the district in Kenai.
25 I don't think that distance would be legally

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1 significant. If it's going to be okay for Anchorage,
2 it's probably going to be okay with Kenai. And that
3 contiguity issue would not be different between Hickel 4
4 and Hickel 3.
5 In response to your second question, yes, I
6 think the major problem with this plan is that 39 is not
7 socioeconomically integrated and has serious compactness
8 issues, and 38 has socioeconomic integration issues and
9 could have compactness issues as well.
10 So in the end I think that this map, while
11 it's a good effort to try to go into Anchorage, but in
12 order to do that, in order to extract that population,
13 you have to draw other districts that don't comply with
14 the Alaska Constitution, and, therefore, would make the
15 plan as a whole not a proper one for this board to
16 adopt.
17 MR. BICKFORD: Just one more clarification.
18 You said 39 isn't socioeconomically integrated. Is it
19 that strong?
20 Would you say it definitely isn't, or maybe
21 that it had to be stretched, in the same way maybe that
22 we talked about in our proclamation?
23 MR. WHITE: I mean you could make arguments
24 that they are small villages, they are off the road
25 system mostly, but do the people down in the

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1 southeastern portion of that interact with the people up
2 in Nome and around the top up there? You know, I would
3 -- I don't think it's like combining Valdez with the
4 North Slope or Dillingham with Fairbanks or something
5 like that, but I think there are serious questions that
6 can be raised on whether this would comply with the
7 relatively socioeconomically integrated requirements,
8 particularly since we have seen -- remember we're
9 dealing here only with the Alaska Constitution. Our
10 blinders are on to everything else that the board has to
11 continue, because that's the task that we have been
12 given by the Supreme Court.
13 And if you're looking only at the Alaska
14 Constitution, I think that that would have some real
15 issues. I don't think it would comply. I think
16 reasonable people would say that does not comply when
17 you're only looking at the Alaska Constitution.
18 Once you start looking at some of the other
19 requirements, that we may have to do if the plan the
20 board adopts as a baseline does not comply with the
21 Voting Rights Act, then you start getting into those
22 issues.
23 I think there are some similarities, given
24 that they are rural in nature, that they are small
25 villages and towns off the road system, those type of

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1 things, similar things might be said, but I think
2 without any rationale, such as the need to comply with
3 the Voting Rights Act or some other legal population
4 requirements or something, which we know aren't
5 necessary, that this 39, if I was on the fifth floor, I
6 would be saying, "No, that doesn't comply with the
7 Alaska Constitution."
8 You can make arguments that it could. I
9 don't think it's rotten, but I think that it probably
10 wouldn't measure up in the end.
11 So then let's go to the Mat-Su plan. This
12 is Hickel 2.
13 CHAIRMAN TORGERSON: Let me ask you a global
14 question. I understand you're finding and pointing to
15 why these maps aren't constitutional, but that's really
16 not our charge.
17 Our charge was to develop constitutional
18 maps. So is the process to eliminate down to one?
19 MR. WHITE: No.
20 CHAIRMAN TORGERSON: Or is our -- should we
21 be looking at trying to make Kenai, Mat-Su and Anchorage
22 constitutional maps by going into those jurisdictions,
23 all but dividing, taking some excess population?
24 MR. WHITE: I don't think -- the only reason
25 I'm talking in this way is because I got four plans and

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you said analyze the four plans, do they comply with the Alaska Constitution or not. Is your charge from the Supreme Court to say you must eliminate all other potential possibilities?

I don't think it says that. I don't think you're doing yourself any harm by saying we have taken a hard look at all of these other different areas, and so since there were four plans presented to me, I just analyzed them for compliance with the Alaska Constitution.

Is that necessary? I think you could say the Supreme Court's opinion doesn't require that, but if you had four plans, if some of these -- I looked at them and there were two or three different plans that did comply, then the board would have -- it would be its judgment and choice on which plan was best.

CHAIRMAN TORGERSON: Okay. Go ahead.

MR. WHITE: This is the Mat-Su plan, Hickel 2, which is pretty much the same as Hickel 1, except for the fact that the attempt to solve the rural/urban population -- or the rural population shortfall, instead of going into Fairbanks, Anchorage or Kenai, goes into Mat-Su.

I think that if you look around at all of this stuff, it comes closer than the other two plans to

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complying with the Alaska Constitution. I think the major issue you have with this plan is the fact that House District 36, I believe it is, which takes the population out of Mat-Su, the four precincts that Taylor talked about yesterday, Susitna, Trapper Creek, Willow and Skwentna, you put that in with the rest of House District 36 -- can you pull that out, Jim?

The problem I have with this is I don't believe that House District 36, if I got the number right, is socioeconomically integrated. The Mat-Su simply just is not socioeconomically integrated with the rest of that district.

The Mat-Su area, the Mat-Su I would say in general, but particularly that area is not a hub for rural Alaska, it's not a transportation hub, there are not the sufficient socioeconomic ties that would meet the constitutional requirements of relatively socioeconomically integration.

And, therefore, this plan, I don't believe -- I think 36 would be declared unconstitutional and therefore would not meet your guys' mandate of adopting a plan that strictly complies with the Alaska Constitution.

This one then now -- I think if you go in and take the Mat-Su, it splits the Mat-Su three ways

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now. The Mat-Su has no excess population virtually. It has 5.01 districts, which is, what, 17 people or so over the excess.

So unlike Anchorage and Kenai and Fairbanks, who all have excess population, Mat-Su literally has none. And so given that fact, it doesn't seem rational to go in and take population out of an area that doesn't have any excess population to begin with.

And particularly when adding that population into the district, I believe would not comport with the socioeconomic integration. The rest of the map I think looks pretty good.

It's essentially the same as the Hickel 1 plan, which is Fairbanks. If there is any questions on this --

MR. BICKFORD: Just a quick one. I think you touched on this, but having gone through the process, seeing most of the public comments, you're probably familiar with the record more than anybody here, just having gone through the legal process, are you aware of anything in the record or before the board at any point that would point to evidence of socioeconomic integration ties between Mat-Su and the rest of that district? I know you're saying it's not, but I mean --

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MR. WHITE: I don't believe that there is any evidence in the record. I think if you look back at the 2001 case they threw out District 34, which went from Mat-Su up to the Denali Borough into Fairbanks. And the Court said there was no socioeconomic integration here.

Here you're taking the Mat-Su and putting it in with rural Alaska, the Interior portion of Alaska, in which there is literally no connection between them.

Mat-Su is not like Anchorage or Fairbanks. It's not a transportation hub. People don't fly in and out of Mat-Su to go places. There is not the same type of historical, cultural, economic and transportation ties as there would be, say, in Anchorage or in Fairbanks.

And I see no evidence or nothing in the record that would even show, could establish socioeconomic integration at all. I don't believe there is any evidence in the record at all regarding adding Mat-Su into the rural areas and what that might do to socioeconomic integration.

MR. BICKFORD: I was pretty sure there wasn't, but I figured I would check with you since you're more familiar with it than us in some ways.

CHAIRMAN TORGERSON: You left out the

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1 Iditarod Trail, socioeconomically integrated with rural
2 Alaska. It's like bear viewing.
3 BOARD MEMBER BRODIE: It starts in Wasilla
4 now.
5 CHAIRMAN TORGERSON: Wasilla and Willow and
6 head right up to Nome.
7 MR. ELLIS: And the Iron Dog.
8 CHAIRMAN TORGERSON: I don't have any
9 questions. Just blowing off steam.
10 MR. WHITE: Let's go then to the Hickel 1
11 plan.
12 CHAIRMAN TORGERSON: Yes.
13 MR. WHITE: Hickel 1 I believe does in fact
14 meet the requirements of the Alaska Constitution.
15 Hickel 1 is the one that goes into Fairbanks and takes
16 population out of it and adds it into House District 37,
17 which is in effect, except it doesn't go quite down as
18 far, the old House District 6 from the Benchmark.
19 We know, established on the record, that
20 Fairbanks is a hub for rural Alaska, Interior Alaska,
21 particularly in this area that we're talking about.
22 The people that live in those villages
23 there, Fairbanks is the historical, economic,
24 transportation and cultural hub for those people. And
25 so by adding the minimum amount of population into that

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1 in order to meet the equal population requirements,
2 which we know is required, I think you have solved the
3 relative socioeconomic integration problem.
4 I think that's the only really question you
5 could say. The rest of the plan appears to me not to
6 have any constitutional issues at all. I suppose on 37,
7 since it pushes way up, you could try to argue somehow
8 they are not economically integrated, but I think there
9 the Alaska Native cultural ties and other things would
10 make 37 constitutional.
11 By doing this, as I understand it, there is
12 no proportionality issues in here, because this plan
13 only divides Fairbanks once. It takes the population
14 out and puts it into House District 37 of 5,280, or
15 whatever the number is, 5,809.
16 Fairbanks has the most excess population in
17 the state, nearly half a district. And so given its
18 location geographically, it's economic, social and
19 cultural ties, I think that House District 37 would in
20 fact meet the standard of relatively socioeconomic
21 integration.
22 Any argument that the particular portion of
23 Fairbanks, the people there don't have any particular
24 ties, is not the legal standard that is used. The Court
25 has made clear that when you're looking at ties between

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1 areas, you look at the entire municipality.
2 There were arguments made one time that
3 South Kenai didn't have anything to do with South
4 Anchorage. The Court told them, "No, you don't look at
5 South Kenai and South Anchorage. You look at South
6 Kenai and all of Anchorage."
7 MR. BICKFORD: Or all of Kenai and all of
8 Anchorage, right?
9 MR. WHITE: I don't know if they said all of
10 Kenai. I know they said all of the area that you were
11 connecting it to.
12 So here I think that you have met all the
13 requirements that there are. We know that 40 is shaped
14 the way it is because it has to be. I don't see any
15 compactness issues.
16 The Chain is and the Aleutians are what they
17 are. We all know that every district that has a drawn
18 in the Chain, given its what has a zero compactness
19 rating under the ROECK test of zero, just because you're
20 dealing with an archipelago.
21 In short, I think that in order to meet the
22 baseline plan that this Court has said to draw a plan
23 that strictly complies with the Alaska Constitution
24 without considering any of the other legal requirements
25 that you have, that this plan in fact does that.

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1 And based upon the fact that -- of the four
2 plans, I would recommend that this be the plan that the
3 board adopt as its baseline Hickel plan, and it would be
4 the plan then, along with the data, that would be
5 forwarded to Lisa Handley, our Voting Rights Act expert,
6 to analyze whether or not this plan complies with the
7 federal Voting Rights Act requirements.
8 CHAIRMAN TORGERSON: Let me ask a question.
9 In all four presentations, you never mentioned Southeast
10 once. Are we making the -- why?
11 MR. WHITE: As I read the trial court's
12 opinion, if you recall that Petersburg challenged it,
13 and they said that House District 32 was not compact.
14 We said it was in fact relatively compact,
15 and to the extent that it might not be, then it's
16 justified by the need to have the influence district.
17 Now, there is some question whether an influence
18 district needed to be drawn down there, and that's a
19 question that even our Voting Rights Act expert now
20 says, "Well, I don't know whether it was needed to be
21 drawn, it may not have been," but the bottom line was,
22 you read the trial court's decision, it says, not only
23 the original decision, but then what he says afterwards,
24 he ruled that House District 32 was compact enough and
25 therefore that meets the relative compactness

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1 requirements of the Alaska Constitution.
2 And, therefore, I don't believe that there
3 is any requirement that the board change Southeast.
4 Now, having said that, it doesn't mean -- you can change
5 anything you want in any plan. You can throw everything
6 out and start with a brand-new plan and draw -- if
7 that's what you care to do.
8 You're not required to do that. I think
9 what you have done here by saying we are taking those
10 districts that either were not challenged and/or were
11 either -- so they are not challenged or they are not
12 affected either directly or indirectly by a legal
13 challenge that was made, you are completely within your
14 rights and you complied with the Hickel process by
15 saying we're starting with that, because we drew these
16 districts solely to comply with the Alaska Constitution
17 and their configurations were not influenced by the
18 Voting Rights Act.
19 So the reason why I don't mention Southeast
20 at all in here is because I believe that there is no
21 requirement to revisit that issue if you don't care to.
22 And my advice is that, since that plan has
23 been declared constitutional, I don't see the need to go
24 back and revisit it, unless the board has a desire to do
25 so.

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1 CHAIRMAN TORGERSON: I asked you yesterday
2 to review that again, so I'm just putting it on the
3 record.
4 MR. WHITE: I appreciate you doing that. I
5 had forgotten that. I did look at the opinion.
6 CHAIRMAN TORGERSON: I was not wanting to
7 revisit it, but we haven't really focused on that. I
8 was under the same -- as a matter of fact, I read the
9 opinion again this morning. I shared it with PeggyAnn
10 this morning so she could read it also.
11 Clearly he makes some references to District
12 34, which was Bill Thompson's district that we wanted to
13 protect him by using the Voting Rights Act and the
14 influence district, but he rules separate of that on 32,
15 and it's pretty clear that he did that.
16 MR. WHITE: I believe in reviewing that, and
17 then the ultimate opinion that he issued at the end of
18 the case, in that he particularly -- he says again that
19 I found this to be compact enough or relatively compact.
20 And so I don't believe that we're in a
21 situation where there was this justification required in
22 order for the Voting Rights Act.
23 And as I review Southeast, if it was
24 required to, I would believe that it meets the relative
25 compactness requirements and all the other requirements.

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1 CHAIRMAN TORGERSON: I know that this is
2 going down to Lisa for her evaluation and comparison to
3 the Voting Rights Act to see if we comply.
4 Is there a reason we should spend time on
5 the deviations on this, because some of them I would not
6 -- I don't particularly like, but I know it's under the
7 10 percent, but some of them are a little high.
8 Is that something that you think we ought to
9 spend some time on tightening those up, or is it action
10 just to find out something we already know that we're
11 not complying with the Voting Rights Act?
12 We clearly know that, because we're dividing
13 -- taking population out of Fairbanks and mixing it in
14 with the rural district.
15 MR. WHITE: I haven't either seen nor looked
16 at the numbers for the VRA, but my guess is that based
17 upon what we know from my experience in this,
18 particularly given the resemblance of this plan to board
19 option 1 and 2, that there is going to two potential
20 serious Voting Rights Act issues.
21 CHAIRMAN TORGERSON: We're not supposed to
22 be looking at those. I'm just talking total deviation,
23 the plus or minus.
24 MR. WHITE: You're under 10 percent. You're
25 fine. The overall deviation, I think Taylor said it was

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1 7.7 yesterday, but that was wrong.
2 MR. WHITE: It's in the memo there, 8.93.
3 You know, I don't think it's necessary. I think it
4 complies with the constitution, so it strictly complies.
5 You're under the 10 percent in the urban
6 area. Anchorage is still small. The Fairbanks urban
7 areas, what you have done instead of -- because remember
8 in this you had remaining excess population because you
9 only took the 5,200 out.
10 It has another 3,300 or whatever it was,
11 1,500 that was in 6 before it was taken, in the
12 Proclamation Plan, is taken out and put back into the
13 Fairbanks districts and then absorbed and spread out
14 among those five districts.
15 And so while it raised the actual deviation
16 number from the ideal percentage, it didn't increase the
17 range in Fairbanks. Do I understand that right, Taylor?
18 MR. BICKFORD: So the districts in
19 Fairbanks, if you look at them, they are all in that
20 plus-three range. So it's raised the districts, but
21 it's kind of raised the water level for everybody in the
22 sense that the highest, the most overpopulated district
23 in Fairbanks is still under 1 percent different from the
24 lowest.
25 MR. WHITE: If you looked at last time, I

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1 think it was between .86 or something like that, between
2 a 1.8 or something and a 2.5 or 6. What you're saying
3 is basically we have increased that up to, all across
4 the board, another 1 or 1 and a half percent, but the
5 range within Fairbanks itself, and I read the opinion
6 from last time In Re 2001 as saying when you have excess
7 population like that, even if there is this requirement
8 to draw deviations in the urban areas as small as
9 possible, that it's within the board's judgment and
10 reason and, therefore, it's constitutional to deal with
11 excess population by absorbing it equally amongst
12 like-minded people that meet the other requirements.
13 MR. BICKFORD: Is that because the important
14 thing isn't what the districts are themselves, but the
15 range between them and urban areas?
16 MR. WHITE: Yes. You have to remember that
17 in the 2001 case, what was in Anchorage, what was done
18 by the plan adopted there was that they had a number of
19 districts, eight or nine districts that were all .39 to
20 .45 underpopulated, and then a bunch that were
21 overpopulated.
22 So basically you had a range of almost 8 or
23 9 percent within the Anchorage Bowl. And that was
24 challenged last time. It was actually one of the
25 challenges that I made on behalf of my client that

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1 brought the Court to say that's wrong, you should make
2 them much closer than that.
3 So I think that there is two prongs to that.
4 One is in urban areas you should try to get down as
5 close as you can, but there are other factors, and this
6 is what the trial court emphasized saying, yeah, we
7 appreciate -- I remember in Fairbanks particularly with
8 House District 2 or whatever it was, the Court said we
9 appreciate it and that's a legitimate reason for the
10 board to do that, but as long as you're under the 10
11 percent overall, the deviation, just the pure numbers,
12 not the range, you have to have a little more
13 flexibility there to comply with other requirements such
14 as compactness and socioeconomic integration.
15 So I think that in Fairbanks you're fine.
16 You have dealt with any potential proportionality
17 issues.
18 The thing that I would recommend is that
19 Senate pairings be put together, so you have the numbers
20 for the Senate pairings that can be analyzed, because
21 you have to remember, although we always kind of treat
22 this as one plan for Alaska, DOJ and the Courts are
23 supposed to analyze it as two separate plans; you have a
24 House plan and you have a Senate plan. And both plans
25 have to comply with all the legal requirements. All the

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1 House districts comply. The only requirement for Senate
2 districts, other than equal population requirements, is
3 that they be contiguous. Since we don't have any
4 contiguity breaks anywhere, it should be fairly simple
5 to put the House districts back together.
6 Since the issue of Fairbanks, the City of
7 Fairbanks is not yet resolved and was not resolved by
8 the Supreme Court, if you recall all the Supreme Court
9 did was reject the legal argument that you had to have
10 enough population for one whole district before you
11 could even raise a proportionality argument, the law is
12 -- at this point in time, I would recommend that for
13 purposes of complying with the Alaska Constitution that
14 unless there is some legitimate non-discriminatory
15 reason for not, that in this plan that the Fairbanks
16 city be paired back together.
17 That's required by the Alaska Constitution,
18 unless there is some reason for not doing that.
19 CHAIRMAN TORGERSON: So my intent is to take
20 a little recess here. We're going to have to work on
21 the Senate pairings, or is that going to take a while?
22 MR. BICKFORD: I would suggest that you
23 don't have to change them.
24 CHAIRMAN TORGERSON: I would like to see a
25 chart from where we are to where we're going, just

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1 before I vote on it. I think it would help me out.
2 Now, before we take a break, it's your
3 recommendation to adopt the Hickel plan 1?
4 MR. WHITE: Based upon the four plans that I
5 have seen, yes.
6 CHAIRMAN TORGERSON: You talked to Lisa
7 today or e-mailed her?
8 MR. WHITE: Lisa is available to review this
9 matter. She knows that we're on a short leash. She
10 said she is standing by her phone. We have been
11 communicating with her.
12 CHAIRMAN TORGERSON: If we get this to her
13 this afternoon, would we have her on the phone tomorrow
14 at 10:00?
15 MR. WHITE: I haven't gotten that specific
16 yet, but during the break, I will call her and ask her
17 that.
18 CHAIRMAN TORGERSON: Is there any questions
19 on either one of the four Hickel plans, anything to make
20 your comfort level a little better?
21 MR. BICKFORD: I just had one more. Mike,
22 just real quick, you touched on, in the record findings
23 about Fairbanks and its ties. I'm assuming you're
24 talking about what Judge McConahy found?
25 MR. WHITE: Yeah.

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1 MR. BICKFORD: Can you explain that really
2 quickly what he found and do you know, did he find --
3 CHAIRMAN TORGERSON: That's really not
4 germane to our state constitutional plan. That's to a
5 plan that we adopt that would be our Proclamation Plan.
6 MR. WHITE: I would suggest to you that the
7 findings by Judge McConahy that it was reasonable for
8 the board to take population out of Fairbanks for the
9 reasons that it did in order to comply.
10 Remember, he gave three reasons. It wasn't
11 just the Voting Rights Act. It was the equal population
12 requirements, the need to comply with excess population
13 to accommodate excess population and the VRA.
14 And the reason why population, why I believe
15 that taking the population out of Fairbanks is
16 socioeconomically integrated tracks very closely with
17 those rationale --
18 CHAIRMAN TORGERSON: We're not asserting the
19 Voting Rights Act in adopting the Hickel 1 plan.
20 MR. WHITE: We are not. It has nothing to
21 do with it.
22 CHAIRMAN TORGERSON: So we don't need to
23 make findings. That's just my point.
24 MR. BICKFORD: All I meant is I remember the
25 judge saying that there was evidence that Fairbanks was

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1 a rural hub, that there was that kind of evidence on the
2 record, and he made the finding that that sort of thing
3 was reasonable.
4 I'm just wondering did he do that for
5 Fairbanks and did he do that for any of the other urban
6 areas we're talking about?
7 MR. WHITE: There were no findings for any
8 of the other urban areas. The trial court found I think
9 two things that are particularly relevant.
10 One, it said in the past the board took a
11 hard look at all the various different options. I think
12 that the board has done that again.
13 Two, it said that Fairbanks, I think the
14 footnote even says that anyone is hard pressed to deny
15 that Fairbanks is a rural hub for Interior Alaska. I
16 think that goes directly to the socioeconomic
17 integration requirements of 37 that allows 37 to in fact
18 comply with the Alaska Constitution.
19 CHAIRMAN TORGERSON: What do you need, five
20 minutes?
21 MR. BICKFORD: Let's say 15.
22 CHAIRMAN TORGERSON: 15? I will give you
23 10, and then it will probably be 15.
24 Anything else right now? We'll come back at
25 15 minutes from now and we will entertain four motions,

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1 I guess. One would be to adopt Senate pairing. One
2 would be to adopt the Hickel plan. One would be to
3 forward the plan on to Dr. Handley. And the other one
4 would be to authorize Taylor to use the software to do
5 the error report and fix any errors that he might find,
6 unassigned areas, just to make sure we're not sending
7 down a plan that's not -- it might have a word or two in
8 it that he might be able to discover those and take them
9 out.
10 I would like to get this down there today,
11 so -- I don't know, sometime within a reasonable amount
12 of time, but it's already 4:30 D.C. time.
13 So if we got this it Dr. Handley by 2:00 our
14 time, that would be 6:00 her time, and it might be
15 pushing it to get an analysis back from her by 10:00
16 tomorrow morning.
17 MR. WHITE: I will call her right now.
18 CHAIRMAN TORGERSON: That would be my hope
19 that we would be able to do that, and then we'll be able
20 to formulate tomorrow's schedule based upon the other
21 moving parts that we know nothing about at this point.
22 So we will stand in recess. What should I
23 do with teleconference land? We'll just hold on the
24 teleconference.
25 I'll put you on mute on this end, and we

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1 will come back no later than 10 till 1:00. Thank you.
2 We're in recess.
3 (There was a break.)
4 CHAIRMAN TORGERSON: We're back on
5 teleconference. I would like to call the meeting back
6 to order. The time is 1 o'clock.
7 During our recess, we were handed a Senate
8 pairing scheme, I guess. I don't know what you call it,
9 a layout, that staff prepared. And now we will listen
10 to the explanation.
11 Jim Holm, are you on?
12 BOARD MEMBER HOLM: I'm on.
13 CHAIRMAN TORGERSON: Thank you, sir. I
14 appreciate you hanging with us with all of these stops
15 and starts.
16 Taylor, go ahead and walk us through.
17 MR. BICKFORD: Okay. For those listening
18 online, we didn't have time to put this spreadsheet up
19 on the web. It will be on after the meeting.
20 And if you have the actual map, the Senate
21 pairings reflect the numbers on the map. And there
22 haven't been any changes made from what's on the map.
23 So you will see that -- I don't know how
24 much detail you want me to go into, John.
25 CHAIRMAN TORGERSON: Let's start with the

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1 ones you didn't change from the Proclamation Plan, if
2 any.
3 MR. BICKFORD: Well, so the Senate pairings
4 in Southeast --
5 CHAIRMAN TORGERSON: 32? I just want to
6 understand what we're doing here.
7 MR. BICKFORD: What we're doing is we have
8 got the same Senate pairings for Southeast. That has
9 not been changed.
10 CHAIRMAN TORGERSON: 31, 32, 33.
11 MR. BICKFORD: And 34. We have the same
12 Senate pairings for the Kenai and Anchorage, so none of
13 that has been changed. Again, you have got --
14 CHAIRMAN TORGERSON: So 30 through 27 is not
15 changed.
16 MR. BICKFORD: And then Anchorage is not
17 changed.
18 CHAIRMAN TORGERSON: 26 through Mat-Su,
19 through 11?
20 MR. BICKFORD: Okay.
21 CHAIRMAN TORGERSON: All of that is the
22 same.
23 MR. WHITE: So we make sure that we're in
24 compliance with the Alaska Constitution --
25 BOARD MEMBER MCCONNOCHIE: Why don't you

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1 start at 1 and go down?
2 MR. WHITE: I think just showing them, what
3 they are would be good.
4 CHAIRMAN TORGERSON: We're there now. So
5 now --
6 MR. BICKFORD: Now we're at Fairbanks.
7 Fairbanks has been changed, and the primary reason for
8 that is the House districts changed.
9 So under this plan, instead of pairing the
10 city with rural and then the city with rural -- the city
11 is paired together under this.
12 So 1 and 2 would constitute a city of
13 Fairbanks Senate pairing.
14 CHAIRMAN TORGERSON: That's pretty tight to
15 me.
16 MR. BICKFORD: And we have run the numbers
17 on that. The city has -- the pairing under this plan,
18 the city has over 80 percent of the Senate districts.
19 So 3 and 4 would then be paired.
20 CHAIRMAN TORGERSON: Okay.
21 MR. BICKFORD: And 3 is the northern rural
22 Fairbanks North Star Borough District. 4 is the Eielson
23 southern, or I guess southeastern Fairbanks North Star
24 Borough District, which leaves District 5, which would
25 pair with District 6, like it is in the Proclamation

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1 Plan. There is no change there.
2 So now all we're really left with are the
3 rural districts.
4 MR. WHITE: 5 is paired with 6?
5 MR. BICKFORD: Yes.
6 MR. WHITE: But now there is no population
7 from the city of -- from the borough in 6, correct?
8 MR. BICKFORD: Well, the only way to do that
9 would be to break their boundary again. You're correct,
10 Mike.
11 The thing I will point out about this is
12 that District 5 is overpopulated. You will see it's a
13 plus 3.14, whereas District 6 is underpopulated.
14 So the city of Fairbanks -- or sorry -- the
15 Fairbanks North Star Borough is still going to have a
16 majority of that Senate district.
17 So even with the changes to the borough
18 Senate pairings, the borough still has two Senate
19 districts wholly within their borders, and then their
20 half senate district they have the majority of.
21 Kind of an awkward way of saying they have
22 two and a half Senate districts.
23 So that just leaves the rural districts.
24 And the pairings that I came up with were 40 and 39; 40
25 being what District 40 looks like in every plan, which

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1 is North Slope Borough, Northwest Arctic Borough and 39
2 being Nome census area and the Wade Hampton census area
3 primarily.
4 And then that leaves the Interior District,
5 the Horseshoe District needing to pair with something.
6 And under this plan, I have it paired with Bethel House
7 District 38. Really, the only option is to pair it with
8 38 or 36. I guess you could pair it with 35, the Kodiak
9 District also.
10 MR. WHITE: You can't. Then you isolate 38.
11 MR. BICKFORD: Well, 36 and 38 can get
12 paired then.
13 MR. WHITE: Oh.
14 MR. BICKFORD: What I did here in just
15 making the most, I guess, what I thought were logical
16 pairings, I made 37 and 38, which would then leave the
17 Chain/Dillingham/Bristol Bay District pairing with the
18 Kodiak/Cordova districts. And that completes all 20 of
19 the Senate pairings.
20 You will see the population spreadsheet we
21 have here, it has the deviations and the district sizes,
22 but it doesn't have any of the Native data, because at
23 this point, we aren't considering that.
24 If this is adopted, then clearly we would
25 need to send Lisa the full set of data with all the

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1 Native percentages, so she can do her analysis, but at
2 this stage, it hasn't been adopted yet, we're just
3 building it on the Alaska Constitution, so the Native
4 VAP hasn't come into play yet.
5 And none of these Senate pairings, in my
6 head were made having anything to do with Native VAP and
7 Voting Rights Act, it was just purely making
8 constitutional pairings.
9 MR. WHITE: All the pairings are in fact
10 contiguous?
11 MR. BICKFORD: Yeah, they are, even the
12 Chain and Kodiak are contiguous, because the Kodiak
13 Island Borough has this portion of the Peninsula that
14 pairs with 36.
15 MR. WHITE: If I calculate correctly,
16 overall deviation range of the Senate plan would be
17 8.21, with Senate District B being the highest at
18 3.51 percent overpopulated, and Senate District T being
19 4.7 percent underpopulated.
20 And that would comply with the equal
21 population requirements of the Alaska Constitution. The
22 House plan has an overall deviation rate of
23 8.93 percent.
24 MR. BICKFORD: So just to recap, the Senate
25 pairings are exactly the same as the Proclamation Plan

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1 for Southeast, Kenai, Mat-Su, Anchorage.
2 And then in Fairbanks, the Senate pairings
3 have been switched in Fairbanks, and we went over what
4 those were. And then the rural districts, the Senate
5 pairings have been changed as well, because the House
6 districts are very different.
7 CHAIRMAN TORGERSON: Pretty much what it is
8 now I guess, huh? Pretty close, Kodiak and Lake and Pen
9 and Bethel and the Horseshoe District.
10 Any discussion or anything more, questions
11 on Senate pairings?
12 BOARD MEMBER MCCONNOCHIE: Let's go ahead
13 and start getting some motions on the table.
14 First of all, I will make a motion to adopt
15 the Hickel plan 001.
16 BOARD MEMBER GREENE: I'll second the
17 motion.
18 CHAIRMAN TORGERSON: And that would be as
19 our constitutional Hickel process court-ordered plan.
20 BOARD MEMBER MCCONNOCHIE: Correct.
21 CHAIRMAN TORGERSON: Is there -- Michael, go
22 ahead.
23 MR. WHITE: Just kind of -- we're kind of
24 working through this process we haven't done before. I
25 would think that you might want to start with a finding

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1 that the Hickel plan 001 strictly complies with the
2 Alaska Constitution, or somewhere in there you need to
3 make that finding, that specific finding to that effect.
4 Just adopting the plan doesn't say that, so
5 maybe the motion can be amended.
6 BOARD MEMBER MCCONNOCHIE: I'll amend it to
7 say then we're adopting the Hickel plan 001, which meets
8 the Alaska constitutional requirements.
9 BOARD MEMBER HOLM: We believe.
10 BOARD MEMBER MCCONNOCHIE: We believe.
11 CHAIRMAN TORGERSON: To the best of my
12 ability. Any other discussion on the motion?
13 MR. WHITE: Other than to say that the
14 board's finding and Ms. McConnochie's motion is
15 supported by the analysis set forth in the memorandum
16 that I provided you today, as discussed on the record
17 both on March 26th and March 27th.
18 CHAIRMAN TORGERSON: Can't we assume that
19 people will get there without adding that?
20 MR. WHITE: I'm not assuming anything given
21 the decisions we have got from the Supreme Court. Mr.
22 Chairman, I think it's best to have them expressly
23 stated on the record.
24 CHAIRMAN TORGERSON: And we're all breathing
25 and we're all alive and well.

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1 MR. WHITE: I don't think she needs to amend
2 her motion. I just wanted to have on the record that
3 that was the basis for the motion.
4 BOARD MEMBER MCCONNOCHIE: Sounds great.
5 CHAIRMAN TORGERSON: So to further the
6 record, the board went through four proposals to take
7 urban and rural population, to draw a constitutional map
8 starting with Fairbanks, Mat-Su, Anchorage and Kenai.
9 After hours and hours and hours of
10 deliberation, many late hours of work and burning a lot
11 of candle power, we decided that the Hickel 1, we called
12 it, process plan is the most constitutional plan that
13 the board can come up with or has come up with.
14 We believe all the districts conform to the
15 constitution as outlined by our legal team in a
16 memorandum dated today, March 27, 2012.
17 Any other discussion on the motion? We will
18 do a roll call, because Jim is on the telephone.
19 MR. BICKFORD: John Torgeson?
20 CHAIRMAN TORGERSON: Yes.
21 MR. BICKFORD: PeggyAnn McConnochie?
22 BOARD MEMBER MCCONNOCHIE: Yes.
23 MR. BICKFORD: Marie Greene?
24 BOARD MEMBER GREENE: Yes.
25 MR. BICKFORD: Bob Brodie?

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MR. BRODIE: Yes.
MR. BICKFORD: Jim Holm?
BOARD MEMBER HOLM: Yes.
CHAIRMAN TORGERSON: So by five yeas and zero nays, the board has adopted the Hickel plan, Hickel 01, as our Hickel process court-mandated constitutional plan.
BOARD MEMBER MCCONNOCHIE: Then for the second motion, we need to authorize Taylor to produce, I believe what's called the error report, Taylor, and go through and fix any errors found within the plan, within, of course, our tolerance level, and look at the military base proximity issues in accordance with the lieutenant governor's letter that we received, whatever it was.
BOARD MEMBER BRODIE: Second.
CHAIRMAN TORGERSON: Thank you. Moved and seconded. I'm not sure the military base really applies to this one, but on the final one, we want to fix a few of the closer polling places in proximity to the military bases that the lieutenant governor has identified. I don't care if you do it now.
Anyway, that's the motion. Again, this will be authorizing Taylor to work on Hickel 1 plan, right?
BOARD MEMBER MCCONNOCHIE: Yes.

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CHAIRMAN TORGERSON: And the error report is something that the software automatically does. If you key it up and treat it kindly, it will find any anomalies that you have in the plan, if any, like unassigned areas and things of this nature.
So the motion would authorize Taylor to do that and also authorize him to fix it. Other discussion?
Roll call, please.
MR. BICKFORD: John Torgerson?
CHAIRMAN TORGERSON: Yes.
MR. BICKFORD: PeggyAnn McConnochie?
BOARD MEMBER MCCONNOCHIE: Yes.
MR. BICKFORD: Marie Greene?
BOARD MEMBER GREENE: Yes.
MR. BICKFORD: Bob Brodie?
BOARD MEMBER BRODIE: Yes.
MR. BICKFORD: Jim Holm?
BOARD MEMBER HOLM: Yes.
CHAIRMAN TORGERSON: Thank you. PeggyAnn?
BOARD MEMBER MCCONNOCHIE: The next one would be to adopt the Senate pairings for the now board-adopted Hickel plan 001 as presented.
BOARD MEMBER BRODIE: Second.
CHAIRMAN TORGERSON: Moved and seconded.

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Again, for those on teleconference, this will be on the web shortly after, if it isn't already, after we adjourn the meeting today so you can see.
The majority have not changed. It looks like District 7 through 34 are the same pairings as they were in the Proclamation Plan.
And some modified changes in Fairbanks and some in the District 35 and 40.
MR. BICKFORD: Mr. Chairman, could I just add that we have also found that all the Senate districts are made up of contiguous House districts.
CHAIRMAN TORGERSON: You think this is constitutional?
MR. BICKFORD: Yes.
CHAIRMAN TORGERSON: Can we say that enough? So we have a motion, then seconded to adopt the Senate pairings as presented.
Roll call, please.
MR. BICKFORD: John Torgerson?
CHAIRMAN TORGERSON: Yes.
MR. BICKFORD: PeggyAnn McConnochie?
BOARD MEMBER MCCONNOCHIE: Yes.
MR. BICKFORD: Marie Greene?
BOARD MEMBER GREENE: Yes.
MR. BICKFORD: Bob Brodie?

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BOARD MEMBER BRODIE: Yes.
MR. BICKFORD: Jim Holm?
BOARD MEMBER HOLM: Yes.
CHAIRMAN TORGERSON: So by five yeas to zero nays, the board has adopted the Senate pairings and they will be incorporated into the Hickel 01 constitutional plan.
BOARD MEMBER MCCONNOCHIE: That means for our last and final act we need to -- I make a motion to forward onto our voting rights expert, Dr. Lisa Handley, the plan adopted by the board, and request that the plan be evaluated to the compliance with the Voting Rights Act as quickly as possible.
BOARD MEMBER GREENE: I'll second the motion.
CHAIRMAN TORGERSON: Thank you. Is there a discussion on that motion? I think it's pretty straightforward.
We have to send this down to Lisa for her evaluation, not as the constitutionality, because we already know that this is the most constitutionally-drawn map probably in the history of the State of Alaska as it conforms to the state constitution, but she will render an opinion as to compliance with the Voting Rights Act.

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My hope is that this will go down this afternoon and she will be able to teleconference in to our meeting tomorrow and share her evaluation with us tomorrow.

Any other discussion? Roll call, Mr. Taylor.

MR. BICKFORD: John Torgerson?

CHAIRMAN TORGERSON: Yes.

MR. BICKFORD: PeggyAnn McConnochie?

BOARD MEMBER MCCONNOCHIE: Yes.

MR. BICKFORD: Marie Greene?

BOARD MEMBER GREENE: Yes.

MR. BICKFORD: Bob Brodie?

BOARD MEMBER BRODIE: Yes.

MR. BICKFORD: Jim Holm?

BOARD MEMBER HOLM: Yes.

CHAIRMAN TORGERSON: So by five yeas to zero nay votes, the board has authorized this to be sent down to Dr. Handley for her analysis.

Is that about it?

BOARD MEMBER MCCONNOCHIE: That's it.

CHAIRMAN TORGERSON: I think our attorney walked out of the room, so as far as I know, this is all we have for today to get done.

Once we adopt this plan, it's a pretty major

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milestone for the -- a lot of time has went into it, but we really can't do much until we get our report back from Lisa.

But I want to check with our legal counsel, so I think he is on the phone with Lisa, so I think we'll just stand at ease and just stay where we're at just for a couple of minutes.

I will not unhook the teleconference. So we'll just stand in recess for a few moments.

(There was a break.)

CHAIRMAN TORGERSON: We're back on record. Our legal counsel has rejoined us.

Mr. White, do you have anything to share with the board?

MR. WHITE: Yes. I was able to talk with Dr. Lisa Handley. We have been communicating with her regarding the board's situation.

She has indicated that her schedule is pretty tight tomorrow. She thought that she might be able to get us an informal opinion, like e-mail, sometime before she has to go to a meeting at DOJ at 9:15, and then she has another meeting at 3:00.

She thought she might be able to have us something a little more formal by 4:00 p.m. our time. I just needed to know what you wanted to do, whether you

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wanted the informal analysis that she would just do in an e-mail, or whether you wanted just to wait for a formal analysis.

It's not like a DOJ analysis. It just has to analyze this plan and compare the VAP numbers and do the same thing she did in the other one, but it's focusing solely on -- we're not getting a report like we did for DOJ.

Eventually, we will have to produce another one of those, but this would just be her analysis of whether this plan complies, in her opinion, with the requirements of the Voting Rights Act.

CHAIRMAN TORGERSON: What are the chances of her preliminary report changing the outcome of the report from a Voting Rights compliance plan to a Non-Voting Rights compliant plan?

In my mind, the answer is none.

MR. WHITE: I don't think so either. What she has to do is take these numbers, look at the House districts. I mean, she doesn't have to do another racial block voting analysis. That's already done.

That the same. It doesn't change. She doesn't have to go through all of that. All she has to do is look and say, okay, based upon these numbers are there five effective House seats and three effective

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Senate seats.

You know, that just requires her to look at these numbers, make a comparison, do an analysis. She thought that she might be able to -- she has an appointment tonight that can't be changed -- maybe get something possibly informal like that when she got back from that appointment tonight, but she couldn't promise that.

She said she would do her best get up early in the morning and get us something before she goes to her meeting, but that would be informal.

The chances of anything changing, I can't say. I just don't think that there would, but at the same time, we never realistically know.

CHAIRMAN TORGERSON: What I'm thinking, to keep with our posted time schedule starting tomorrow at 10 a.m., if we had her preliminary report by 9:00 our time, I think that combines two of the times you gave me.

You said she could have a final at 4:00 and a preliminary at 9:00. Then you said something in between, but I missed that. I didn't write it down.

MR. WHITE: She said she would do her --

CHAIRMAN TORGERSON: But 9 o'clock her --

MR. WHITE: She has a meeting at 9:15. I

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1 thought she said she would be able -- she would try to
2 get us the informal opinion before she went to her
3 9:15 a.m. meeting, which would be 5:15 our time.
4 CHAIRMAN TORGERSON: I think, for us to
5 continue our deliberations, I think I want that
6 preliminary -- I would like to have the preliminary
7 report.
8 BOARD MEMBER MCCONNOCHIE: I would like it
9 too.
10 CHAIRMAN TORGERSON: I don't see it
11 changing. She can't invent Native VAP, can't invent new
12 districts, so if she gives us her report on whether or
13 not -- she is not ruling on the constitutionality of the
14 most constitutional plan in the history of Alaska,
15 because we just did that. All she is doing is Voting
16 Rights Act.
17 MR. WHITE: Correct.
18 CHAIRMAN TORGERSON: I would assume that
19 that, like I said earlier, those numbers from her
20 preliminary to the actual written report won't be that
21 much -- can't be changed that much.
22 MR. WHITE: I would not anticipate that even
23 her formal report, which I think we want just for the
24 purposes of the record, would be two or three pages.
25 CHAIRMAN TORGERSON: That's fine. I think

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1 we'll do that and then we can keep with our schedule of
2 meeting at 10:00 tomorrow and start our deliberations on
3 getting to an amended Proclamation Plan, or we drove the
4 golden spike and have the perfect plan.
5 Taylor's note was would she call in at
6 4 o'clock, but that's 8:00 our time, right?
7 MR. WHITE: No, 8:00 her time. I could ask
8 her if she would be calling. I agree it might be
9 helpful to do that.
10 MR. BICKFORD: Was it 4 o'clock our time or
11 her time?
12 MR. WHITE: 4 o'clock our time, 8 o'clock
13 her time. She said she would try really hard to get it
14 done by then.
15 CHAIRMAN TORGERSON: That's fine. I would
16 like to have the report at least an hour before our
17 meeting so that the board members can read it, you know,
18 have probably questions and things without otherwise --
19 MR. WHITE: I think I will say, Lisa, I will
20 call her back and and will say we want the informal
21 report as soon as you can get it to us. I think it will
22 have to be before the 9:15 meeting she has.
23 Get us that, and then if you get the final
24 report to us at 4:00, and are you available tomorrow
25 evening, sometime between 4:00 or after 4:00 to call in

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1 so that the board can ask questions that they might
2 have.
3 BOARD MEMBER MCCONNOCHIE: That would be
4 good.
5 CHAIRMAN TORGERSON: I think we need to tee
6 that up. I can't say that I would have any questions
7 for her at this juncture, but some of her -- some of her
8 writings are a little above my head, so I have to ask
9 her for explanations.
10 MR. WHITE: I think it would not hurt at all
11 to have her on the record to explain. Maybe there is no
12 questions.
13 CHAIRMAN TORGERSON: That's fine. We need
14 to roll through the process. So I would ask her to do
15 that if she would and give us a time that would be
16 appropriate. We'll just make it work.
17 Anything else? Is there any homework for us
18 to do? Did she mention anything that the board should
19 be working on tonight, that staff should work on
20 tonight? You have got to get the shape files.
21 MR. BICKFORD: I'll get the plan to her and
22 the data. And one thing I want to point out to probably
23 some people here and some people listening online is
24 that I'm sure we'll have a lot of people wanting shape
25 files for this plan we just adopted.

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1 In the next couple of hours, we'll send out
2 a blast that has the shape files and probably some maps,
3 and we'll put that on the website and send out an e-mail
4 to our list once we have that loaded.
5 You can still send in requests, but you
6 could also just wait for the e-mail to come out in the
7 next couple of hours.
8 And I'll get all the data to Lisa that she
9 needs in the next 30 minutes. I don't think there is
10 any issue with that.
11 CHAIRMAN TORGERSON: Okay. Nothing else?
12 Anything else?
13 MR. WHITE: Can you, when you do the map for
14 Lisa, put the Senate seats right on the map, and that's
15 what should go to the public as well, just like we would
16 in the Proclamation. I think it's easier for reference
17 for the public and for Lisa to have that.
18 MR. BICKFORD: I don't know that there is a
19 clean way to do, other than to just do 40, 39, 38, 37.
20 I think it would confuse the issue more.
21 MR. WHITE: 40-A, 40-T.
22 MR. BICKFORD: Okay. Yeah.
23 MR. WHITE: Just on the map so the people
24 can look at it and say, "Okay, that's the Senate
25 District," without having to refer to --

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MR. BICKFORD: I didn't follow what you meant. That's fine.

CHAIRMAN TORGERSON: You guys can talk about there.

Is there anything else to come before the board at this time? Hearing none, we will stand adjourned until tomorrow morning at 10:00 a.m.

(Off record.)

-o0o-

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CERTIFICATE

I, SONJA L. REEVES, Registered Professional Reporter and Notary Public in and for the State of Alaska, do hereby certify that the proceeding were taken before me at the time and place herein set forth; that the proceedings were reported stenographically by me and later transcribed by computer transcription; that the foregoing is a true record of the proceedings taken at that time; and that I am not a party to nor have I any interest in the outcome of the action herein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 27th day of March 2012.

_____

SONJA L. REEVES, RPR
My Commission Expires 8/7/15

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In the Matter Of:

ALASKA REDISTRICTING BOARD

BOARD MEETING

March 28, 2012

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ALASKA REDISTRICTING BOARD

BOARD MEETING

March 28, 2012

10:02 a.m.

411 West Fourth Avenue, Suite 302

Anchorage, Alaska

A-P-P-E-A-R-A-N-C-E-S

BOARD MEMBERS PRESENT:

John Torgerson, Chairman
PeggyAnn McConnochie
Robert B. Brodie
Marie N. Greene
Jim Holm (via speaker phone)

STAFF PRESENT:

Taylor Bickford
Jim Ellis
Eric Sandberg

ALSO PRESENT:

Michael D. White
PATTON BOGGS, LLP
601 West 5th Avenue, Suite 700
Anchorage, Alaska 99501

Randy Ruedrich
Steve Aufrecht
Kay Brown
Marcia Davis
Paul Gronholdt
Ernest Weiss
Natalie Landreth
Bill Walker
Joe Levesque
Paul Gundersen
Thomas Begich
Steve Colligan
Brian Hove
Leonard Lawson
Carrie Couey

Court Reporter:

Sonja L. Reeves, RPR
PACIFIC RIM REPORTING
711 M Street, Suite 4
Anchorage, Alaska 99501

PROCEEDINGS

CHAIRMAN TORGERSON: We'll call the meeting to order. The time is 10:02 and a half. That's how precise we are here today. Roll call.

MR. BICKFORD: John Torgerson?

CHAIRMAN TORGERSON: Here.

MR. BICKFORD: PeggyAnn McConnochie?

BOARD MEMBER MCCONNOCHIE: Here.

MR. BICKFORD: Marie Greene?

BOARD MEMBER GREENE: Good morning.

MR. BICKFORD: Bob Brodie?

BOARD MEMBER BRODIE: Present.

MR. BICKFORD: Jim Holm?

BOARD MEMBER HOLM: Here.

MR. BICKFORD: All board members are present.

CHAIRMAN TORGERSON: We have staff here and represented by counsel. Next is approval of the agenda.

BOARD MEMBER MCCONNOCHIE: I move for approval of the agenda as written.

BOARD MEMBER GREENE: Second.

CHAIRMAN TORGERSON: I guess, by way of explanation, for those who may not have heard what we're going to do or got it on the teleconference, but item four -- we will go through a -- basically I'll walk us

through, I guess, Dr. Handley's analysis of our constitutional Hickel plan that we sent down to her yesterday after the board's adoption, so we'll talk about that.

Then the board will break into a work session, and we will create two teams during the work session. One team will be PeggyAnn and Marie, and their staff assigned will be Eric Sandberg.

By the way, welcome back, Eric Sandberg. He is our GIS expert that's been assigned to us from the Department of Labor.

The other team will be Mr. Brodie and myself, and we will have Mr. Taylor as our resource computer expert. PeggyAnn and Marie will start formulating a plan using the PAM-E plan as the base, which was the board-adopted plan, but not our Proclamation Plan.

As a way of reference, that plan primarily kept the Chain together, and it put the senators from Kodiak and the senator from Bethel running against each other.

And then Mr. Brodie and I will start with the Hickel plan that we adopted yesterday and we will work through that. The goal is twofold. Let me -- that's beyond adoption of the agenda.

And then the last thing on the agenda would be if we are ready to, we will start adopting the amended Proclamation Plan, but that's if we get far enough down the process and agree on a plan that meets all the requirements, then we will start our work on that.

Otherwise, that will, of course, be pushed off until tomorrow. And then the last thing on the agenda is an executive session. I don't particularly have a reason for an executive session now, but we are listing those on each agenda in case we deem it necessary to break into an executive session.

So I have a motion and a second for approval of the agenda as written. Is there discussion? Is there opposition to adoption of the agenda?

Hearing none, the agenda will be adopted as presented.

So the next thing on the agenda is the letter from Dr. Handley. Just to roll back everything a little bit, and I'll state this again, just because we're building a record.

The Supreme Court remanded our Proclamation Plan back to the board because we failed to adopt the Hickel process, which primarily means that we start with a plan that ignores federal law, federal constitution,

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1 federal Voting Rights Act, and focuses strictly on the
2 Alaska Constitution, all but the one person/one vote
3 requirement, which I think is in both laws, federal and
4 state.
5 So the board, the last couple of days, has
6 engaged in that process. We adopted what we call or
7 refer to as Hickel 01 plan. Yesterday afternoon we sent
8 the shape files and the plan down to our voting rights
9 expert, Dr. Handley.
10 I'm sure she worked a good portion of the
11 evening getting us an opinion on that plan. Keep in
12 mind that Dr. Handley is only -- her expertise is
13 whether or not we comply with the Voting Rights Act, not
14 whether or not this is a state constitutional plan.
15 She has no record -- no opinion on that.
16 That was strictly a board action that we took when we
17 adopted the constitutional plan yesterday.
18 So what we had received this morning early
19 was Dr. Handley's report. This has been handed out. Is
20 it on the net?
21 MR. BICKFORD: It's not, but it will be as
22 soon as we break.
23 CHAIRMAN TORGERSON: Taylor says it's not on
24 the net for those that are watching through their
25 computer and listening, but we're probably going to

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1 break here in a work session in about 20 minutes anyway.
2 Primarily, unless there is questions of
3 this, I'm not going to go through a lot of it. She
4 primarily found that there are three state House
5 districts in the Hickel plan that meet the requirement,
6 and the fourth district that does not.
7 And that's primarily Interior village. Our
8 reconstructed old District 6 had a Native VAP of 33.26.
9 She recognizes that this particular area is the highest
10 polarized voting in the State of Alaska.
11 She had recommended before that this should
12 be at least a 50 percent Native VAP in order to require
13 -- or in order to provide the opportunity for a
14 Native-preferred candidate to be elected.
15 So we fall substantially short of that at
16 somewhere around 33.3 percent.
17 And the other district that falls short is,
18 in our state constitutional plan, is Senate District R,
19 which is the combination of the Chain and Kodiak.
20 And the effective -- her recommendation is
21 41.8 percent to be an effective Senate district. She
22 recognizes that we can come down lower than that because
23 of the Chain and because of the fact that it's our least
24 polarized voting in the state in down in the Aleutians,
25 but this plan, our plan, the Hickel plan, our

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1 constitutional plan came in at 29.74, which was
2 substantially below that.
3 In a conversation that staff had with
4 Dr. Handley this morning, she advised us the lowest she
5 would recommend to DOJ on District R for an effective
6 Senate district would be 38 percent.
7 So that becomes our target at this time, is
8 something north of 38. Of course, she would have to do
9 an analysis on it, but her preliminary thought is that
10 38, again, because it's the least polarized voting in
11 the state, that 38 would be something that she would
12 consider moving to the next phase.
13 The conclusion I will read. "The Hickel
14 plan contains one less effective state House district
15 and one less effective state Senate district from the
16 Benchmark Plan."
17 I will at this time say that our new
18 Benchmark Plan is the last plan that DOJ approved. In
19 this case, they did approve our Proclamation Plan, so
20 that is our new Benchmark is the our -- new or old, but
21 anyway our Proclamation Plan is now the Benchmark.
22 And so that is where we will start from, and
23 that's where DOJ will start from. When I think about
24 it, it primarily makes sense, because that's the last
25 one they reviewed and approved.

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1 Anyway, continuing on with Dr. Handley's --
2 "One less effective state House district, one less
3 effective state Senate district. It is therefore
4 retrogressive."
5 And because plans that are not retrogressive
6 is not -- because plans exist that are not
7 retrogressive, it is not unavoidable retrogression. So
8 this basically takes away a positive defense that what
9 we're trying to do is declare retrogression at this
10 time, because we already proved that we are not required
11 to declare retrogression.
12 "I believe the Hickel plan does not comply
13 with Section 5 of the Voting Rights Act, and thus would
14 solicit an objection by the Department of Justice."
15 So are there questions on -- PeggyAnn?
16 BOARD MEMBER MCCONNOCHIE: I just want to
17 get a clarification. If we submit a plan that does not
18 meet the same standards as the Proclamation Plan, what
19 will DOJ do, other than just say it's retrogressive and
20 not accepted? What's their next move after that?
21 CHAIRMAN TORGERSON: You just said their
22 next move; they would reject it.
23 BOARD MEMBER MCCONNOCHIE: Reject it,
24 period, and then it goes back us to do something else?
25 CHAIRMAN TORGERSON: That's our bar. Now,

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what Lisa is saying -- I have always had a question that if you establish a bar of a particular VAP 45 percent and then you come in with another plan later at 42, you're, by definition, retrogressive, but she said on the Chain and that combination that 38 would be an acceptable target.

She is not suggesting, I'm sure, that they try to do it, but we all know the difficulties we have had in getting that district done. As a matter of fact, the record is clear, of our difficulties, because we split the Chain in order to get that up to somewhere around that 41.8 percent.

So we have a little more leeway than other opportunities or other chances that we have.

BOARD MEMBER BRODIE: Mr. Chairman, I was just going to say, I guess I wouldn't entirely agree with your last statement, in that if we went from 45 to 42 we're retrogressive in that we have some districts that are clearly 80 and 90 percent that we're going to 70 that qualify under the Voters Rights Act, but wouldn't necessarily be retrogressive.

CHAIRMAN TORGERSON: My statement is just if you look at the definition of retrogressive, anything less than you started with is retrogressive on its face.

Clearly, we went by that and our target is

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41.8 in all the districts, even though they might have been 60 or 70 before. So I don't disagree. I'm just talking about the technical definition of retrogression, which has really nothing -- that definition has nothing to do with this.

If you started with a dollar and ended up with 50 cents the next day, you lost 50 cents, so you regressed by 50 percent.

Any other questions of board members? Jim, any questions up there?

BOARD MEMBER HOLM: No, sir.

CHAIRMAN TORGERSON: Taylor?

MR. BICKFORD: Mr. Chairman, I just want to make a couple clarifications, and we'll probably ask Mike to jump in if he has anything else to add.

On the conversation we had with Lisa this morning, we described to her what we were going to be doing today and some of the issues we were going to be looking at.

And, again, our question to her was, or I again explained that, what the chairman explained, that we're looking at building a plan that meets the Voting Rights Act, that potentially doesn't have that Senate pairing, that we have been concerned about, and we asked her how low can you bring a Senate district that

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includes a House district that is primarily composed of the Aleutians?

And what she said was, kgiven that your last plan came in at over 42 percent, that you need to get whatever you're going to come back with as close to that as possible.

Now, what she said was, in theory, because the Aleutian Chain is less polarized and isn't -- doesn't have the 42 percent standard, that that Senate pairing could be lower if it included the Aleutians and 38 percent was about the minimum that she would be comfortable to look at.

But that really we want to bring it as high as possible. And that even if we sent her something at 38 percent, she would still, like the chairman said, need to do more analysis and look at some recompiled election results to make sure that that was sufficient.

Her advice to us was, DOJ is not going to like you bringing it down at all, and that she would have real concerns about that.

But for our exercise today and in looking at what's possible, that 38 percent is what we can think of as a minimum. So I just wanted to clarify that.

And, Mike, do you have anything else to add?

MR. WHITE: No, I concur with what you said,

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Mr. Taylor. Jim, can you hear me okay?

BOARD MEMBER HOLM: Yeah.

MR. WHITE: Just she was very uncomfortable when you start reducing those numbers and she said she would have concerns, but you would have to actually -- because, remember, as it says in the DOJ guidelines, it's either the district has an ability to elect or it doesn't.

And the DOJ guidelines themselves say they don't look at any magic number. This number that we have are the targets that the DOJ will rely upon, but if you have -- you have to, once you compose a district, if it's below the 42 percent statewide average, even in the Aleutians, then she is going to want to look at recompiled election results to make a determination whether she believes the district would be effective or not.

Just one other thing, Mr. Chairman, I think needs to be clarified on Lisa's report, and that is the idea that the Benchmark now is the Proclamation Plan.

And that is based upon the citation, she goes to the DOJ regulations. When I looked at that, I went through and read the CFRs and the cases that were cited in the DOJ regulations last night and asked Lisa to check with DOJ specifically if that was the standard

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that they used.
She was able to do so, and she said that the approach that she has taken is the most conservative approach, that the law in terms of whether the Benchmark, Proclamation, whether or not the plan that we sent to DOJ that has been pre-cleared, whether that is, and the language, "the last legally enforceable redistricting plan in force or effect."
So the key language there is "in force or effect." So is our plan in force or effect? She says that question under state law is an open question. It's never been decided. So there is no case law out there.
You read the cases, the Riley v. Kennedy case that they cite and the McDaniel vs. Sanchez and Texas vs. United States and Mississippi vs. Smith, those are all federal court cases that don't involve the exact situation we're dealing with here, where you have a state plan that has been pre-cleared by the Department of Justice and then there is a state court that has said there are problems with that plan under state law.
And so by doing the approach that we have done here, she has taken the most conservative approach to that. And I wanted to emphasize, and went back and double-checked the fact that if the Hickel plan is in fact retrogressive as compared to the Proclamation Plan,

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it's clearly going to be retrogressive as applied to the 2002 plan.
So what we -- I guess you would call it the old Benchmark, but I didn't want to confuse the nomenclature. In her report you will notice she refers to the plan that's currently in place as the 2002/2010 plan.
And if you looked at the numbers there and you compared it to the Hickel plan, Lisa confirmed for me that in that comparison as well, so if you took a less conservative approach and did both, it would be retrogressive, not only as to the Proclamation Plan as a Benchmark, but using the 2002 to 2010 plan as the Benchmark as well.
So she is comfortable that the Hickel plan is retrogressive when compared to either. And in any analysis we did with DOJ, when we get a plan in place, we would do the analysis as compared to both.
But for the purposes of here, she took the most conservative approach. She used the Proclamation as the Benchmark and clearly it's retrogressive, as she sets forth in her report.
MR. BICKFORD: Just as a practical matter, what she told us is that if the board, in adopting your amended Proclamation Plan, if you come in with something

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that is over 42 percent for that third Senate district, no further analysis would be needed, no election results would need to be looked at.
If we come in with something in that 38 percent range, then that's something that tonight we would need to send her that information and she would need to take another look tonight and have word for us by tomorrow.
Not to confuse things too much, but just as a practical matter, that would be kind of the next step, from her perspective.
BOARD MEMBER MCCONNOCHIE: Question. The only way we got up to where we did was by splitting the Chain. It seems to me the Court has specifically said that's not legal.
MR. WHITE: It has not said that. The trial court has said that.
BOARD MEMBER MCCONNOCHIE: The trial court said it's not legal.
MR. WHITE: The Supreme Court has not ruled on that issue.
BOARD MEMBER MCCONNOCHIE: If the first court said it's not legal and then we have to try to get the Chain up higher, up to that 41, 42, and we're unable to do that, is DOJ then going to be put in a position

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where they are going to say that our plan, even with the information that Lisa provides, is going to be retrogressive, because it didn't get to that 42 percent?
Does she believe that she can make an argument that the 38 percent could work so long as she has got the proper data?
MR. BICKFORD: Yes. Now, she thinks we would be in a riskier situation, but, yeah, the argument could be made.
And last point I'll make is that she said, she told us that if you're deciding between a plan and our current range that pairs Senator Hoffman and Senator Stevens, or a plan that does not pair them, but reduces the Native percentage, you know, somewhere around 35 percent, if it goes too low, that the DOJ would very clearly prefer the higher percentage plan.
She said that as long as there is no evidence of intentional discrimination to pair those two senators together, that that on its own would not be enough, in her opinion, to solicit an objection from DOJ.
That doesn't mean we shouldn't try and do everything we can to avoid that, but my point is that if you're choosing between, say, an Aleutian Senate pairing that's at 35 percent, but doesn't pair them, and

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1 something similar to what we have under the PAM plan
2 that does pair them, that even if we framed it to DOJ
3 that way, that they would not accept something that's
4 substantially lower, and that the pairing on its own
5 would not be enough to solicit an objection if it's
6 unavoidable.
7 CHAIRMAN TORGERSON: Other questions? Okay.
8 That brings us to --
9 MR. WHITE: Mr. Chairman, one point. Lisa
10 has indicated that she is available to get on a call and
11 talk with the board if they have questions.
12 She would be available after 2 o'clock our
13 time and after.
14 CHAIRMAN TORGERSON: Okay. We will keep
15 that in mind. I don't have any knowledge -- what I
16 wanted from her is her opinion and she got it.
17 All the rest is just hypothetical, and I
18 understand -- I just wanted to have the bottom end that
19 we should draw to for today, so we got it.
20 We're going to break into a work session for
21 the board. As I stated earlier, the board -- we're
22 going to stay in this room.
23 As you see, we have hooked up two computers,
24 two projectors. We will break into two teams and work
25 independently, although collectively if we deem to.

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1 We are -- the reason I'm doing this is
2 primarily because of the Open Meetings Act. Since we
3 can't -- we are under those set of guidelines and rules,
4 I don't want anybody to say we didn't do it.
5 So this will be an open process as far as
6 watching, but I would urge the audience not to try to
7 engage with board members. This is a board process that
8 we are engaging in in an open public process.
9 We need to be able to do our work. I know
10 you didn't intend to do that, but I just want to make it
11 clear that I would rather not try to lobby board members
12 that are going through this process.
13 We'll take breaks periodically. You're
14 welcome to, at any time, to have a conversation with a
15 board member outside of the normal meeting process.
16 I will be going off the record, because
17 there is no way that we will be able to transcribe this
18 with two teams working independently, or put it on the
19 teleconference as two teams working independently.
20 So I apologize for that. There is just no
21 way around it. And then we will come back on the
22 record, and I'm going to estimate that at about
23 1:30 p.m. this afternoon.
24 And at that time, we will either continue on
25 with the process if we are close or have proven that

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1 something doesn't work or something does work. We'll
2 come back on the record and make those findings. And if
3 not, then we will just go right back into a work session
4 and work through the rest of the afternoon and evening.
5 I will ask that board members and their
6 staff that are assigned to this make findings as you go
7 through the process. Findings in this case are notes
8 about where you're at and what you're doing.
9 If you bring forward a plan that is
10 different, or actually it doesn't make any difference if
11 it's different from the Proclamation Plan, that you have
12 some sort of indication of why you did that process.
13 And I will only read to you, so we're all
14 clear, the Supreme Court ruling piece that says, quote,
15 "Because it did not follow the Hickel process, the board
16 cannot meaningfully demonstrate that the Proclamation
17 Plan's Alaska constitutional deficiencies were
18 necessitated by the Voting Rights Act compliance, nor
19 can we rely upon --"
20 So you need to make that trail. You do it
21 as a team, we'll do it as a board in a session that is
22 all going to be recorded, so we will have that
23 information.
24 That also conforms to Footnote 15 that
25 basically says, "In order to expedite, we recommend the

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1 board make findings in furtherance of the Hickel process
2 that initially designed plans are in compliance with
3 requirements of the Alaska Constitution, that either
4 does or does not comply with the Voting Rights Act," and
5 so forth.
6 So that's what we want to do, try your best
7 to try to do that. Make a few notes. A little bit more
8 cumbersome than what we did in the past, but clearly
9 we're building a record of our decision-making process.
10 I think that's all I have. Is there
11 anything else, any comments of the board, anything?
12 So we will -- let's take until the
13 10:35 a.m., we'll take a short recess. Again, I'll be
14 going off teleconference and off record for this.
15 And then we'll come back together and start
16 teeing up the different plans. So with that, we'll
17 stand in recess.
18 (Off record.)
19 CHAIRMAN TORGERSON: We'll call the meeting
20 back to order. The time is 11 -- 1:33 p.m. That's
21 about the way I think it is, 11.
22 All members are present, and Mr. Holm is on
23 the telephone. What we did is broke at somewhere around
24 10:30 a.m., and we started the board work session.
25 Again, we divided into two groups, and then

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we ended up going, drawing a little bit in different offices and coming back together a little bit, I guess.

What we're going to do now is just get a report on what members worked at, they worked on, and see what difficulties or findings they have that they want to share with the board.

So ladies first. PeggyAnn, we assigned you to work on the PAM-E plan. And I'll just turn it over to you from there.

BOARD MEMBER MCCONNOCHIE: Great. Marie and I decided that what we would do is start off with the last map that we did that kept the Aleutian Chain whole, and that is known as the PAM-E Plan. And started with the plan and said, okay, first thing we want to do is there is some parts of it that aren't pretty.

For example, we started out with the Nunivak Island, which is off the coast here of Bethel, and moved it back into the Bethel District, because we were worried about having the connection in this particular plan for Senate pairings, which go 37, which is the Aleutian Chain, connecting it up with the Wade Hampton District.

And so we tried that. What we're looking at is, based upon our voting rights expert's opinion, that any pairing which are trying to make all Senate district

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pairings contiguous, if we paired the Chain with Kodiak, we could have no less than a Senate percentage of 38 percent.

So our goal was to see how we could increase the Native VAP in 37 up to what the new Benchmark is based upon our Proclamation that we put together. And the Proclamation percentage was 46.63, so our goal was to try to get as high as possible, at least over 38, trying to get it close to that 46.63.

So thanks to Eric, we did a lot of work going back and forth, adding that back in and trying to increase the VAP. The highest we were able to get the VAP up to was 42 -- or 43.6, but in doing so, any time we looked at a pairing between the Chain and Kodiak, the highest we could get the Senate pairing was around 32 percent, which is unacceptable.

So we said, all right, everything we have done has been unique, so let's do something unique again. And we took the western part of the Aleutian Chain and said all right, and this is my suggestion and nobody liked it, what if rather than connecting it up to Bethel, let's take it and connect it up with Kodiak. And that threw everything off and everything got off.

CHAIRMAN TORGERSON: Where did you split the Chain at on that one?

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BOARD MEMBER MCCONNOCHIE: Where we split it was, let me put a couple of things on here. Place points.

What we tried to do when we split it is we took the very western region up to, I think we included Unalaska, Akutan, all in Kodiak, and I think, where is Eric, did we go to False Pass?

MR. SANDBERG: Basically the Aleutian East Borough.

CHAIRMAN TORGERSON: You took all of the Aleutian East Borough?

BOARD MEMBER MCCONNOCHIE: Yeah, and then put it into Kodiak. And, of course, that completely destroyed the numbers in Kodiak, as far as way too many.

And then what we tried to do is said, all right, we tried to move it around, but here is the point: No matter how we moved it around, we could not get a Senate pairing greater than 31 percent.

And it destroyed 37 as far as the numbers. We were up to horrible deviations, and then at 36 we're at horrible deviations.

So we tried other things, but we kept coming back to the fact that this particular plan that we put together before we decided to split the Chain, is the best at doing two things. Number one, meeting the

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constitution, trying to keep everything compact contiguous.

And number two, is meeting the requirements of the Department of Justice and having Senate pairings and having voting age percentage within the districts that met the standards.

So if you look at this now, 35, which is Kodiak, is 17.55 percent; 36, which is the Bethel District here, is at 77.98, which gives it a Senate pairing of 46.21.

Now, 37, which is the Chain and Bristol Bay, is now at 42.55. And it connects with 38, which is the Bethel District here, which is at 42.5 -- excuse me -- 46.59, which gives it a Senate pairing of 44.44.

And we already know that 39 and 40 already have a good number for Senate pairings. But after all of that going back and forth, trying little bit by little bit to increase the Native population within 37, trying to decrease the white population in 37, we just couldn't get it past that. And since Lisa gave us specific directions as far as what numbers we needed to hit, and because we have an interest in trying to keep the whole Chain together, this is -- this, we believe, is the plan that best suits our needs to, number one, follow the Alaska Constitution, but, number two, also

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1 get past the DOJ.
2 CHAIRMAN TORGERSON: Okay.
3 BOARD MEMBER MCCONNOCHIE: Questions?
4 Anything, Marie, you want to add right now?
5 BOARD MEMBER GREENE: Just one thing I want
6 to add, Mr. Chairman. When we again started getting --
7 like PeggyAnn just mentioned, the deviations were a
8 little high when we looked into 37, 35.
9 So I even took the time to look at what's
10 been sent to us, you know, especially from rural Alaska
11 and looking at the -- what I didn't want to do is just
12 look at the map, I wanted numbers.
13 So that's when we took the time doing that,
14 and the numbers aren't there either. With the map, one
15 map that I looked at that was sent to us --
16 CHAIRMAN TORGERSON: You mind reading the
17 numbers since you brought it up?
18 BOARD MEMBER GREENE: It's Calista 02, and
19 the reason why I pulled that one out, Mr. Chair, is
20 because, again, I was trying to look at how do we work
21 with 38, 36, you know, trying to keep the compactness,
22 socioeconomic, all the good things that are mentioned in
23 the Alaska Constitution.
24 But I just didn't want to look at a map,
25 like all of these maps are on the wall. What's missing

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1 is the numbers. So in looking at the numbers that we
2 had received, for example, 35, the Native VAP is 17.65;
3 36 is 40.02; 37 is 32.11 percent.
4 And of course 38, 39 and 40 are okay, but
5 that's why I wanted to get some copies of what was sent
6 to us, so I could just at least visit and see, okay, how
7 could we make this work.
8 CHAIRMAN TORGERSON: So what I'm hearing you
9 say is there is no effective Senate district on the
10 third effective Senate district?
11 BOARD MEMBER MCCONNOCHIE: Right.
12 CHAIRMAN TORGERSON: Because of mainly
13 Kodiak at 17 pairing with something, whatever, 45 or
14 something, whatever you said.
15 BOARD MEMBER MCCONNOCHIE: Right.
16 CHAIRMAN TORGERSON: So that brings you back
17 down to what you just concluded, that somewhere around
18 30 percent is as high as they go.
19 BOARD MEMBER MCCONNOCHIE: Right. And our
20 goal was to try and make sure we had an effective Senate
21 district there, and you can't do it.
22 CHAIRMAN TORGERSON: Other questions? Mr.
23 Holm, do you have any questions of PeggyAnn and Marie?
24 BOARD MEMBER HOLM: I don't think so. It
25 sounds like what they're doing is just right on target.

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1 BOARD MEMBER MCCONNOCHIE: Thanks, Jim.
2 CHAIRMAN TORGERSON: Ground truthing things
3 we already did before.
4 BOARD MEMBER MCCONNOCHIE: Well, we worked
5 hard. I mean, we tried all sorts of changes to the map
6 in order to be able to try to increase the voting age
7 percent of Natives in those areas, while trying to keep
8 with the compact and contiguous, and it was not
9 possible.
10 We came back to the beginning, which is this
11 map right here.
12 CHAIRMAN TORGERSON: Okay. Questions? All
13 right. Mr. Brodie, you want to talk about -- what Bob
14 and I started out with was more or less -- you got
15 everything teed up over there, Eric?
16 We started with the Hickel constitution
17 plan, State of Alaska's most constitutional
18 redistricting plan ever developed in redistricting.
19 Then we started injecting other pieces into it.
20 Now, Bob tried to connect Kodiak with
21 Fairbanks.
22 MR. SANDBERG: Looks like -- did you put it
23 back to the original Hickel plan on here?
24 CHAIRMAN TORGERSON: I'm not sure you really
25 need to show it. Bob, can you just walk us through?

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1 BOARD MEMBER BRODIE: We just created a
2 corridor that came down through the center of the state
3 there that hooked the Wade Hampton area, which is hooked
4 over from Fairbanks to Kodiak.
5 And then I know that we finished massaging
6 all the numbers, but the Kodiak/Wade Hampton District
7 was low, 32 percent. So it could be raised, but in
8 trying to keep the Native areas of the Northwest Arctic
9 Borough and the Bethel area somewhat compact within
10 their traditional areas, we could certainly change it if
11 we split those areas.
12 And I'm confident we could raise that 32
13 number, but it would just depend on whether or not it
14 would meet a good-faith test to draw a line right
15 through the middle of the Bethel area or some of those
16 other areas that historically have been enjoying their
17 own district.
18 CHAIRMAN TORGERSON: By "Bethel area," you
19 would leave the City of Bethel alone, but the
20 surrounding area.
21 BOARD MEMBER BRODIE: The surrounding areas
22 would be disconnected and hooked up with a different
23 district.
24 So I think it's possible. We didn't do
25 that, just out of respect for those areas, but I think

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it's possible.
CHAIRMAN TORGERSON: Taking that one problem and shifting it to another area again.
BOARD MEMBER MCCONNOCHIE: Are you creating bigger problems, because, you know, the Alaska standard, constitution standard, is compact and contiguous where possible, and by doing the corridors, you're away from the compact and contiguous. You may be there with contiguous, but not compact.
BOARD MEMBER BRODIE: It's no less compact in District 37. It goes all the way up and around Fairbanks. We just didn't have the direction to do that.
I can certainly go back and do it and make the number work, and then it's just a matter of which plan is the least palatable, least unpalatable.
MR. BICKFORD: I would just add that having worked with both of them on this, the real other problem we ran into was, unlike what PeggyAnn and Marie tried of pairing the Aleutians District with the Kodiak District, which took advantage of less polarized voting in the Aleutians and let us maybe bring the percentage down to around 38, like Dr. Handley said, in combining Kodiak with something that looks similar to our Proclamation District 38, we were subject to the 42 percent statewide

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standard.
And so like Bob said, the highest we got that Kodiak to Wade Hampton and Fairbanks pairing was 32 percent. In order to get it within Voting Rights Act tolerance, we would have had to raise it an additional 10 percent Native percentage. We would have had to taken it up to 42 percent.
And I don't know that there is any way you can draw the lines to make that jump from 32 percent to 42 percent. So it looked good at first, but as we started to really fill out the districts, like Bob said, it was just very difficult.
And getting from 32 to 42 is something that I don't know is even physically possible.
CHAIRMAN TORGERSON: And that's because we were pairing the Chain, which has that lower polarized voting, with Bethel, and so that left us with the 41 standard from Kodiak. We actually raised the bar unintentionally from the 38 to a 41.8.
I think that is about all I had on that one too. We did try different variations of that, but, again, we didn't really -- as Bob stated, we didn't really try to divide the Lower Kuskokwim Bethel area, which is huge Native VAP numbers, which have numbers to give, but that just seemed like it created more -- or

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the same issues in different locations, so not solving a lot.
Questions? Do we have anything else?
MR. SANDBERG: Taylor's --
CHAIRMAN TORGERSON: Taylor had another idea and we needed another computer for him to -- so we could continue on, so he went basically back to his office and was working on some of the variations that we have on the wall around here to see if he could make any of those fit and work.
So with that, Taylor, tell us what you tried to do.
MR. BICKFORD: Well, after having worked with John and Bob on the Kodiak to Wade Hampton/Fairbanks idea, I wanted to try starting with the PAM Plan, like PeggyAnn and Marie did, but taking a slightly different approach.
And I was looking at pairing Kodiak with some form of Aleutians District for two reasons. First, to take advantage of what might be a slightly lower VAP standard, and the second obvious reason, in order to try to avoid this Kodiak/Bethel pairing that we know exists in the PAM-E Plan.
So what I did is I started with the PAM Plan and I --

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BOARD MEMBER MCCONNOCHIE: Take off place points.
MR. BICKFORD: I'm going to take off a lot here.
CHAIRMAN TORGERSON: Jim, are you hearing Taylor?
BOARD MEMBER HOLM: Yes, I am.
CHAIRMAN TORGERSON: Good enough. He is not at his desk.
MR. BICKFORD: So what I did is I, again, started with the PAM Plan, which fundamentally had the Chain reunited and along basically the traditional Aleutians District configuration, which looks similar to the current District 37.
And I started by removing the Dillingham area completely from the Aleutians District. And my reason for doing that was basically seeing if I could find a way to run the Aleutians District into some of the more dense Native areas of the state in order to raise the Aleutians percentage high enough to pair with Kodiak and get to that 38 to 46 target that we have been looking at.
And so after I took Dillingham out completely, I ran the Chain up into the Bethel census area, and then I had to take back some of Dillingham for

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population reasons. And then you will see I basically ran the Chain District all the way to the edge of the Bethel census area.

This area right here is Bethel. Obviously, I didn't want to pick Bethel up in the Chain District, because we would just be recreating the same problem of pairing -- potentially pairing Senator Stevens with Senator Hoffman. So I left that out of District 36 and just filled it in for population purposes.

And I was able to get the Chain District up to 46 percent Native voting age population, which is pretty high. I mean, it's higher than I had ever been able to do in the past, looking at different options.

The other thing I did is I looked at ways to potentially raise the Native percentage of the Kodiak district. And really the only way to do that was to remove Whittier, which is primarily non-Native, to remove Whittier from the district.

But even doing that only brought the Kodiak District up to 18.6 percent Native, or I guess 19.11 percent Native.

So once they were paired, even after going through this process and raising the percentage of the Chain as reasonably high as it could go without splitting it and raising the percentage of Alaska Native

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percentage of Kodiak as reasonably high as it could go, you still only get to 32.85 for the Senate pairing, which is well short of even the lowest number that Dr. Handley gave us.

You will see that the Bethel District, after this was all said and done, really kind of skims along the coast here, starting in the Dillingham area and working its way up through Bethel all the way to the coast.

And the Native percent of that district is good at 74.85 percent, but, again, you just cannot get the Aleutian District high enough to pair with Kodiak unless you split it. And the reason for that is because Aleutians West is primarily non-Native, and if you start with the assumption that you're going to keep the Chain together, you're always adding that huge chunk of non-Native population into the district, and it really limits how far you can raise the Native percentage of the district.

What we found this summer was that the only way to get any version of an Aleutians District up high enough to pair with -- to pair with Kodiak in order to avoid that incumbent pairing was to split the Chain, remove Aleutians West and unite the Chain with Bethel.

So this was my best shot at doing it. It

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doesn't work for voting rights purposes. And it takes us right back to what PeggyAnn described of looking at the PAM Plan and understanding that if you keep the Chain together, you're looking at -- if you keep the Chain together, you're looking at having to pair Kodiak with the Bethel area.

CHAIRMAN TORGERSON: And that was similar to Rights 3? Which one were you trying to pattern that after? Maybe Rights 4.

MR. BICKFORD: Actually, I should mention that. Thank you, John. Before I did this plan, I was looking at the maps on the wall just to look for different ideas.

And I tried starting with the PAM Plan and erasing this whole area and then importing their Aleutians District, which you see doesn't split the Aleutian, although it comes pretty close, and unites with something similar to what I have drawn here. The only difference is Bethel isn't in the district under their drawing.

So I tried starting with that district, because I thought maybe they would get high enough. And I want to say that district was somewhere around 45 percent. So pairing that with Kodiak, you're running into the same problem; it's still not high enough.

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CHAIRMAN TORGERSON: Somewhere around 45 and 20, still only gets you to 65, or 32 percent effective Senate district?

MR. BICKFORD: That's right. I also looked at Rights Coalition 003 up here on the wall, but that's a split Aleutian option that they had come up with, and it combines Aleutians East and Aleutians West, removed those two from Lake and Peninsula, and then combined the Aleutians with the Dillingham area and part of the Bethel census area.

Even under a configuration like that, you weren't able to get the district high enough to pair with Kodiak.

CHAIRMAN TORGERSON: Questions of Taylor?

BOARD MEMBER MCCONNOCHIE: No.

CHAIRMAN TORGERSON: Mr. Holm, questions of Taylor?

BOARD MEMBER HOLM: I don't think so.

CHAIRMAN TORGERSON: Your conclusion?

MR. BICKFORD: Well, I would say that if you're going to build a third Senate district, I mean, from working this summer, from going through this process since then, for doing the work we did today, from some of the work we have done this week, if you're going to build a third strong effective Senate district

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1 without splitting the Aleutians, you're left in the
2 position of something similar to the PAM Plan.
3 CHAIRMAN TORGERSON: Or -- so the two plans
4 would still be in play, the Proclamation Plan or the PAM
5 Plan?
6 MR. BICKFORD: Right.
7 CHAIRMAN TORGERSON: Okay. Thank you,
8 Taylor. So I guess the next question is, is there any
9 other configurations that members want to take some time
10 to start drawing on?
11 Bob, you mentioned one about splitting
12 Bethel, but I'm not sure what we'll end up with that.
13 BOARD MEMBER BRODIE: I think I would like
14 to play with it a little more. We have only devoted,
15 what, about two hours, two and a half hours to solving,
16 coming down to the bitter end here.
17 CHAIRMAN TORGERSON: Okay. Well, I think
18 you're welcome to work on whatever. So we were told
19 this morning that Lisa would be available after 2:00
20 p.m. Is there any reason to be tying into Lisa?
21 Anybody have questions they would like to
22 propose to Dr. Handley? You think it would be
23 worthwhile bringing her online?
24 BOARD MEMBER MCCONNOCHIE: I think so,
25 Mr. Chair. I think if we could talk to her a little

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1 bit, it would help, if there is anything else that Marie
2 and I can do.
3 CHAIRMAN TORGERSON: And maybe get her
4 report on the record from her perspective. Is that
5 something that's possible?
6 MR. BICKFORD: She has e-mailed me and said
7 that she is back at her desk and can talk.
8 CHAIRMAN TORGERSON: Okay. Would she call
9 us or do we call her?
10 MR. BICKFORD: I think what she is going to
11 try to do is just call in like Jim has done, into the
12 conference line.
13 CHAIRMAN TORGERSON: Would you e-mail her
14 and tell her to call in, and we'll just take an at-ease
15 until she calls in. We'll stand at ease. I'm going to
16 mute the phone, but we'll stay connected until Dr.
17 Handley calls in.
18 BOARD MEMBER HOLM: I'll be right here.
19 CHAIRMAN TORGERSON: Thanks, Jim.
20 (There was a break.)
21 CHAIRMAN TORGERSON: Let's call the meeting
22 back to order. The time is seven minutes after 2:00
23 p.m. We took a short at-ease while we were waiting for
24 Dr. Handley to join us from her office via
25 teleconference.

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1 So Dr. Handley, I guess since we have you
2 on, if you want to give us a five-minute scenario of
3 your letter this morning, just so we can get it on the
4 record, or your conclusions, I should say, on what we're
5 calling the Hickel 1 plan.
6 And then several board members had
7 questions, and your explanation might even raise a
8 couple other questions.
9 So would you start with that?
10 DR. HANDLEY: Yes, I would. Okay. First, I
11 should explain that it is a little unclear what the
12 Benchmark would be that I should compare the Hickel plan
13 to.
14 I went and read the guidelines, DOJ
15 guidelines. It looks like, because DOJ had pre-cleared
16 a plan and because the plan had not been found
17 unconstitutional in a federal court, the Benchmark might
18 in fact be the Proclamation Plan.
19 However, there is a court case that the
20 Justice Department pointed me to that Mike White knows
21 about now called Riley vs. Kennedy that suggests perhaps
22 it's the old plan, the plan currently in place.
23 Because I had time constraints and because
24 it was unclear, what I chose to do in this memo was
25 compare it to the Proclamation Plan, because actually

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1 anything that was not retrogressive with regard to the
2 Proclamation Plan would also not be retrogressive with
3 regard to the current plan.
4 So that's the approach I took, but, again,
5 it hasn't been compared to the current plan, but I am
6 certain that because it's retrogressive with regard to
7 the Proclamation Plan that it would also be
8 retrogressive with regard to the Benchmark Plan, with
9 the regard to the current plan should the be the
10 Benchmark.
11 Anyway, I compared the Hickel plan, or what
12 you said now is the Hickel plan 1 to the Proclamation
13 Plan, and found that it was retrogressive. The reason
14 it was retrogressive was it both had one too few state
15 House districts and one too few Senate districts
16 compared to the Benchmark.
17 And you can see that in my conclusion.
18 CHAIRMAN TORGERSON: Okay. Questions on her
19 report to the board?
20 BOARD MEMBER MCCONNOCHIE: On the report or
21 on any --
22 CHAIRMAN TORGERSON: Well, this -- well, any
23 questions, just go for it.
24 BOARD MEMBER MCCONNOCHIE: Hi, Lisa, it's
25 PeggyAnn.

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DR. HANDLEY: Hi.

BOARD MEMBER MCCONNOCHIE: One of the things that we did today is we kind of split up into two groups, and Marie and I went back to what we referred to as the PAM-E Plan.

That's the one that we had just before the Proclamation Plan that used Nunivak Island to connect the Aleutian Chain up to Wade Hampton into the Wade Hampton area.

DR. HANDLEY: Are the Aleutian Islands connected in this plan, they are all part of one district?

BOARD MEMBER MCCONNOCHIE: What we did was we connected 37 to 38, which has the -- how would I describe that area? It had Hooper Bay, Marshall, Holy Cross, using Nunivak Island, going up and around.

But this is what we tried to do: Based upon the information you gave, we tried our best to create a scenario where the Aleutian Islands could be put back together with Bristol Bay, et cetera, and then connected with Kodiak in order to try to create a Senate district that -- and this is where I want to talk to you -- that had a high enough voting range percentage to make it work.

We were able to get 37, the Aleutian Chain

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up to a maximum of 43 percent, but the problem was we could never get the Senate pairing over 31 percent.

In your estimation 31 percent, is 31 percent for an effective Senate district acceptable?

DR. HANDLEY: Okay. The Alaska Native voting age population is 31 percent?

BOARD MEMBER MCCONNOCHIE: That's as high as we could get it connecting Kodiak with the Chain.

DR. HANDLEY: Yikes. I am very much afraid that you would get a rejection, because essentially you would be going from 42 percent down to 31 percent.

And 42 percent you remember is the target the state -- we could go a little lower, because it includes the Aleutian Islands, you just can't down to 31. I just -- I just very much fear you would get an objection.

BOARD MEMBER MCCONNOCHIE: And we agree. We consider that acceptable, so we went back and forth and back forth. So now we come to, after working several hours this morning on this, Marie and I kind of came back to the conclusion that the PAM-E Plan that we put together, which has this crazy connection between Kodiak and this -- Kodiak being 35 and this 36 district, which pits Senator Stevens with Senator Hoffman as being probably the most reasonable plan, based upon the fact

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that we could get the Senate district pairing there up to 46.21 percent, but then comes the question --

DR. HANDLEY: Say that again. You can get the Senate district up to what percentage?

BOARD MEMBER MCCONNOCHIE: 46.

DR. HANDLEY: You could get the Senate district up to 46?

BOARD MEMBER MCCONNOCHIE: Yeah. Pretty nice, huh?

DR. HANDLEY: Yeah, that's pretty nice. Now, you say that you're pairing Hoffman with someone else?

BOARD MEMBER MCCONNOCHIE: With Stevens, and that's then the next question is Native against non-Native who wins that?

DR. HANDLEY: Now, my understanding is, and, hopefully, Taylor and Mike are there. I have some recompiled election results.

MR. BICKFORD: Lisa --

CHAIRMAN TORGERSON: It seems to be a little confusing. I think what PeggyAnn -- you had done an analysis on the PAM-E Plan before, and we actually adopted that plan as our -- it wasn't the Proclamation Plan, but we actually adopted it as the board's preferred plan on June 6th.

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And then because of the pairing between the two senators, the one from Bethel and the one from Kodiak, the board decided not to do that and to unpair the two. We came up with actually the Proclamation Plan, which split the Chain.

So now the glowing question is -- well, in our overview to the courts and in our finding -- our pleadings to the court, we said the reason that we did the division of the Chain was to protect the Native incumbent, which was Senator Hoffman.

And we would be pitting Senator Hoffman, the most powerful senator, because he is chair of finance, with the president of the Senate, which you could argue is the most powerful senator overall, since he controls the process.

The question that PeggyAnn was getting to, and I'm just drawing it out and making sure the record is clear, is if you had done an analysis on who wins that race between the Native-preferred candidate and another candidate that might be from Kodiak -- so did I help or make it worse?

DR. HANDLEY: Yes. The problem is I can't actually remember if I did do an analysis. However, I have some recompiled election results.

CHAIRMAN TORGERSON: Good. Go ahead.

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DR. HANDLEY: I'm not sure, but I believe that that reflects this plan. But Taylor and Mike would have to confirm that.

MR. BICKFORD: Lisa, this is Taylor. What we're talking about here is the same plan that the recompiled election results that you requested are based off of, so --

DR. HANDLEY: Okay. I'm calling that the concept plan.

MR. BICKFORD: If you remember -- yeah, that's the one we're talking about.

DR. HANDLEY: Okay. So I do have recompiled election results for the concept plan, and what we're doing is --

CHAIRMAN TORGERSON: Just a minute. Lisa, just a minute. Let's explain the concept plan. We adopted that in the conceptual, right?

MR. BICKFORD: She is referring to the concept plan that was adopted prior to the adoption of the original Proclamation Plan that incorporated the PAM districts for rural Alaska.

CHAIRMAN TORGERSON: Thank you. I'm sorry to interrupt. We're extra sensitive about the record this time around.

DR. HANDLEY: No, that was good, because now

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the district we're talking about is Senate District R; is that correct?

CHAIRMAN TORGERSON: That is correct.

BOARD MEMBER MCCONNOCHIE: Correct.

DR. HANDLEY: Okay. Well, two things. Number one, it's got a high enough Alaska Native VAP that the Alaska Native population should be able to control that district.

Number two, the recompiled election results that I'm looking at here indicate that the Native-preferred candidate is Native, was able to carry both of the Democratic primaries.

So the 2006 lieutenant governor ultimately carried Senate District R. And in the 2008 U.S. rep contest, Diane Benson was able to defeat Ethan Berkowitz by quite a bit in R.

And then --

BOARD MEMBER BRODIE: Lisa, could you speak closer to the microphone, please?

DR. HANDLEY: I'm not in front of the microphone.

CHAIRMAN TORGERSON: You might have to just try to scream at us or something. It's a little hard to hear.

DR. HANDLEY: The recompiled election

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results indicate that the minority-preferred candidate could in fact carry this district and has carried this district in two Democratic primaries, the only two Democratic primaries for which we actually have a Native -- an Alaska Native who is Native preferred.

On top of that, the Native-preferred white candidate in the 2002 general carries that district.

MR. BICKFORD: Lisa, this is Taylor. Can you just explain for the record why you chose those three elections out of the collection of races during the 2000 to 2010 period, why you settled on those three specific elections for this analysis?

DR. HANDLEY: The two Democratic primaries are easy. They are the only two that have Native-preferred Native candidates.

The general election of 2002 is the only statewide polarized contest that we have to look at. And that's why I have looked at that, but the Native-preferred candidate is not Native in that, and that's why these Democratic primaries are important.

MR. BICKFORD: So in your expert opinion --

DR. HANDLEY: I have actually looked at the only contests that are amenable to this kind of analysis.

MR. BICKFORD: That's what I was getting at,

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Lisa, is just that people might say, "Why didn't you analyze a number of other races."

And what I'm hearing from you is that, in your expert opinion, those are the only races that would matter for conducting this kind of analysis?

DR. HANDLEY: That's right. And this will show up actually in my rebuttal report for the court case before the state court.

I go into detail about these three contests and why any other contests are basically irrelevant.

CHAIRMAN TORGERSON: We're thinking.

BOARD MEMBER MCCONNOCHIE: Then I'm going to be the one to ask the question. So plainly speaking, if we have Stevens versus Hoffman in a race, Hoffman is going to win, correct?

DR. HANDLEY: Well, it's going to depend on the degree of minority cohesion. If Alaska Natives really want to elect him, yes, he will win.

If Alaska Natives are somewhat divided, then he might not.

MR. BICKFORD: Lisa, you've found in the past, have you not, that Senator Hoffman has consistently been the Native-preferred candidate?

DR. HANDLEY: Yes.

MR. BICKFORD: In his past races has the

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1 Native community been cohesive in their support of him?
2 DR. HANDLEY: You're going to have to give
3 me a couple of minutes to answer that question. What I
4 would do is pull up my original report and take a look
5 at charts in the back.
6 I'm not sure even how often he faced
7 opposition. Okay. We have a contest -- in 2006, we
8 have a contest. We have got about 70 percent of the
9 Native, for the Alaska Natives supporting Hoffman.
10 I mean, that's pretty cohesive. It's not --
11 I mean, there are contests that are less cohesive, but
12 there are contests in which Alaska Natives are a little
13 more cohesive. So he is definitely the candidate of
14 choice. He is getting 70 percent of the vote.
15 He is also, I should say, getting almost
16 70 percent of the white vote.
17 MR. WHITE: I'm just looking at your report,
18 Lisa. Does it make any difference that in the 2006
19 race, his opponent in the general election was also a
20 Native?
21 DR. HANDLEY: No, not really. You would
22 have -- no, not really. You would only have a problem
23 if you had contests that included only white candidates,
24 but here everybody had a choice.
25 Natives could vote for Natives, they did.

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1 Whites voted for the same Native. They could have voted
2 for a different Alaska Native. I mean, it may -- it
3 might make a bit of a difference, but not substantially.
4 Is that the only -- okay. Here is another
5 contest. Okay. Here is a contest. This is 2002.
6 2002, got a general election in which Hoffman faces a
7 white Republican, and actually that contest is
8 polarized.
9 The majority of whites do vote for the white
10 Republican, but an overwhelming majority of Alaska
11 Natives vote for Hoffman, over 80 percent, I would say.
12 MR. WHITE: So is it fair to conclude from
13 those two elections that if Mr. Hoffman is running
14 against a non-Native candidate, he is going to get more
15 support from the Natives than if he is running against a
16 Native, almost 10 percent more, it looks like?
17 DR. HANDLEY: I don't really know. I mean,
18 that's not really enough contests to say. I guess my
19 guess is that you will find Alaska Natives more cohesive
20 than you might otherwise find them, but I'm not sure
21 about what you get in terms of white crossover vote.
22 BOARD MEMBER BRODIE: It still seems too
23 that it's, from the global Justice Department
24 examination of Native applied to such a huge expansive
25 Alaska, that Bethel, being a small -- not small, but a

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1 regionally isolated area where everybody knows everybody
2 in the town and the district, and you would assume that
3 Kodiak Natives are going to vote for somebody they have
4 never seen 600 miles away, as opposed to voting for Gary
5 Stevens, who is 60 miles away and has probably visited
6 there several times.
7 So it's a real hard stretch, you know, just
8 to throw the label "Native" on these peoples and
9 cultures that are so radically different.
10 DR. HANDLEY: In my mind, it comes down to
11 do you create a district that's 46 percent in which the
12 Alaska Natives, if they are cohesive, can control.
13 Do you create a district that's 31 percent
14 that's not likely to elect the Alaska Native candidate,
15 unless a majority of whites also support that candidate.
16 The Justice Department does look at
17 incumbency pairings, but it's looking more at
18 intentional discrimination when it looks at incumbency
19 pairings. They are not out to protect any given Alaska
20 Native incumbent.
21 I think that they would rather see an
22 effective Native district than a district that's not
23 effective, but may or may not protect an incumbent
24 Native. I mean, this is -- this is going to be a little
25 bit difficult.

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1 CHAIRMAN TORGERSON: I agree.
2 BOARD MEMBER HOLM: That's an
3 understatement.
4 DR. HANDLEY: I think there is a clear
5 record that you -- this is not intentional
6 discrimination.
7 MR. BICKFORD: Lisa, this is Taylor again.
8 I'm just going to ask a little bit of a follow-up
9 question. And this is a hypothetical question. I'm
10 just making a few assumptions.
11 If a pairing like this were to occur and it
12 was a 46 percent district, like we're talking about, and
13 you have the election data that shows that the
14 Native-preferred candidate will likely win in that
15 district and so forth, yet there is some groups or
16 individuals or whoever raises objections with DOJ based
17 on the pairing, but the data still shows that it's an
18 effective district, that the candidate will likely win
19 any objections, are we still geared at we don't think
20 you should pre-clear because of this incumbent pairing,
21 assuming there is no evidence of intentional
22 discrimination, would the Justice Department likely
23 object based on those circumstances?
24 DR. HANDLEY: I think it would come down to
25 this: Are the groups who are objecting, do they have a

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1 plan that keeps the district above 42 percent, follows
2 the Alaska Constitution and doesn't pair them?
3 And if they can't draw that plan, then there
4 is -- you know, if they can draw that plan, there is a
5 problem. If they can't draw that plan, I don't think
6 there is a problem. I don't know what else you would
7 do.
8 I mean, you have to -- you either have to
9 draw a 31 percent district or you have to draw a
10 46 percent district that pairs. If it isn't that
11 simple, then you have a problem. If it's that simple,
12 then you don't have a problem. I mean, no one can draw
13 it, then they can object, but if they can't draw it --
14 CHAIRMAN TORGERSON: We drew our own and we
15 divided the Chain, and so we have our own, but we have
16 issues, potential issues. The trial court threw it out
17 and the Supremes didn't rule, so we have potential
18 issues.
19 So I guess Taylor's question is a good one.
20 We have not received anything from anybody that gets us
21 to a Native VAP much higher than what we have, 32,
22 33 percent, which is what PeggyAnn was talking about.
23 MR. WHITE: Mr. Chairman, I think that we
24 need to be a little bit careful in our comments, because
25 at the trial, you will recall, that the plaintiffs

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1 submitted a plan that they claimed did that.
2 They never provided any shape files, and if
3 you recall, in my examination of Mr. Lawson, there were
4 several errors in the population. In fact, they were
5 using a different total population and higher -- I don't
6 remember which is which.
7 They had two problems. They either had not
8 enough population all together or too much population,
9 and they had an issue where they were using more Natives
10 than actually -- Alaska Natives than actually exist in
11 the state.
12 CHAIRMAN TORGERSON: Why do we have to be
13 careful about that?
14 MR. WHITE: Well, you're making a claim that
15 nobody has submitted any plan.
16 CHAIRMAN TORGERSON: Nobody has. Somebody
17 gave the Court a plan.
18 MR. WHITE: Okay. With that --
19 CHAIRMAN TORGERSON: I'm just telling you.
20 MR. BICKFORD: Can I follow up with this?
21 CHAIRMAN TORGERSON: No, go ahead.
22 MR. BICKFORD: Back to your point, Lisa,
23 about does another plan exist. I think part of the
24 challenge we're in, it's on very hard to prove a
25 negative.

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1 There are probably a trillion different ways
2 to draw any of these plans, and DOJ review is a 60-day
3 period. We don't have the luxury of drawing plans for
4 60 days, but any objectors would.
5 So I think it's hard for us to be able to
6 say that no possible plan in the known universe could
7 ever be drawn that avoids this, so if we're in a
8 position where we have been at this for months and we
9 have gone through every iteration that in our minds we
10 can go through and we have tried the split Aleutians
11 approach, and what we're telling DOJ and the courts is
12 this is where we are.
13 Would -- and then let's say we submit for
14 preclearance, and then 40 days into preclearance someone
15 comes in with a plan that we have never seen before,
16 that we have no idea what it does constitutionally, and
17 they claim, well, this meets the Voting Rights Act and
18 we avoided the pairing.
19 Maybe they split cities in half across the
20 map. Maybe they do some really strange things. Is it
21 your opinion that the DOJ would then say, "Well, based
22 upon this one incumbent pairing and the fact that
23 another plan was shown to exist that doesn't do it,"
24 even if the board, there was no intentional
25 discrimination in putting it together, that they would

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1 say, "We cannot pre-clear your plan and you need to
2 essentially adopt one of these other plans," based on
3 that one issue, even if the districts are effective?
4 DR. HANDLEY: No. No. No. I think that if
5 you can show that you have spent days, weeks, attempting
6 to do this, that there is no plan before you at this
7 time that does anything like this.
8 Then the fact that somebody comes up with it
9 later, you know -- but I wouldn't, quite frankly, I
10 wouldn't have thought it would -- it shouldn't have been
11 accepted in Court and it was, but it wouldn't be
12 accepted in the Department of Justice.
13 Literally, they are going to look at what
14 you had to look at. If they sit down and they draw and
15 they find that they could do this in a day or two,
16 that's a different issue.
17 If they sit down and draw, and after two
18 days of trying, they say, "This is really difficult,"
19 then you're okay.
20 MR. BICKFORD: If the plan -- I'm sorry. I
21 keep just thinking hypothetically, but if the plan that
22 -- again, we submit our plan under these circumstances,
23 and then something comes in 40 days in that figures out
24 a way to not have the pairing, but it's a fundamentally
25 different plan than the board submitted, does that have

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any effect or does DOJ not care about that?
CHAIRMAN TORGERSON: Same question.
DR. HANDLEY: You know, I'm looking -- you know, I watched you guys struggle with this. I would be so surprised, unless you completely redrew the state, how this could possibly be the case.
On the other hand, again, if DOJ can sit down and do it in a couple of days, they are not going to believe that it wasn't obvious to you.
But if they can't sit down and do it in a couple of days and they know that you received no submissions that did anything of the sort, and you have created a 46 percent district, I don't think there will be a problem.
BOARD MEMBER MCCONNOCHIE: Lisa, when the DOJ looks at the plan, will they look at every single district or will they just look at the Native districts?
DR. HANDLEY: Depends on what you mean. They will not look at -- I mean, the only place that you can draw majority Native districts are in the rural areas, so they will focus there.
They could -- I mean, as you know, you have to go into a non-Native urban area somewhere. Now, we know doesn't make any difference, but I'm not guaranteeing you that they won't try different areas

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that affect different districts.
But, no, they will concentrate on the same area that you have been concentrating on all along, the rural area.
BOARD MEMBER MCCONNOCHIE: Thank you.
CHAIRMAN TORGERSON: Lisa, based upon your voting analysis for Senate District R, is our claim that we divided the Chain to protect an incumbent, a legitimate claim if we thought that the Native was going to win anyway?
You may not be able to answer that. I probably worded it terribly.
DR. HANDLEY: I don't think that there is a definitive answer. I don't even think the Justice Department -- I think it would depend on who you spoke to at the Justice Department. This is really tough.
Let me tell you this: One thing that I would think about doing is, just like you made the last meeting, I think I would think about another meeting after you adopt a plan, to explain --
CHAIRMAN TORGERSON: Yeah, with DOJ you're talking?
DR. HANDLEY: Yes.
CHAIRMAN TORGERSON: We kind of already teed that up with legal. I mean, internally we talked about

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coming back and doing that.
DR. HANDLEY: You might even make a phone call now. You might say, "This is what happened, we're redrawing and this is the problem we're facing and this is the decision that we made," and ask them if they will tell you if they think you made the right or the wrong decision.
Because the person who reviews the plan knows Alaska now, the analyst and the attorney who reviewed it, and the Justice Department is -- sometimes it takes a few days to get an answer, but they don't want to object. They would like to give you information before they had to object.
CHAIRMAN TORGERSON: Okay. And because the trial court ruled against us, does that have any weight at all on the DOJ?
DR. HANDLEY: Yes, they would understand that you -- well, yes and no. That is to say they would understand that you're having to revisit this question, but they will not, rightly so, concede that any state law trumps any federal Voting Rights Act law.
So you can't make a plan retrogressive no matter what the state court says, but they will understand that you have to redraw.
CHAIRMAN TORGERSON: Our plan would have

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been easier -- our chore would have been easier if the Court would have ruled on something, except that it was cold that day.
Let me ask a, kind of, off the topic a little bit, but as you know, we have to be done by June 1st, or I mean that's the filing deadline, June 1st. We have to be done sometime reasonably before then so candidates can file and so forth.
So DOJ has the expedited review process. Does that mean anything, or is that just some words that they like to throw out there? What I'm trying to get to is a timeline on how they might do this if we resubmit.
DR. HANDLEY: One of two things could happen. They already know the state now, they know the degree of polarized voting, they know the Benchmark, it could go quick. On the other hand, they might want to take their time if there are a lot of Native objections.
They might want to spend more time analyzing it. So I don't know.
CHAIRMAN TORGERSON: You don't know?
DR. HANDLEY: I don't.
CHAIRMAN TORGERSON: My understanding is that there is a 60-day review period in which they are supposed to make a decision, one of which might be we don't know, we want another 60 days.

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But do they have, in the expedited review, a lesser administrative timeline that's built in or is it still the 60 days?

DR. HANDLEY: It's still the 60 days. Now, here is what's not likely to happen. They are not going to come back at some point in that 60 days and ask for something and start the clock over again, because they didn't ask for anything the last time around.

So they have everything they need. So it couldn't take any more than 60 days.

CHAIRMAN TORGERSON: Okay. In your experience -- I know a lot of this is their process where they solicit information from the effective groups, particularly the Alaska Native groups.

Do they have a timeline on that or is it -- I mean, could they say we're going to give you 20 days to file your objections or ten days? Is there an administrative timeline?

DR. HANDLEY: No, there is not. And they will -- I mean, I suppose objections could come in any time in that 60-day period and they can make phone calls any time in that 60-day period, and they will.

I have seen cases where they are making phone calls the week before the 60 days is over.

CHAIRMAN TORGERSON: Okay. I'm just trying

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to get to, based upon a lay person in practicing Supreme Court things, there is no way we get to a preclearance by June 1st that I can see with your explanation and the timeline that's out there.

That could happen. I suppose it may not rain until October either, but my guess is it's going to. Just curious on the timeline piece.

MR. WHITE: Mr. Chair, on that --

CHAIRMAN TORGERSON: Go ahead, Mr. White.

MR. WHITE: Thank you, Mr. Chair. I went back and checked the process ten years ago, and they did not wait for the court ruling on the second -- on the amended plan before they filed preclearance.

So they adopted their plan, I think finally on April 18th, and about a week later, they submitted preclearance, their second preclearance to the Department of Justice. On April 25th I believe the letter was sent.

And the DOJ didn't take the full 60 days, but they still didn't get it done before June 1st.

CHAIRMAN TORGERSON: Of course, they didn't really have any Native issues.

DR. HANDLEY: They filed with the DOJ before the Court gave its approval.

CHAIRMAN TORGERSON: Right. That's what I

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think he just -- we had that discussion earlier and our recollection wasn't as clear as it is today.

We thought we had to wait, or there was some discussion that we had to wait. In my original timeline, I thought we would file for preclearance just as soon as we could after we adopted and amended the Proclamation Plan, but it now appears that we can do that, which would help the timeline out.

DR. HANDLEY: Mike, did the Court decide sometime in that 50- or 60-day period?

MR. WHITE: The Court decision came prior to DOJ preclearance.

DR. HANDLEY: And I wonder if DOJ preclearance was predicate on that simply because DOJ won't make a decision on a plan unless -- well, no, wait a minute.

MR. WHITE: I think that's in federal court.

DR. HANDLEY: The Supreme in Alaska doesn't have to hear a redistricting. It's not like Florida where the Supreme Court reviews any redistricting. There has to be a suit filed, right?

MR. WHITE: I don't know how they do it in Florida, Lisa, but I know in federal court, I think from some of the cases I have read, the Court doesn't have jurisdiction to rule on it until there has been

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preclearance, or I recall some issues in that regard.

In this instance, there doesn't seem to be any indication one way or the other. The Court didn't mention it in their second opinion. There was no mention of it in the second preclearance response, other than they have -- a scheduling order had been issued by the trial court in order to deal with any potential objections what the second preclearance said last time.

DR. HANDLEY: This time around the Court has retained jurisdiction so that this plan goes back to the Court, is how it works, or does another suit have to be filed?

MR. WHITE: No new lawsuits have to filed. The procedure last time and likely the one we will follow again is that upon adoption of the new plan, the board would submit that plan to the trial court, request basically notice of compliance with the Supreme Court order and request for a final judgment.

And assuming we kind of know how the trial court is going to treat it, since it already issued a scheduling order that we got the Court to vacate, then he allows parties to file objections, the board to respond.

He decides whether or not any type of evidentiary hearing is needed. Then there is a ruling,

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1 and then there is the ability, if anyone so desires, to
2 go back in front of the Supreme Court.
3 Last time that whole process was done, I
4 think, the second Supreme Court decision was on
5 May 24th, I want to say.
6 The Supreme Court basically dealt with the
7 second petition in 10 to 14 days, if I recall.
8 DR. HANDLEY: I'm just a little bit
9 surprised. I mean, the Justice Department submission
10 occurred, but the decision didn't come down.
11 Usually, they don't -- unless the plan is
12 actually -- well, I guess I'm not really sure about
13 this. But I'm surprised that since the Court retained
14 jurisdiction that the Justice Department reviewed the
15 plan without the Court giving it the thumbs up.
16 MR. WHITE: I would interpret what has been
17 happening is the Court has not in fact retained
18 jurisdiction. The Supreme Court has remanded it to the
19 trial court and then the trial court has remanded it to
20 the board.
21 And until and unless something comes back
22 before the Court, by motion or some type of pleading
23 from either the board or --
24 DR. HANDLEY: Okay.
25 MR. WHITE: So I would suggest that there is

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1 no indication in any of the rulings from the Court that
2 they actually retained jurisdiction over this matter.
3 DR. HANDLEY: Okay. Then I don't see any
4 reason why you couldn't submit it to the Justice
5 Department.
6 MR. WHITE: Because theoretically, when the
7 board passes a new plan, unless somebody objects, that
8 plan then has -- there is no legal issues with it other
9 than preclearnace.
10 DR. HANDLEY: I see no reason why it can't
11 be submitted to the Justice Department.
12 CHAIRMAN TORGERSON: My thought would be
13 just to start the clock going. The sooner the better
14 with the Department of Justice.
15 We're not trying to sit here and create a
16 plan that's going to have a bunch of legal challenges,
17 so hopefully there isn't any.
18 And last time there was only one small
19 DOJ-covered issue, and that was whether or not
20 Shishmaref should be in 39 or 40. And the board did
21 what was requested of them, as I remember, so there
22 wasn't any argument. It was all this is what they
23 wanted to have happen and the board made it happen. The
24 rest of it was all in metropolitan issues.
25 MR. WHITE: There was an issue with the

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1 Voting Rights Act issue in Southeast. Lisa actually
2 issued a second report last time about the need to
3 extend the district in Southeast in order to comply with
4 the Voting Rights Act, so was there another issue there.
5 CHAIRMAN TORGERSON: That brings up a
6 question though. Did you read the trial court order,
7 Lisa? Have you gotten that?
8 DR. HANDLEY: I have gotten it and I have
9 read it.
10 CHAIRMAN TORGERSON: In there, he talks
11 about District 32 -- well, it talks about there not
12 being a need for an effective district in Southeast
13 Alaska.
14 MR. WHITE: Influence district.
15 CHAIRMAN TORGERSON: An influence district
16 in Southeast Alaska. I'm not really sure where that
17 came from, but do you have any comment on that portion
18 of the ruling?
19 DR. HANDLEY: Again, I always thought it was
20 safer to keep it there, because at the very least, you
21 could get in trouble for intentional discrimination by
22 doing away with it.
23 CHAIRMAN TORGERSON: Safer, but not
24 required?
25 DR. HANDLEY: Again, any sense that it was

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1 intentional would have meant that you would have gotten
2 an objection, but unavoidable or clearly not
3 intentional, there is sense that influence districts are
4 not protected.
5 CHAIRMAN TORGERSON: If we had not created
6 an influence district, would we have been retrogressive?
7 DR. HANDLEY: We still don't know the answer
8 to that.
9 CHAIRMAN TORGERSON: I just asked it a
10 different way.
11 DR. HANDLEY: The safest thing to do was to
12 create it and to keep it.
13 CHAIRMAN TORGERSON: Okay. Thanks.
14 CHAIRMAN TORGERSON: Anything else of Lisa?
15 Jim, do you have any questions in Fairbanks?
16 BOARD MEMBER HOLM: No. It doesn't -- it's
17 not a problem with me what we're doing. I just find it
18 very curious that we have gone down this rabbit trail
19 and we don't seem to be finding any easy way out of it.
20 CHAIRMAN TORGERSON: I don't disagree with
21 that.
22 BOARD MEMBER HOLM: I appreciate all the
23 work you guys are doing down there. I don't have any
24 maps in front of me, so it's pretty hard for me to see
25 that, but I appreciate that.

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1 CHAIRMAN TORGERSON: Any other questions of
2 Lisa, so we can -- it's past her dinner time back there,
3 I suppose.
4 Lisa, thank you very much for joining us
5 this afternoon.
6 DR. HANDLEY: You're welcome. Good luck.
7 CHAIRMAN TORGERSON: Well, Jim, we're going
8 to take a break until 3 o'clock. I need to think about
9 the next steps. So we'll come back at 3:00 p.m.
10 Everybody think about next steps between now
11 and then, and we'll come back on the record.
12 (There was a break.)
13 CHAIRMAN TORGERSON: Call the meeting back
14 to order. The time is ten minutes after 3:00. All
15 board members are present. Mr. Holm is still on the
16 teleconference.
17 When we adjourned, my ten-minute homework
18 assignment to everybody was to think about process and
19 where they want to go from here, so I will open the
20 floor to the general discussion.
21 BOARD MEMBER BRODIE: What do we see,
22 Mr. Chairman, is the timeline working backward from
23 June 1st as to when we have to complete our project
24 here, if we hope to get clearance by the time candidates
25 need to file for election?

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1 CHAIRMAN TORGERSON: The sooner the better.
2 That's the Lisa Handley answer.
3 BOARD MEMBER BRODIE: I heard you mention in
4 your discussion that you didn't think we could get a
5 plan done by June 1st.
6 CHAIRMAN TORGERSON: If DOJ takes 60 days to
7 get their work done, we already can't do it. So we
8 could throw our hands in the air and just petition the
9 Court to adopt the Proclamation Plan.
10 BOARD MEMBER BRODIE: And then keeping
11 working?
12 CHAIRMAN TORGERSON: It doesn't stop our
13 process, if we want to have a different process, if we
14 want to reopen the clock or whatever we want to do.
15 I do not take this into the next fiscal year
16 for my own personal standards, but that doesn't mean --
17 all you're doing is saying you probably wouldn't get
18 done between now and have a plan in place and approved
19 by DOJ, not our work, but by DOJ by the 1st of June.
20 Now, what is a reasonable timeline for
21 people to file between that? I don't know. Is it
22 20 days, is it 30 days? I don't know. I don't know the
23 answer to that.
24 Could we -- we could request to extend the
25 timeline. We could put back the primary until

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1 September. We could probably do all of those -- request
2 that all of those things be done. We could request that
3 it be done.
4 But to what date? If you don't have a plan
5 in place that you're going to go to, so you might as
6 well just say you're going to go to the Proclamation
7 Plan and just do it.
8 The Court clearly left the avenue for us to
9 petition them to adopt the Proclamation Plan. I don't
10 really want to, wanted to give it a good try, but it's
11 up to the board on where they want to go with this.
12 I'm not sure if we adopted everything and
13 walked out of here today with our work done if it would
14 be done by June 1st. My guess is it won't be, unless a
15 lot of lot of people agree with what we have done.
16 BOARD MEMBER BRODIE: So do we expect, even
17 though we got the district court to vacate their order,
18 once we hand this thing to them, are they going to
19 reinstate that order?
20 CHAIRMAN TORGERSON: They can't reinstate
21 because the part that we objected to was the part that
22 was controlled by this board, and that was the process.
23 BOARD MEMBER BRODIE: His directions to
24 us --
25 CHAIRMAN TORGERSON: The superior court

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1 tried to lay out our process, which was timelines and
2 everything else, and I objected to them doing that.
3 When he gets it back in his realm, he can do
4 whatever he wants to. I assumed that he probably would,
5 and I assume -- I tell you, I did make some assumptions:
6 That, one, we would be through with our work by
7 Saturday.
8 No particular day, no reason, other than I
9 figured we would be done. That our attorneys would go
10 into high gear and have our plan ready to file with the
11 trial court by the 4th of April. That only gives him a
12 couple of days, by the way.
13 MR. WHITE: Thanks, John.
14 CHAIRMAN TORGERSON: That's pretty fast.
15 That's real fast, in order to get all the filings and
16 things done. Then using the Court's timeline, ten days
17 until objection, five days to reply, five days to reply,
18 a trial conference, a few other things.
19 There is no way that he could rule earlier
20 than May 5th. So if May 5th is the magic yes or no on
21 our plan, at that time I was told that we couldn't apply
22 for preclearance until the trial court had finished
23 their work.
24 You heard today that that may not be the
25 case. So now we can apply for preclearance as soon as

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1 we adopt a plan, which helps. It helps with the DOJ
2 process. It doesn't get us to June 1st, but it helps.
3 It clearly wasn't going to get us to
4 June 1st with the July 5th ruling from the Court,
5 because that would have made it at earliest July 5th
6 before we got a clearance from DOJ, or an answer.
7 Maybe not getting clearance, but one way or
8 the other. So it's a hypothetical timeline, but I was
9 just working with what I could do.
10 I tried to not let that influence any of my
11 decisions on this board's work, because we shouldn't --
12 I didn't want to just adopt the petition to go to the
13 Proclamation Plan or anything else.
14 So I have grave doubts that we will be ready
15 to and have a pre-approved plan by June 1st. And I
16 don't know who makes the decision on a realistic time
17 for candidates to know what district they are in.
18 What's your thought, 30 days? Normal time
19 you have two years, right? After the next election if
20 you're thinking about running, the only requirement is
21 you live in that district for a year, but the filing
22 deadline is June 1st.
23 So you have to in your own mind peel back
24 from June 1st to give people that might be thinking,
25 fence walkers, I don't know, whatever, about whether or

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1 not they want to file. Is 24 hours long enough? I
2 doubt it, but anyway, you run into all kinds of
3 hypotheticals.
4 BOARD MEMBER BRODIE: So practically
5 speaking, the one-year residency is waived.
6 CHAIRMAN TORGERSON: Absolutely not.
7 BOARD MEMBER BRODIE: If the district
8 changes and puts you in --
9 CHAIRMAN TORGERSON: I don't think it is.
10 We don't have any constitutional authority to waive a
11 one-year requirement. You need to be in that district.
12 BOARD MEMBER BRODIE: If you lived in
13 another district and the district changed --
14 CHAIRMAN TORGERSON: That's part of the
15 debate, Bob. If we change the district, you still have
16 to live in that district a year.
17 If we change it and you were in today and
18 out tomorrow, I'm sorry, I guess. I don't know what to
19 do about that, but I don't think the constitutional --
20 there are no requirements of the constitution that are
21 waived in this process.
22 MR. WHITE: We do know that in the Hickel
23 case, Mr. Chairman, they changed actually -- they must
24 have changed the filing deadline, but it doesn't say
25 that, but we know for sure they changed the primary date

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1 from August to September.
2 CHAIRMAN TORGERSON: I think I found
3 something where they changed the filing date too. And
4 in any degree, I don't think you do one without the
5 other. And, clearly, we don't have that authority.
6 It's something that the Supreme Court -- I guess we
7 petition the Supreme Court.
8 MR. WHITE: According to their order, if the
9 board's decision was that they needed more time, then to
10 comply, we would petition the Supreme Court. They
11 indicated that we would petition them to have the
12 Proclamation Plan serve as an interim plan, assuming
13 that Fairbanks 1 and 2 were fixed.
14 There is a question there that I'm still
15 trying to run to ground, and that is the whole issue
16 does in fact, if that is the case, is that a
17 court-ordered interim plan and, therefore, do you need
18 to get preclearance or not if you had to change
19 Fairbanks?
20 There is a line of cases out there that I
21 muddled through last night that were as clear as mud.
22 The real pole star there appears to be whether the plan
23 was the result of the -- they keep calling legislative
24 intent, because they are dealing mostly with legislators
25 that are doing this.

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1 And I would suggest my initial thinking on
2 this is -- would be that if you change the lines in
3 Fairbanks, the board would have changed the lines and
4 the plan would have been the board's. It would have
5 recognized the board's intent, if you will, and,
6 therefore, would need to be pre-cleared by the
7 Department of Justice.
8 MR. BICKFORD: Mike, under that scenario
9 though, wouldn't we be under exactly the same scenario
10 as what the board ten years ago did, in that no Native
11 districts would be changed?
12 Ten years ago, didn't they have no Native
13 districts change and then not get preclearance until --
14 CHAIRMAN TORGERSON: We're adopting the
15 pre-cleared change that DOJ -- we went over this. They
16 would still look at it, but not with the same microscope
17 that if we changed Native districts.
18 MR. WHITE: I agree. I think that
19 preclearance in that instance would be simple. Another
20 potential option is to just tell the Supreme Court,
21 "Look, if we change the lines in Fairbanks, then we have
22 to get preclearance again, and the deadline may be in
23 effect."
24 So if the board -- you could make a decision
25 to say petition the Court saying, one, don't make us

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1 change anything, just implement this as the interim
2 plan.
3 Two, the alternative being make the change,
4 but the difference being that we have to get
5 preclearance. But I think that if that decision was
6 made by June 1st, I think we would have preclearance on
7 the interim plan since there is no changes to the plan
8 other than within the borders of Fairbanks.
9 BOARD MEMBER MCCONNOCHIE: Okay. So I'm
10 just going to ask it, so I'm not as confused as I am
11 right now.
12 So you're saying there is actually two
13 options. Option one is to take our original
14 Proclamation Plan, make the two changes in Fairbanks and
15 send that on through.
16 Or Option B is to adopt something else and
17 send that through. Am I correct, those are the two
18 options you're talking about, one, which requires full
19 DOJ scrutiny and the other one DOJ would say, for the
20 most part, you haven't changed anything within the
21 Native districts so you're good to go?
22 CHAIRMAN TORGERSON: I guess.
23 MR. WHITE: The third option I think,
24 PeggyAnn, would be to proceed with the process and adopt
25 a new or amended plan.

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1 BOARD MEMBER MCCONNOCHIE: That was option
2 two.
3 CHAIRMAN TORGERSON: I guess you're right.
4 This timeline, I think more than anything else, that
5 clearly the Court gave us an out. Maybe they do have a
6 little wisdom. Maybe they thought this would be
7 difficult for us, and they gave us an out to petition
8 for the Proclamation Plan to be the interim plan.
9 BOARD MEMBER MCCONNOCHIE: With the
10 Fairbanks changes.
11 CHAIRMAN TORGERSON: They suggested it might
12 be a good idea, since we did not contest 1 and 2, that
13 we should do that.
14 I'm not ready to just do that and quit our
15 work. I tried to formulate in my mind and through other
16 avenues some sort of strategical planning where we could
17 have trigger dates, but I'm not very successful doing
18 that.
19 There are too many moving parts that I don't
20 control.
21 BOARD MEMBER HOLM: Mr. Chairman, since
22 we're talking about Fairbanks here, I'm of the opinion
23 that the work that Bob did yesterday or day before on --
24 or Mr. Brodie did -- on the Fairbanks changes certainly
25 will suffice to change what I read as the Court's or

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1 McConahy's order and would get us in compliance with
2 what he was thinking.
3 And as PeggyAnn just said, maybe option
4 number one would be a pretty good way to go, as far as
5 I'm concerned. It seems to me like what we're doing is
6 we keep trying to figure out some way to make a square
7 peg fit in a round hole and we don't seem to be doing
8 very well with that, but it seems also apparent to me
9 from what Mike just said that we could probably get
10 preclearance fairly easily if we didn't modify the
11 Native districts much.
12 And Fairbanks is really something that's
13 really -- it certainly is something that they have
14 talked about or it's something we have to address at
15 some point in time, I suspect.
16 CHAIRMAN TORGERSON: I don't disagree. All
17 I'm saying is I'm not sure the board should be ready to
18 pull that trigger right now.
19 We're still three weeks ahead of the
20 timeline of the 2002 process. They didn't have the same
21 issues, I understand that, but they did go back to trial
22 and they did do some other things.
23 I'm hung up on preclearance. I don't
24 exactly believe it's going to be a cakewalk. And I
25 don't have -- I don't even know what we might adopt, but

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1 I can imagine that there would be some sort of greater
2 outreach by DOJ than last time.
3 There might be a greater response than last
4 time, and you heard Lisa say she didn't know what that
5 meant, other than it's going to take more time.
6 So that's my major concern, not the board
7 getting its work done. So eventually we're going to
8 have to -- we may have to petition the Supreme Court to
9 do the Proclamation Plan, but that's like -- that's like
10 when you have retreated as far as you can go, a white
11 flag is up, you make your petition.
12 BOARD MEMBER HOLM: Sure. I'm only thinking
13 in terms of those folks who are willing to stick their
14 necks out and run. Certainly, the quicker we can get
15 our work finished, the better it is for those folks.
16 That's all I was thinking. We have been
17 there, you and I both, and you understand how difficult
18 that is at best. Okay. Thank you.
19 CHAIRMAN TORGERSON: I don't believe we --
20 my conspiracy theory is I think we have people that
21 would like us to not accomplish much and to adopt a
22 Proclamation Plan, but -- and I'll just say that.
23 BOARD MEMBER MCCONNOCHIE: My father always
24 had a great saying, and it talked about do not invest
25 interest in a loan not yet taken.

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And I think that's what we're doing in a lot of ways right now is trying to say, well, if we do this, then the DOJ will do that, or if we do that, then this will happen.

I think that that is a part of the process, as much as we like to jaw about it, we can't figure out. So I think our responsibility is to say, okay, can we put together the best plan and do we need any more time to do that.

And I think the answer is, at least from Marie and I working on this last plan. For me, the PAM-E plan is about as good as we're going to get. I do not see that there are reasonable modifications we can make to this plan that get us any better than we are now in relationship to meeting the Alaska State Constitution and combining that with protecting the rights of the Natives within Alaska.

All we're doing is wasting time. And all we're doing is delaying, in my mind. So I sit there and look at two things, provided that the two areas in Fairbanks are fixed.

We have the Proclamation Plan versus the PA plan. Obviously, for me, the thing that sticks out right away is splitting up the Aleutians, which, you know, was not something that I necessarily liked. We

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did it for one reason only, is because we didn't want that pairing between the two incumbents.

We did not want to put a challenge in for probably the most revered Native leader in the Senate, so we decided to go that route.

But Lisa is saying now that in many ways that that's a foregone conclusion that a Native will win in that district if that pairing is still there. If that is indeed true, then I think for me, the PAM-E Plan meets every single guideline that we're supposed to deal with.

Other people have tried to present us plans, and, as we know, when you start getting to the facts and the figures of the plans, they don't come anywhere near what we put together.

I have confidence that this is it. I would like to see somebody try to come up with better numbers. But as we have seen too often, they say they have got something, but when it comes down to actually providing the numbers, the numbers are just not there.

So I think it's waste of our time to just keep fiddling and fiddling with something that's going to bring us right back to this plan again.

BOARD MEMBER BRODIE: Mr. Chairman, one thing we can clearly accomplish today perhaps is to have

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a look at Fairbanks and come to an agreement on the fixes of 1 and 2.

And then we can reflect overnight on whether we want to adopt the PAM-E Plan, whether we want to resubmit the already-approved Justice Department plan. That seems to be our two biggest things, unless we can come up with something overnight.

But I think it's a big decision, and we should probably knock out the Fairbanks portion first and then bite the bullet and make a decision on the rural areas. That will pretty much settle 35 districts by knocking out Fairbanks.

CHAIRMAN TORGERSON: Marie?

BOARD MEMBER GREENE: Thank you Mr. Chairman. This is real tough. You know, from the beginning, we all wanted to do it right, and, you know, not very long after working into it, PeggyAnn and I realized that we couldn't make it work for rural Alaska.

But what I have always appreciated through this process is getting feedback from the public. The hearings, visiting the communities, having interested parties come to our meetings, that's what I have always appreciated through this process.

And so that's kind of -- I'm struggling with that right now. What I mean by that is, you know, we

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have had -- well, just in the trial, you know, that's why I was asking during our breaks, do we have the shape files, do we have the numbers of what was mentioned at trial, the map that was under oath it was stated that it meets what's required.

And so I thought, okay, they spoke under oath, then I would like to see those numbers, see the shape files and see if it truly is there, and I haven't seen that. And then as we received e-mails and maps, I thought we got to at least take the time to look at those and that's what we have done.

I mentioned one of them earlier. And that's the part that I'm struggling with. I realize we have a timeline. I realize that we struggled with the PAM map and even trying to get there.

The last thing we wanted to do is split the Chain, and, you know, then hearing from our consultant, this is something that with the numbers that we have it just wasn't going to work if we went with the plan before that, where we didn't split the Chain. And so it's been that kind of struggle. I know it's been that way for all of us.

The one thing I just wanted to point out and be on record is, Mr. Chairman, I feel that maybe one more day sleeping on it and seeing what else is -- we

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could think about. I agree with the Fairbanks. I think those two have been fixed by Mr. Brodie's presentation, but I think if I were to swear under oath and say did I really trying through the second go-around, I would hesitate, because, you know, there are -- there is things out there that I as a board member haven't seen and I think time has to be taken.

I would commit to doing that this evening, as was suggested that maybe we sleep on it and make a decision on on the rest of the map, the plan tomorrow. But I just think, Mr. Chairman, that time has to be taken. Thank you.

CHAIRMAN TORGERSON: Thank you, Marie, for your comments. I'm not of the same thought process of opening the process back up.

BOARD MEMBER GREENE: I respect that.

CHAIRMAN TORGERSON: I made that decision early on. I'm concerned that third-party people have to start with the Hickel, a constitutional plan, and then present that to us first. And then we would make our decision on whether or not -- it puts us in a weird position of doing the Court's job. I wish they would have done their job to begin with. We wouldn't have had their discussion.

But even so, if the board decided they

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wanted to open it back up to public comment, then you have to figure out what is a reasonable length of time to notify everybody, A, when you're going to have plans accepted, B, how much time you are going to give them and what you're going to do.

I'm not sure that -- I know we have the Save the Fairbanks Democrat Plan, by taking other Democrats of the state and making them part of the process. That was introduced to the Court, but not to the board.

And then there was some other chatter about other plans that may or may not have been out there. We have had three or four given to us -- three, maybe four that have been sent, which anybody can send us a plan and look.

I will note the ones that are making the noise now have not sent us a plan, they have not done anything. We can look at it, but they want formal presentation time and they want this and they want that, which I'm a little hesitant to give.

If they were that excited about their plan, well, why didn't they send it on January 17th, the day after the court trial? I mean, they got it into the court record, but why didn't they give it to us before that?

My understanding is they gave counsel at

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least an eight and a half by eleven, but no shape files. An eight and a half by eleven makes a good thing to look at, I guess, pretty colors, but it doesn't do anything, like you said earlier, without the numbers.

So I understand how you feel, Marie, about opening it up, but I just don't -- I guess other comments that board members want to make, think about if you open it up to the process, how many days you want to do this, what is a reasonable length of time, and I don't know.

I'm just saying I don't know what it is. Before we -- I think the minimum we gave everybody was a week, and they were complaining about that. It wasn't enough time. I understand that was early on in the process and they didn't have folks lined up to do things.

And then -- anyway, I'll leave it at that. So there is Bob's -- really, we need to make some decisions today. If the decision is to postpone this for two weeks and let's think about it, then we're making probably two decisions, the Proclamation Plan and to do the petition on that, because I don't think we get done, but, again, I don't know what the reasonable length of time is to allow people to think.

Sitting overnight and coming back tomorrow

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is okay with me if we're ready to make decisions tomorrow and move into the process. Bob had indicated he wanted to draw, Mr. Brodie, a few more Bethel approaches. I forget exactly what he said, but he wanted to take a look at it.

And that's a reasonable request, let's go tonight and take a look at it. But I would like to -- I think we need to make a few decisions here tonight before we go forward.

Thoughts? Let's talk about the public process. I mean, give me your ideas on opening it back up for presentations by third parties. Bob?

BOARD MEMBER BRODIE: Mr. Chairman, I don't know that -- Marie, was that your suggestion to open it up to third parties, or just have a chance to look at stuff that has been sent in?

BOARD MEMBER GREENE: I just would like to have the time to look at the things that have been sent in.

CHAIRMAN TORGERSON: That was my point. There has been none sent in. There is none sent in. I said that before.

BOARD MEMBER BRODIE: I guess her comment is she is not arguing to open the process.

CHAIRMAN TORGERSON: Okay.

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1 BOARD MEMBER GREENE: Mr. Chairman, sorry
2 for interrupting. I'm referencing the e-mails that, as
3 a board member, I received, and there were attachments.
4 We took the time to look at two of them yesterday, and I
5 wanted to do that, because that's, to me, that's part of
6 the process.
7 As a board of director, I think that's why I
8 did it, along with staff. They were helping me
9 yesterday.
10 CHAIRMAN TORGERSON: Excuse me, but we did
11 inform everyone of that decision that as board members
12 you can petition, send e-mails, send the highway map of
13 the United States to us, fine. I'm not controlling that
14 process.
15 What they asked to do is to open up this
16 entire process to other third-party plans, similar to
17 what the court ordered, and that's what I'm objecting
18 to.
19 If these third-party people have sent you
20 e-mails why didn't they send you the shape files? You
21 should have already had them. I mean, they are just
22 sending e-mails, and I don't know why.
23 I mean, it's like, please, please, please,
24 let me send you an e-mail with the attachments on it. I
25 don't think you have to answer them back and say, "Yeah,

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1 go ahead, you can send me the attachments."
2 That's almost as silly as this thing is to
3 some degree. That isn't what the requests have been
4 from a couple of these outfits. They want to make
5 formal presentations to the board and they want to do
6 other things.
7 I'm clearly okay with anybody sending us
8 anything they want to tonight, and we go forward in the
9 morning with whatever our process is.
10 Particularly, let Bob work on his tonight.
11 If he has -- we can do presentations in the morning
12 again from board members and then move into a motion
13 process to get us past the PAM-E or the split the Chain
14 issue, and then we can go into making the findings and
15 the other things we do on the other three districts,
16 which is what you said, just added a few extra words to
17 it.
18 BOARD MEMBER MCCONNOCHIE: The only thing I
19 will say with these things that have come across on
20 e-mails, if they don't contain the numbers, I don't have
21 an interest in them, because the numbers are what we
22 have got to look at right now.
23 CHAIRMAN TORGERSON: I think some of those
24 people are sitting in our audience.
25 BOARD MEMBER MCCONNOCHIE: That's why I said

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1 it loud enough.
2 CHAIRMAN TORGERSON: My hope is that they
3 take heed, and if they want anybody to look at what they
4 have, maybe they should send it to us.
5 BOARD MEMBER MCCONNOCHIE: The numbers.
6 BOARD MEMBER GREENE: Mr. Chairman, just for
7 a little bit of clarity, the e-mails that I looked at,
8 they did have the numbers and I made reference to it.
9 CHAIRMAN TORGERSON: The Calista Corp?
10 BOARD MEMBER GREENE: Yeah.
11 CHAIRMAN TORGERSON: And we looked at those.
12 BOARD MEMBER GREENE: Yeah, sure did. And
13 that was very helpful.
14 CHAIRMAN TORGERSON: But I don't think
15 that's what you're referring to now for other people
16 that have contacted us, or is it? We have already done
17 the Calista Corp.
18 BOARD MEMBER GREENE: I just made reference
19 to the e-mails that I received with the attachments, the
20 maps and the numbers. That is what I took the time to
21 review. I'm not asking that we open up scheduling
22 another round of public hearings.
23 CHAIRMAN TORGERSON: That's fine. Maybe I
24 misunderstood. I thought you were referring to some
25 things that were brought up at the trial, which we do

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1 not have copies of, and we do do not have shape files of
2 and numbers. He is going to tell me he has got numbers.
3 MR. WHITE: One thing to clarify. Marie,
4 the plan that you looked at for Calista I believe they
5 submitted as a, quote, unquote "Hickel plan."
6 MR. BICKFORD: Maybe what would be helpful
7 if I just accounted from my understanding of what staff
8 has received and what's been included, just for the
9 record.
10 We have received Hickel plans from Calista,
11 which did include the numbers. Calista late last night
12 then sent us what they are calling VRA modifications,
13 which included the numbers.
14 Today, 20 minutes ago, we received a package
15 from the Rights Coalition. It appears it includes the
16 number. We haven't had time to review it and see what's
17 in there. My guess would be that it does.
18 After this meeting, we could go look at and
19 distribute that to whoever wants it. What we have been
20 telling groups, what I told groups last week before the
21 meetings had started, based on the conversations with
22 the chairman, the fact the board hadn't taken any action
23 was that the board had not taken any formal or informal
24 action requesting plans, but that we're a public agency
25 and we'll take whatever comes through the door.

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So that's been the understanding. What we have received has been the Hickel plans from Calista, the VRA plans from Calista, and then now a package from the Rights Coalition, which we don't really know what's in it, because we haven't had time to look at it.

There may be numbers, there may not be. We'll have a better idea after we pull them up on the computer.

CHAIRMAN TORGERSON: Who are the Rights Coalition?

MR. BICKFORD: Leonard Lawson.

BOARD MEMBER BRODIE: Same people as before.

MR. WHITE: According to the plaintiffs in the trial court, they were the Democrats.

CHAIRMAN TORGERSON: That's fine. They are here. My policy and my advice has been the same since day one.

It's unfortunate that they want to write letters and try to make issues out of this and then 20 minutes after they do that, they come in with the information that we need, but like I said, it's part of the game that they like to play. Hey, Leonard?

BOARD MEMBER BRODIE: In regard to Fairbanks, I think everybody is pretty tired. We have been working pretty hard today.

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Can we -- I don't know if we want to adopt Fairbanks -- let's maybe look at doing that first thing tomorrow, adopting a Fairbanks portion, and then maybe have a review of whatever information has been submitted to the board members overnight.

And if one of them wants to bring one of those forward for discussion, we can. And then if not, then we can move into adopting the final plan.

CHAIRMAN TORGERSON: That's fine with me.

BOARD MEMBER MCCONNOCHIE: May I also ask, whatever numbers are submitted, can staff ground truth them for us before we look at them so we know that they are the correct numbers, because that has been a problem in the past.

MR. BICKFORD: I can certainly do that, PeggyAnn.

BOARD MEMBER MCCONNOCHIE: Thank you.

CHAIRMAN TORGERSON: Do we care if they did a constitutional plan first?

BOARD MEMBER MCCONNOCHIE: Yes.

CHAIRMAN TORGERSON: Keep that keyed up. I would think since they have been sitting through all of this that they would have done that, but I can't -- they surprise me on other stuff.

BOARD MEMBER BRODIE: I assume all these

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plans have to meet the constitutional and voter rights test when we look at them.

MR. BICKFORD: What we have seen from Calista was Calista really made the effort to follow the court-mandated process, which was first build a Hickel plan and then build a Voting Rights Act plan.

What I think we have received from the Rights Coalition, I don't know that it includes those steps.

CHAIRMAN TORGERSON: How long would it take you to -- what did you call it? Ground truth it? How long?

MR. BICKFORD: To find out if the numbers are included, or what do you mean exactly?

BOARD MEMBER MCCONNOCHIE: We found during the open public process when numbers were presented to us oftentimes they weren't the numbers that were given to us via the census data and that they used different numbers or that they didn't necessarily include within a district all the communities within the district.

They had holes or anomalies, which threw off the numbers. I just want to make sure whatever we're looking at I can trust that if they say have a 42 percent VAP, it is 42 percent VAP.

CHAIRMAN TORGERSON: Taylor, what I want you

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to do -- command decision. I'm the chairman. I'm going to make a big decision. Send it us to without doing that and then do it, and let us know your report a little later.

I think Marie is particularly interested in looking through that. I am. Other people are. I assume they give you a jump drive or something with all the information on it or a disk. I mean, it's not --

MR. BICKFORD: Yeah.

CHAIRMAN TORGERSON: Try to get that to us as soon after we adjourn this meeting as possible. I don't want to start tomorrow morning without having looked at that, because I really don't want to spend any time on it, but we can, as board members, take a look at it, but I'm not sure that I want to take board time and set aside for those kind of things. Are we okay with that?

MR. BICKFORD: Yes.

CHAIRMAN TORGERSON: But you can still ground truth it and find out if it has any major anomalies.

BOARD MEMBER GREENE: Thank you, Mr. Chairman.

CHAIRMAN TORGERSON: I'm sorry I misunderstood you. I thought you talked about opening

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the process open up again. I was worried it would be another week added on at least, but that process was always open to all the third-party people.

I think we have even told them that, sent an e-mail to that effect. So tomorrow morning then we will start -- we're noticed at 10:00, I assume.

MR. BICKFORD: Yeah.

CHAIRMAN TORGERSON: We will start at 10 a.m. tomorrow. We will -- Mr. Brodie suggested as good a start as any, adopt the Fairbanks officially into a plan.

And then I think we'll roll into our options and we'll entertain motions as to PAM-E Plan or the current Proclamation Plan or whatever.

And we'll see how far we get through that process. Could be a little bit messy and tedious, but unlike your chairman, try to have patience. I don't have a lot, but unlike me, try and we'll work together a little bit.

I'm not saying I will, but let's see where we can go with this. All right. Mr. Holm, can we send you it? You will send the shape files up to him?

MR. BICKFORD: I'll send you maps, Jim. You probably don't have any way of using the shape files, or do you have your laptop?

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BOARD MEMBER HOLM: Yes, I do. No, I don't have my laptop.

MR. BICKFORD: I'll get you maps and data, as much as we can get you outside the shape files. If you could send me your analysis on it so I can study it in the morning that would be great.

CHAIRMAN TORGERSON: Okay.

BOARD MEMBER HOLM: Thank you.

CHAIRMAN TORGERSON: Anything else? Okay. Hearing none, we will stand adjourned. The time is 3:47 p.m. We will reconvene tomorrow morning at 10:00 a.m. sharp. Thank you.

(Off record.)

-o0o-

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CERTIFICATE

I, SONJA L. REEVES, Registered Professional Reporter and Notary Public in and for the State of Alaska, do hereby certify that the proceedings were taken before me at the time and place herein set forth; that the proceedings were reported stenographically by me and later transcribed by computer transcription; that the foregoing is a true record of the proceedings taken at that time; and that I am not a party to nor have I any interest in the outcome of the action herein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 29th day of March 2012.

_____

SONJA L. REEVES, RPR
My Commission Expires 8/7/15

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In the Matter Of:

ALASKA REDISTRICTING BOARD

BOARD MEETING

March 29, 2012

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ALASKA REDISTRICTING BOARD

BOARD MEETING

March 29, 2012

10:01 a.m.

411 West Fourth Avenue, Suite 302

Anchorage, Alaska

A-P-P-E-A-R-A-N-C-E-S

BOARD MEMBERS PRESENT:

John Torgerson, Chairman
PeggyAnn McConnochie
Robert B. Brodie
Marie N. Greene
Jim Holm (via speaker phone)

STAFF PRESENT:

Taylor Bickford
Jim Ellis
Eric Sandberg

ALSO PRESENT:

Michael D. White
PATTON BOGGS, LLP
601 West 5th Avenue, Suite 700
Anchorage, Alaska 99501

Randy Ruedrich
Steve Aufrecht
Kay Brown
Marcia Davis
Paul Gronholdt
Natalie Landreth
Bill Walker
Joe Levesque
Brian Hove
Leonard Lawson
Joe McKinnon
Clover Simm
Miriam Landau
Barbara Bachmeier

Court Reporter:

Sonja L. Reeves, RPR
PACIFIC RIM REPORTING
711 M Street, Suite 4
Anchorage, Alaska 99501

PROCEEDINGS

CHAIRMAN TORGERSON: We are on record now. We're calling the meeting to order. The time is 10:01. I'll repeat it again for the recorder.

So can we have a roll call, please?

Jim, are you there?

BOARD MEMBER HOLM: I am.

MR. BICKFORD: John Torgerson?

CHAIRMAN TORGERSON: Here.

MR. BICKFORD: PeggyAnn McConnochie?

BOARD MEMBER MCCONNOCHIE: Here.

MR. BICKFORD: Marie Greene?

BOARD MEMBER GREENE: Good morning.

MR. BICKFORD: Bob Brodie?

BOARD MEMBER BRODIE: Here.

MR. BICKFORD: Jim Holm?

BOARD MEMBER HOLM: Here.

MR. BICKFORD: All the board members are present.

CHAIRMAN TORGERSON: All board members are present, we have staff available, and we're represented by counsel.

Next, we have approval of the agenda.

BOARD MEMBER MCCONNOCHIE: Move for approval.

BOARD MEMBER GREENE: Second.

CHAIRMAN TORGERSON: Just as a way of an explanation, after the board discussion on the draft timeline, which did we hand that out, what I did this morning?

MR. BICKFORD: No, but we will. Jim has a copy and Mary has copies somewhere, so I'll grab that right now.

CHAIRMAN TORGERSON: Anyway, after we have a discussion about the draft timeline, it's my intent to recess until 2 o'clock.

While we're on recess, I would like Taylor and our legal counsel to review the third-party plans that we have to see if they comply with the Alaska Constitution and their opinion of the Voting Rights Act, and any opinion that they want to have of those plans.

And then I will ask them to return at 2 o'clock and make presentations to the board on their findings on the different plans.

We are also -- I'm instructing Taylor to -- I can't read my writing.

With the submission of a third-party plan, another idea has come to the attention of particularly Taylor and me, and I think maybe some other board members, but the idea of taking and stretching the

Bethel District to Mat-Su or some -- Taylor started working on seeing how that would integrate into our PAM-E Plan by using such a configuration.

The reason is because of their -- it would unpair the Chain, and that's been one of our struggling points. If we connect the Chain back up, then we're pairing, potentially pairing under the PAM-E Plan a couple of incumbents.

And to stay away from that, that was a suggestion by, I believe, AFFR; is that right?

MR. BICKFORD: I think AFFR and the Rights Coalition.

CHAIRMAN TORGERSON: So that is something that I think we looked at earlier, and for some reason, we didn't go back to it.

And then I have instructed Taylor to look at bringing that district into Anchorage. We have some Native -- not Native districts. We have some districts in Anchorage that have just an attractive VAP as Kodiak, somewhere around 18 percent, and I think if it works going to Mat-Su, then it will work coming into Anchorage.

I'm just letting you know that that's part of the instructions. I want staff, and Taylor can assign to Eric or whatever the different pieces of it,

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and Michael to look at the third-party plans and then take a quick look at those, as much as we can, and be prepared to come back and show us your findings on the Mat-Su.

I don't know if you're going to get lunch or not, but on the Mat-Su and then also the Anchorage configuration.

So anyway, we have a motion to adopt the agenda. It's been duly seconded. I went too long on that information.

Is there objection to adopting the agenda? Hearing none, the agenda is adopted.

Now, do we have the timeline? I have a couple of things to go over with the board today, mainly procedural, but there was some question yesterday about the timeline and what it looked like.

So I thought I would take a stab at just putting it on a couple sheets of paper so that you can you look at it. The first one is the timeline that was indicated by the court scheduling order, which we know is vacated, but I thought that was a good starting point for you.

He indicated that -- the different steps you can read there, but the final decision from the trial court was anticipated on May 15th. If you add the

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60-day preclearance from DOJ, that puts the timeline for a plan -- this is assuming they take the full 60 days, and I know that, but it puts the plan in approval from DOJ somewhere around 7/15, July 15th.

But you will notice there is no appeal to the Supreme Court, so that, of course, would add to the timeline. And we know the filing deadline for candidates are June 1st, so we're running into a little issue there.

The timeline that I had in my mind, you will see below this, which is basically we started our work on Monday. We adopted a few plans. And now we're into, -- what is it, the 29th today? But I had thought --

BOARD MEMBER HOLM: Mr. Chairman, I'm sorry, but 3/29 does not exist on your timeline, so you need --

CHAIRMAN TORGERSON: Well, okay. I didn't list every day. But my mind was the board would adopt the amended plan on Friday and then we would adopt a Proclamation on Saturday, and this would be submitted to the Court on the 4th.

Again, this is pushing Michael, I know, for filing with the court and some other things, but if we were to follow this timeline, the Court decision would be added to the 27 days that the trial court said he needed for schedules, would make our plan approved on

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May 1st, and add 60 days is July 1st.

So that's what I was referring to yesterday when I made the statement that I wasn't sure that we would -- could make, no matter what plan we did, if we could make any of the timelines.

So the second piece, and I will share these a little later. We just got some answers. I had Taylor this morning contact the Republican Party and the Democratic Party with basically just a simple question, which is primarily: How much time do you think you need or would be good for your parties between the time that we adopt a plan and everybody knows their districts to the filing deadline?

What I was trying to do is create that trigger that we would know when we had to at least entertain the idea of filing with the court to adopt our Proclamation Plan.

Or conversely, which I hoped, we would have a plan that would be adopted. Both parties actually answered that they thought two weeks was ample time between the time that we actually do -- get the Proclamation Plan and actually if we had to extend the timeline or something, but try to leave two weeks for the notice to the public of an actual plan, so people would be able to file.

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And so Mr. Ruedrich suggested that we -- a couple extra things. He suggested that we petition the Court to adopt our plan, just so -- the Proclamation Plan so it's just teed up and ready to go in case something happens we don't have the delay or whatever, so we know what we would go back to.

And then, of course, his suggestion is that we continue our work and try to get done. Did I say something incorrectly?

MR. BICKFORD: No. I would just point out that Kay also added a few extra things.

CHAIRMAN TORGERSON: Yeah, I was going to get to that. And then I just got Kay Brown's response to the same question, and it says basically they are very aware of the impeding time crunch that the board is under and, of course, that the primary is coming up.

They say, "We are not opposed to delaying the June 1st candidate filing deadline, or even delaying the primary election, so that an appropriate public notice and so forth can be given about the new districts to anyone who wishes to file."

Then she goes on that, "We believe that there would be a minimum two weeks' notice to the public from the date the districts are final until the filing deadline."

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1 Oddly enough, we found agreement between the
2 parties. Two weeks seems to be the timeline. I will
3 make sure that Taylor makes copies of these and gets
4 them to everybody. I wanted to make that part of the
5 record.
6 So the third piece that I will mention to
7 you today is that I did instruct legal to give us a
8 draft petition to the Supreme Court to implement the
9 Proclamation Plan, so that should be available to other
10 folks.
11 I think it's over here, if you don't have a
12 copy of it. And the board -- I just saw this myself,
13 just a few minutes ago, and I quickly read it.
14 It's a very draft document. We know there
15 will be other issues, or other, not issues, but other
16 things that will probably be added to it, but I don't
17 want -- I don't want to be in a timeline crunch to where
18 we have to consider whether or not we petition the
19 Supreme Court and be in kind of a hurry-up mode.
20 So I want to reiterate that no decision has
21 been made. The board hasn't made a decision on whether
22 or not to petition to implement, but we wanted to get
23 everybody kind of familiar with the document so that you
24 would know what it would look like.
25 More than likely, I would probably suggest

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1 that we would have a board meeting and an official board
2 action, motion, second, discussion, so forth, when we do
3 adopt this petition.
4 And I would also suggest that we would
5 probably do that over teleconference of the board, but,
6 again, my mind could be changed on that too, I guess.
7 So Mr. White, do you have anything to add to
8 what I said about the petition or the timeline?
9 MR. WHITE: I do not, just note that there
10 is a footnote in there that just kind of drops some of
11 the additional stuff that would need to be added.
12 I'm still not 100 percent clear whether or
13 not if this avenue is undertaken by the board that you
14 would have to get the plan pre-cleared.
15 I'm presuming at this point in time that we
16 would, but if -- I'm attempting to contact DOJ to see if
17 they will give me any guidance in that regard, since we
18 wouldn't be changing any of the Native districts,
19 whether we would have to submit it.
20 I do believe that if it is submitted that it
21 would be a pro forma approval, given that there is no
22 change to any of the Alaska Native district, and the
23 fixes that are required to Fairbanks don't implicate any
24 Voting Rights Act issues, so I would suspect that it
25 would be a fairly quick process both in submission and

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1 in approval, but I will let the board know as soon as I
2 hear anything from DOJ.
3 CHAIRMAN TORGERSON: You brought up
4 something I hadn't thought about. Possibly the board
5 needs to adopt two plans, the what if? Because we are
6 amending the Proclamation Plan for the 1 and 2 in
7 Fairbanks, so we have to do that, and then we have to
8 readopt that plan, but not necessarily as a final plan.
9 At some point, we would have to adopt the
10 amended Proclamation Plan even if it was only the fix to
11 Fairbanks.
12 MR. WHITE: Correct. You would have to
13 adopt that in order to allow us to submit it to the
14 Supreme Court for approval.
15 Q. On a parallel course, hopefully, we would have a
16 different plan that is working itself through the
17 process?
18 MR. WHITE: I would suggest that the board
19 probably would want to proceed -- unless the decision is
20 right now, "We don't think we can get done, let's go to
21 the Supreme Court," that it should make the changes
22 necessary to Fairbanks, get that all keyed up at the
23 same time that it's moving forward with the other
24 process, if there are no decisions yet made, which I
25 don't think there are.

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1 CHAIRMAN TORGERSON: Clearly, I'm just
2 trying to, for information purposes, put out this
3 suggested schedule so everybody can look at it.
4 I'm very happy that our two major parties
5 responded with their responses about timelines, but you
6 can see that under the court scheduling order, we're
7 right on that timeline.
8 If they make their decision on the 15th and
9 it's not appealed to anybody, you know, you would have
10 your two weeks, but it's right on the nose, and, of
11 course, that doesn't take into consideration the DOJ
12 preclearance.
13 So it's going to be -- now, I will remind
14 everybody that we're still two weeks ahead of the last,
15 2001 process. They didn't adopt a plan until the 18th
16 of April, and the final was May something, but they
17 didn't have a lot of changes to the rural districts, the
18 Native districts that DOJ was particularly interested
19 in.
20 So I don't know how that balances out, other
21 than it's a concern of mine, and I'm sure of the other
22 board members.
23 MR. WHITE: They did not move any deadlines,
24 even though last time they did not have preclearance
25 from the Department of Justice. And I guess it's a bit

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of a waiting game, or you're kind of hedging your bets a little bit, because there is nothing wrong with the state proceeding if the Supreme Court approved off on the plan.

There is no problem with them proceeding to set up stuff and do the election precincts and the other stuff like that before preclearance. You just can't hold an election before preclearance.

Given the procedural status of the case last time, they just continued to move forward, even though they didn't get preclearance until, I believe it was June 16th or 17th.

CHAIRMAN TORGERSON: There are so many moving parts to this, that this board does not control, that I have tried to get answers to, but they are very elusive, so day-to-day I guess on some of these things, particularly DOJ preclearance.

I'm trying to pick a timeline when they might react. The one thing I did pick up on that I actually didn't add into my timeline that Dr. Handley said yesterday that the people are assigned to us, the five DOJ attorneys and GIS specialists and so forth.

They are now familiar with Alaska and they are familiar with our earlier submission, so they don't have to start from scratch. So that is a benefit, I

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guess, to an expedited process, if it's a possibility.

MR. WHITE: One thing I note on your timeline, Mr. Chair, is that I believe that after -- the board should -- it needs to have -- Lisa should at least look at any plan the board is considering adopting for compliance with the VRA prior to its adoption. I think that's just --

CHAIRMAN TORGERSON: Well, I gave her a night. I'm pushing, I know, but I did Friday night. I figured if we can get her a plan tomorrow, she would stay up all night long, give us an analysis and then we could do -- I put in here adopt a Proclamation Plan, but we'll adopt a plan in concept, like we did last time, and not make the final vote until we get -- but I didn't write all of that in here.

But that was -- if she can't do it Friday night, if she is otherwise -- can't get her work done, then I would roll this into Sunday.

We are going to notice -- you probably didn't get it done yesterday, but we're going to notice meetings for probably all next week, just because we have to do the Open Meetings Act. We don't know where we're going or what may bog down anything, but we will have Sunday, Monday, Tuesday, Wednesday, so that we can keep going and not have an issue with the open meetings

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complications, so that's procedural.

So, again, back to our agenda, the board will take, until 2 o'clock, a recess. And, again, for those that came in a little late, the staff is going to review the third-party plans that were submitted.

They are going to compile a report. And when we come back into session, we will go over -- have Mr. White and Mr. Taylor present their findings as to the -- Alaska Constitutional provisions that they -- if there is violations thereof or Voting Rights Act issues that they will bring those up.

I also instructed Taylor to look at -- actually, he did it on his own, but he is looking at combining a concept of the AFFR plan, which takes Bethel into Mat-Su and makes that Senate pairing, which solves a lot of our issues on the dividing the Chain.

And I have instructed Taylor to look at that same scenario, but bringing that district into Anchorage, not Mat-Su. Again, we have a couple house seats that there is no incumbent in and I think they are good matches, and particularly because of, if I remember right, correct me, but the Mat-Su is like seven-point-something percent VAP and the one Anchorage district is over 18.

So that makes that a little stronger Native

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influence district. So it wouldn't be -- my hope is there is no concern over that.

And then after we make the presentation of the third-party plans, we will go look at the Fairbanks 1 and 2. My intent is to officially adopt those. We adopted them, one version or another into the Hickel plan, but I'm not sure if we ever did it, like, officially.

And then Bob wanted to look at some changes from where Taylor was at. So we'll take a look at that. And then we'll go right into the staff presentations and mine on this conceptual Bethel to Mat-Su or Anchorage concept. Did I leave anything out?

MR. BICKFORD: I would just --

CHAIRMAN TORGERSON: How did I do that? I talked for ten minutes.

MR. BICKFORD: I would just add, first, for the board, that the plans you received this week, you guys probably have copies strewn out. There is a lot of stuff moving around and they are not necessarily organized, so by the time we come back in at 2:00 we'll have packets for everybody so you have something clean to follow along with what Michael and I ultimately present.

And for those listening online, we have

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gotten some questions about being able to follow along with what we're doing, and I can tell you that we're doing our best, we're receiving a lot of stuff on the fly here, we're holding meetings every day, and it's been a struggle to get everything online in time for the meeting.

So be patient with us, we're doing our best. My goal is to have the same packet that the board will be looking at also loaded to the website under today's meeting reminder on the home page prior to us coming back in at 2:00, so I think everyone online should be able to at least have a statewide map and maybe some numbers to follow along with for each plan.

That's probably the best we can do. If we can do more than that, we will. I would just ask everyone to be patient with us. We're trying and it's been a little bit touch and go, given the furious pace this week.

I would also update, you know, we talked about yesterday what plans were received. I'll just give an update of a few more things we received.

Again, we received plans -- Hickel plans from Calista. We then received a number of VRA amended plans from Calista. We also received the Rights Coalition plan yesterday, and the AFFR plan yesterday.

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Last night we also received two new Calista plans, and so that will all be part of what we look at today. I do have a question. I think I probably know the answer to it, but I just want to make sure.

I'm assuming that at this point we don't need to look at Calista's Hickel plans, that we would only need to look at the VRA plans, or should we look at them all?

CHAIRMAN TORGERSON: Do you have the number of the chief justice? I'll call him and ask him. Look at them all.

If your underlying suppositions are not correct then your plan can't be correct. That's my feeling. That's why I really didn't want to get us into a whole lot of that, but we'll look at these plans that are here and we'll go forward with it.

MR. BICKFORD: Thank you for that. That helps. One more note, the plan that AFFR submitted yesterday, there was an issue with it.

And I see AFFR representatives in the crowd so I'll talk to them once we recess here and see if they are going to be able to get us a new plan before 2:00 to consider with the rest.

I know it's probably a lot to ask and all these groups are putting plans together really fast, but

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the plan that we received from AFFR yesterday, I think I have let everybody know, there is an issue with it. I know that I talked to them last night to give them a heads-up, because I didn't want to -- you know, I wanted to give them notice of that as fast as possible so we didn't just come in today and they found out today.

So what they told me is that they were working on something, and I'll check with them after this meeting to see if we're going to have a new plan from them by 2:00, but just for now probably disregard what was given to us yesterday, because the total statewide deviation for the plan is too high.

It's 11.8 percent, and they indicated to me that they were going to work on that.

BOARD MEMBER BRODIE: I say that nothing prevents us from adopting the amended plan today too, if we get around to it.

CHAIRMAN TORGERSON: Well, it is on the agenda, you're correct. I keep putting it on the agenda. If we're ready to do it, I don't want not to have it on there.

If we don't, then we push it until tomorrow. We are probably going to be a little late tonight anyway going through all of these plans looking at all the things. Hopefully, not much past 5:00. We can give --

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it will give us some instructions, to staff anyway, that they can work on if there is some things they need to fix, but I wouldn't mind adopting a plan today. If we hit the magic bullet, we will go for it.

BOARD MEMBER GREENE: I just wanted to express my appreciation that we are going to take the time to review what was received thus far and have a report given to us this afternoon to get that on record. So thank you very much.

BOARD MEMBER BRODIE: Can we make sure they are on the computer in case we need to look at some of the detail parts of the district?

CHAIRMAN TORGERSON: Uh-huh. Mr. Holm, do you have anything for us?

BOARD MEMBER HOLM: I do not. Thank you.

CHAIRMAN TORGERSON: Anything else from the board. We will stand in recess. The time is 10:27 a.m. We'll stand in recess until 2 p.m.

(There was a break.)

CHAIRMAN TORGERSON: We'll call the meeting to order. The time is 2:40. All board members are present. Mr. Holm is teleconferenced from Fairbanks. Staff is here, and we are represented by counsel.

So at our adjournment, we had assigned legal and staff to review third-party plans and see how far

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they could get. I'm not really sure how many they got through here, but we're going to start with that presentation and go through those plans.

And then we'll move into the adoption of the Fairbanks 1 and 2. And then we will move into other plans. We will be probably, just so everybody knows, right after Fairbanks, we're probably going to take a break for about another half hour, because staff hasn't got quite through drawing the Mat-Su/Bethel or the Anchorage -- you have some fixes; is that fair?

MR. BICKFORD: Just half an hour or so.

CHAIRMAN TORGERSON: So we'll take a half hour or 45 minutes there, and we'll come back in and take a look at those plans.

So with that, who is going to lead us?

MR. WHITE: I will, Mr. Chairman. Thank you, Mr. Chairman.

Based on your direction, we have taken the plans submitted the Calista Corporation, AFFR and the Rights Coalition and ran them through the same analysis, process. The analytical framework that we used is threefold.

We first looked at did they comply with the Hickel process, as we have interpreted that based upon the Supreme Court's order. Second, we looked at whether

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the plan in place was VRA compliant.

And then third, we looked at whether there is any constitutional deviations from the Alaska Constitution. We're going to start first with the Rights plan.

The Rights plan was submitted to us without any sort of Hickel process. They submitted one plan. They provided no Hickel plan. They did not follow the -- or start from the Hickel plan that the board adopted, so, therefore, I think that under our analysis that in and of itself would disqualify it from consideration.

They answered the urban population shortfall by taking population out of Kenai, which we'll talk about a little later.

It's my understanding, based on conversations with Mr. Bickford, who has spoken with Mr. Lawson, and it's the Rights Coalition contention that they don't have to submit a Hickel plan, because this plan is their Hickel plan because they claim it strictly complies with the Alaska Constitution and therefore there is no need to justify departure from strict compliance in order to comply with the VRA.

As we go about and talk about some stuff a little later, I think that that proposition is just simply wrong and that there are a significant number of

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constitutional problems with this plan.

Let's first then -- so basically, I don't think they have complied with the Hickel process. And I think that's enough reason not to comply with this, because we couldn't adopt this plan and go back to the Supreme Court.

They would say, "Well, you didn't follow the Hickel process. Neither did the Rights Coalition." That's the first issue.

Second is VRA compliance. This plan on its face appears to meet the VRA requirements. They have five ability to elect districts, House districts, ability to elect effective districts.

One of those House districts however, House District 38, which is right here, the Bethel District, is at a bare minimum, it's at 42.17 percent, so that's only .037, less than half a percent, above the minimum, but it does meet the minimum requirement, as stated by Dr. Handley.

It also has three ability to elect or effective Senate seats.

CHAIRMAN TORGERSON: Could I interrupt? Just so we're clear, Dr. Handley gave us a 38 percent and higher range; is that correct?

MR. WHITE: She gave us three -- well, there

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is three ranges. Statewide is 41.8, which we just call 42 for purposes of convenience. And then in this area here, the old House District 6 in the current plan, you have to be at basically 50 percent.

And then the Chain as it went down, she says we don't know exactly what the number is, but it's probably down in the 35, 36, 37 percent range. So it's lower in the Chain and higher in the areas that include House District 6.

Now, one thing you have to be aware of is any time you move off of the exact configuration of those two districts from last time, then that dynamic changes. So if you -- unless you have the exact same House District 37, then you can't rely solely upon the lower VAP numbers, Native VAP numbers in those areas.

And the same with House District 6, once you go out of the old configuration and you take in areas that only apply to the 41.8 percent standard, then you would obviously lower your Native VAP necessary in that area.

MR. BICKFORD: Mike, I forgot to mention, for people listening online, we were able to get these maps on the website. If you go to the home page of the website, go to the daily update for today, you will be able to download the same packet that the board is

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1 looking at.
2 It includes maps and the population data.
3 And the plan we're looking at right now again is the
4 Rights Coalition plan.
5 MR. WHITE: Thank you, Taylor. I will try
6 to slow down a little bit for the court reporter, who is
7 grimacing just a little bit. I can be hell on court
8 reporters.
9 CHAIRMAN TORGERSON: 300 words a minute is a
10 little tough, huh?
11 MR. WHITE: So basically, the third point
12 here is they in fact, they did change Southeast, so this
13 plan contains the pairing of two Native incumbents.
14 They pair Senator Kookesh, which every plan
15 I have ever seen does, given the fact that you had to
16 change that Southeast lost a district, but they also
17 pair Representative Bill Thomas with a member of his own
18 party, whoever represents Juneau, Northern Juneau. I
19 don't remember who that is. He is in fact paired in
20 this plan.
21 We now move to state constitutional
22 compliance, and I think there is a number of problems
23 with this plan in my opinion from a state constitutional
24 compliance angle.
25 It is under the 10 percent natural

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1 deviation, so there is no equal protection federal
2 problems or Article 6, Section 6 equal population
3 requirements. It probably is good enough to meet that.
4 But I'll just start at the top and work
5 down, because that's how I put my notes together. First
6 of all, we start with House District 39, and I think
7 that the only way you can justify this configuration is
8 by a need in order to comply with the Voting Rights Act.
9 They claim they don't need to do that. In
10 my opinion, this district is neither relatively
11 socioeconomically integrated nor strictly a relatively
12 compact, so the departure from the Alaska Constitution
13 is in fact required.
14 This is the same configuration, I believe,
15 or close to the same configuration, might be exact,
16 Taylor, do you know, as the Proclamation Plan?
17 MR. BICKFORD: I don't know that it's exact,
18 but it's really close.
19 MR. WHITE: It's very similar. Basically,
20 you're running from McCarthy down here all the way to
21 Nome and up across there. I think that anybody is very
22 hard-pressed to make any argument that this is either
23 compact or relatively socioeconomically integrated.
24 House District 38, which is their Bethel
25 District down here, and this is how they solve the urban

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1 population shortfall. You will see they go across the
2 water and they go down into Homer.
3 Can you zoom in down there, Taylor? So they
4 go in, they grab Homer, they go around up here. They
5 take all of this portion out of the Kenai Peninsula
6 Borough and this portion of the Kenai Peninsula Borough
7 over there and out into their House District 38.
8 And the idea there is -- well, that's how
9 they are solving their population shortfall, it would
10 appear. And they do that in order to attempt to make
11 that third effective Senate pairing.
12 If you look at what this actually does, you
13 can go back out now. I think that there is, in my mind,
14 no question that this district would not be relatively
15 socioeconomically integrated. I know we got a letter
16 from Mr. Lawson yesterday and I reviewed that. And he
17 proffered some justification for the socioeconomic
18 integration of this area.
19 And while there might be some contacts
20 between Homer and here, people might drive their boats
21 across part of it, there might be some flights from
22 Homer to Aniak, or things like that, as a whole I just
23 can't see that including that area of the Kenai
24 Peninsula, Homer and then up in the more northern
25 portion, I just see how that's socioeconomically

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1 integrated.
2 This is essentially the same configuration
3 that they presented at trial. And I think, John, you
4 have looked at this plan before, at least this
5 configuration. It might be a little different up here.
6 I don't know for sure, but pretty much the same.
7 And I think you and I have discussed, in
8 Fairbanks at the time, based upon your vast experience
9 in the State of Alaska and all the traveling you have
10 done and the fact that you're from Kenai, correct me if
11 I'm wrong, but I believe you would be of the opinion
12 that that district is not socioeconomically integrated
13 as well.
14 I also think there is compactness issues
15 going across the water and just the way that it looks
16 there. That's a little less. There is possible
17 compactness issues. It is kind of circular, might not
18 be a big deal, but I clearly believe it's
19 socioeconomically integrated.
20 MR. BICKFORD: One thing I would add is that
21 as Mike and I were going through this, this plan -- we
22 know that any plan is going to have to add urban plus
23 rural, that's a mathematical certainty, and they chose
24 to use the Kenai.
25 And what the board had previously found

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1 earlier this week was that Kenai in fact was not the
2 best choice on state constitutional grounds for urban
3 population. Based on the Court's finding and some of
4 those other things, you know, you had decided that
5 Fairbanks was the most reasonable choice if you have to
6 pick urban.
7 So this would have taken a less reasonable
8 choice. And it's not clear to us that there is any real
9 Voting Rights Act reason why you would choose Kenai over
10 Fairbanks.
11 MR. WHITE: Then House District 37, which is
12 their Chain District, they do something different than
13 some we have seen, by running it up this way creating --
14 you are always going to have anti-compactness problems
15 with the Chain, merely because it's a Chain.
16 I think any test you use, mathematical test
17 that you use always puts a zero in there. I think the
18 problem becomes, when you start doing this, I don't see
19 how that's fundamentally different or really different
20 than when you split the Chain and go this way.
21 It's the same areas being paired. If you
22 start there and start going this way, it's actually
23 probably further than going across that way. There may
24 be some compactness issues, but I don't think that's a
25 major issue.

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1 I think you can make a good argument that
2 this is compact. It does go up to get the population
3 necessary to have appendages here or there, so you could
4 potentially get some compactness objection from
5 somebody.
6 House District 36, their district includes
7 Wade Hampton, just from it's mere shape, kind of looks
8 like a dragon or a worm or something coming out of the
9 end there. There may be some potential compactness
10 issues with that, given the way that it's shaped.
11 Obviously, designed that way, I think, to
12 comply with the Voting Rights Act. You might be able to
13 justify it based on that, but the Rights Coalition
14 apparently is not doing that. So I think there is some
15 potential compactness issues with that shape.
16 You just -- is it relatively compact? You
17 can argue either way, I suppose, but there is some
18 potential issue there.
19 House District 31, which runs from Yakutat,
20 includes Nikiski and then goes into South Anchorage as
21 far as Rabbit Creek.
22 MR. BICKFORD: Mike, doesn't it also include
23 Cordova?
24 MR. WHITE: It does include Cordova and
25 Chenega. Then it runs into Kenai here, takes Cooper

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1 Landing, Moose Pass, all of this area up here, and then
2 runs all the way up into the Municipality of Anchorage,
3 all the way -- goes pretty far into Anchorage, I think
4 all the way to Rabbit Creek. So it's clearly within the
5 Municipality of Anchorage.
6 Basically, you have got --
7 MR. BICKFORD: You have to Nikiski to Rabbit
8 Creek to Yakutat?
9 MR. WHITE: I think in my opinion that this
10 district not be relatively socioeconomically integrated,
11 although there may be some connection like flights
12 between Yakutat and Anchorage.
13 Any connection between Yakutat and the Kenai
14 Peninsula Borough, I think would be attenuated at best.
15 I think that any challenge to this plan that it is
16 relatively socioeconomically integrated would be upheld.
17 I just don't think that it is.
18 And then we looked at House District 18 in
19 Anchorage. Given the trial court's ruling, the way that
20 it talked about appendages, that seemed like a rather
21 strange appendage there. We haven't had time to look at
22 it in detail to determine whether that's maybe a census
23 block or maybe they claim it's done for population
24 reasons.
25 We don't know. All I can say is on its

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1 face, that appears to be a strange appendage sticking
2 out to House District 18 there, which could raise a
3 potential compactness issue.
4 House District 10, which I believe is in the
5 Mat-Su, I think it's in here. I think it's right there.
6 Where is 10, Fairbanks? Oh, yeah, it's Fairbanks.
7 House District 10 here may have raised some
8 compactness issues just from the way that it comes
9 around and splits like that. Given the trial court's
10 ruling on appendages and other things, that could be a
11 potential issue within the City of Fairbanks.
12 So questionable compactness in that issue.
13 And then House District 5, which is their Richardson
14 Highway District, this district here, I think raises
15 serious compactness issues and also socioeconomic
16 integration issues.
17 In fact, you're incorporating the Denali
18 Borough all the way down to Valdez. I question very --
19 I don't think this is socioeconomically integrated,
20 given that Denali Borough's incorporation into the
21 district, and I don't think it's compact either. It
22 looks as if, I guess -- particularly, it kind of looks
23 like the district -- old House District 4 in Fairbanks,
24 if you turned it around, that the trial court said
25 wasn't any good. That's a pretty big appendage sticking

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1 out there.
2 BOARD MEMBER MCCONNOCHIE: And then it goes
3 all the way down to Valdez?
4 MR. WHITE: All the way down to Valdez,
5 yeah. And any socioeconomic integration between Valdez
6 and these areas I think is minimal at best and probably
7 would not be found to be relatively, I would not think,
8 socioeconomically integrated or compact.
9 Finally, on the proportionality front, the
10 Kenai Peninsula Borough is split three ways. House
11 District 31 goes in there, which is this one. House
12 District 32 is in there and House District 38 is Kenai.
13 So Kenai is carved up into three -- split
14 three different ways. The excess population in Kenai is
15 about a .3, I think. Isn't that right, Taylor, about
16 .31, something like that?
17 MR. BICKFORD: That's right. We all know
18 that in trial, you know, one of our big issues was "is
19 splitting the Fairbanks North Star Borough twice a
20 constitutional violation?" And here we have a split
21 three ways on the Kenai Peninsula Borough. Some of the
22 same parties involved in that challenge had drawn this,
23 and so in saying that it's unconstitutional to split the
24 Fairbanks North Star Borough twice, yet we split the
25 Kenai Peninsula Borough three ways and there is no

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1 constitutional violations in this plan, that was
2 definitely one of the things that Mike and I were
3 probably a little confused about.
4 But it was something we made note of in
5 terms of proportionality.
6 MR. WHITE: So we know -- and I don't
7 remember, Mr. Chairman, whether yesterday an actual
8 finding was made that the Hickel plan when they voted on
9 it that it didn't -- I think we found, and our findings
10 are adequate, that our Hickel plan did not comply with
11 the -- or complied with the Alaska Constitution, but did
12 not comply with the Voting Rights Act.
13 I don't remember that we have done formally
14 that, but in essence the board needs to make a finding
15 that its plan does not comply with the VRA. And we know
16 that because of the urban population shortfall there is
17 going to be an urban/rural connection that we have to
18 make that's not an issue here.
19 But what the trial -- the Supreme Court has
20 asked this board to do is say, okay, go through the
21 process, draw your constitutional plan, as you have
22 called, the most constitutional plan in the history of
23 the State of Alaska, vet that against the VRA, which we
24 have done, and what that vetting tells us -- then the
25 third thing that the board is required to do is make the

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1 minimal change reasonably necessary in order to comply
2 with the Voting Rights Act.
3 And if you look at this plan -- looking at
4 that as a whole, we know that as a minimum, since we
5 have to add urban to rural, that you're going to have at
6 least one socioeconomic integration population, because
7 you're going to have to be adding an urban area into a
8 rural area.
9 And you're probably going to have at least
10 one compactness issue that you're going to have to not
11 strictly comply in that regard. There is potentially
12 another third area that you might have to do, but at the
13 least two, at the most three.
14 And if you look at this plan and you give
15 the Rights Coalition the benefit of the doubt that any
16 deviations that we see from the Alaska Constitution are
17 required in order to necessarily comply with the Voting
18 Rights Act, I see at least six and possibly nine areas
19 that do not comply with the Alaska Constitution, and,
20 therefore, I couldn't reasonably conclude that this plan
21 would have the least, to quote the Supreme Court, "the
22 least degree possibly reasonably necessary to comply
23 with the VRA."
24 BOARD MEMBER GREENE: You're talking too
25 fast.

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1 MR. WHITE: I'm sorry. I will say it one
2 more time.
3 Basically, at the end of the day, the plan
4 that you adopt, you need to make findings that your new
5 Proclamation Plan has the least degree -- is to --
6 deviates from the Alaska Constitution to the least
7 degree that is reasonably necessary to comply with the
8 Voting Rights Act. That's the exact language from the
9 Supreme Court.
10 We know just from looking at other plans
11 that this plan would not fall into that category.
12 MR. BICKFORD: Mike, if I could touch on one
13 of the points you made about coming from the Hickel
14 plan, because of what Lisa found that at the 33 percent
15 range, as we drew it, that it needed to come higher, we
16 know that the only way to bring a fifth House district
17 higher is to essentially break up what we had drawn as
18 District 37, Horseshoe District, and figure out how to
19 run that into more densely populated Native areas of the
20 state.
21 So like Mike said, you know you're going to
22 have to add urban plus rural in one district, which is
23 one socioeconomic integration problem, and then you know
24 that you're going to be left over with the rest of that
25 Horseshoe District, which is -- that chunk is then

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1 likely also going to have to run into a higher density
2 Native area.
3 And so that would be something like 39 here.
4 And we know that you're going to probably have those two
5 issues no matter what you do, but it's not clear, like
6 Mike said, that you would need nine constitutional
7 violations or six or even any more than two, as a result
8 of the compliance with the VRA.
9 So in looking at this plan, it was -- even
10 if, like Mike said, we assumed that they started from
11 the Hickel process, which they say they didn't, because
12 this is their Hickel process, there is no way to tell
13 that some of the constitutional violations were
14 necessary, given that we really only know of the two
15 major ones that would be necessary, and this plan has
16 more.
17 MR. WHITE: Very well stated, Mr. Bickford.
18 Which plan do you want to go to next? That's the
19 Calista version one. I call it the new North Slope
20 plan.
21 MR. BICKFORD: So for those listening
22 online, this is listed as Calista 329 version one in the
23 packet, if you downloaded it.
24 CHAIRMAN TORGERSON: And a geographic
25 description?

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1 MR. BICKFORD: What's that?
2 CHAIRMAN TORGERSON: North Slope.
3 MR. WHITE: This is the plan that breaks up
4 the traditional North Slope District and runs it down
5 into the Interior and down all the way to McCarthy.
6 We analyzed this plan using the same
7 analytical, three analytical tools as the Rights
8 Coalition plan.
9 This plan, Calista actually started with the
10 Hickel plan that we adopted and then made their changes
11 from that plan, and, therefore, I think that this plan
12 does in fact comply with the Hickel process that we are
13 likely -- the Supreme Court has mandated that this board
14 follow.
15 They solved the urban/rural or the
16 underpopulation of rural areas by taking their
17 population out of Fairbanks, in effect, in a House
18 District 38 that is very close, with some minor changes,
19 to bump up population and some population changes caused
20 by some changes they made in other districts that we'll
21 talk about in a minute.
22 VRA compliance, this plan does in fact
23 appear to meet the required ability to elect. It
24 protects the number of districts that need to be
25 protected. It has five ability to elect or effective

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1 House seats. It has three ability to elect or effective
2 -- excuse me -- five House seats, three Senate seats.
3 One other Senate seat, Senate District R, is
4 lower than that in the Proclamation Plan at
5 41.81 percent, but it is included -- can you scroll back
6 out there, Taylor?
7 It's this district here. It's their
8 Aleutian Chain District, so it does involve that area.
9 It's not exactly the same as before, so they probably
10 are in that mixed area that needs to be somewhere
11 between 35 and 42, so probably 41.81 percent.
12 I'm assuming that that would probably meet
13 the necessary requirements. We go then to their state
14 constitutional compliance. I think that there are a
15 couple of areas that cause potential concern.
16 We start first with House District 40, which
17 I think from the shape of it has some compactness
18 issues. They run from McCarthy all the way up to Point
19 Hope and down into the Interior of Alaska, all the way
20 down to Koyuk in this area.
21 So I think there is compactness issues with
22 House District 40. I also think there is some
23 socioeconomic integration issues with this district.
24 There is some mixture of the Inupiats and the
25 Athabascans, which in the Hickel case they didn't like

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1 20, 30 years ago. Whether that is still the case or
2 not, hard to say, but there is that potential issue.
3 Look at House District 39, which has that
4 same mixture, potential problem, and then obviously just
5 looking at it, maybe, perhaps some potential compactness
6 issues, although you might be able to argue that it in
7 fact does comply.
8 I would suggest that both of these districts
9 they are claiming 39 and 38 would be necessitated by the
10 need to comply with the Voting Rights Act.
11 House District 36 they have changed a little
12 bit from the configuration. They kind of go out here.
13 So it's very similar to our old House district in the
14 Proclamation Plan, except there is some changes here
15 probably done for population reasons.
16 Maybe a potential compactness problem. I
17 think this district will be more like our old Southeast,
18 where you would argue that it is in fact compact,
19 relativley compact, and to the extent it isn't exactly
20 relatively compact, would be necessary under the Voting
21 Rights Act.
22 This plan does keep the Aleutian Chain split
23 with one significant difference. It adds -- I'm
24 probably going to say it wrong, Akutan. It puts Akutan
25 back into the Aleutians East Borough, and, therefore,

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while the Aleutian -- West Aleutians is split from east -- West Aleutians is split from the East Aleutians, the AEB, Aleutians East Borough, is in fact whole now and not split, which I believe, based on some conversations that I have, or information I have been provided, was the major problem that AEB had in -- I know that from their briefing with the Supreme Court and the trial court, that was the major issue that they had.

Of course, the biggest problem here is that, pursuant to the trial court's decision, keeping this Chain split would be neither compact nor contiguous. If you recall, the trial court said running across this amount of open water violated the contiguity requirement.

And our court has clearly said, given just the pure nature of the geographics of Alaska, we have islands all over the place, you have to run some water, and in some instances a great deal of water, but they said trying to connect here up to Bethel like we did and this plan does, violates compactness and contiguity.

The Supreme Court didn't offer any issues on that, but we really didn't -- we didn't raise that issue with the Supreme Court. Ours was justified based on the Voting Rights Act and the pairing of the Native incumbents.

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This plan, other than Senator Kookesh down in Southeast, where the pairing was unavoidable, does not pair any other Alaska Native incumbents. So if we're looking at it and analyzing it under the same rationale as before, that Taylor so eloquently stated a minute ago, if you're looking at starting with the Hickel plan and then looking at what changes you have to make in order to comply, they have potential problems with 1, 2, 3 for sure to me, maybe there could -- 3 and 4, so four potential problems they would -- four departures from the Alaska Constitution, which would be necessitated by compliance with the Voting Rights Act, potentially 36, but I would really count that one in.

But they have four, which I think is not the fewest amount or the least amount of deviations that could be done and still comply with the Alaska Constitution.

MR. BICKFORD: One thing I would also add, Mike, is it seems like 37 and 36 and the splitting of the Chain is almost its own separate issue. We know that that, based on the superior court's ruling, is a constitutional violation, but we would assume that they are doing that in order to protect the Native incumbents and that they would claim is necessary under the Voting Rights Act.

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I at least sort of see that as a separate issue, whereas when you're talking about 39, 40 and 38, those are the districts that are really most directly involved in the unpacking or the splitting up of our Hickel District 37, which under other plans we have seen, and things that we have worked through as a board, we know that you can really do that with only two violations.

But I would think that -- I mean, wouldn't you agree, Mike, that probably that split of the Chain is probably more to do with the Native incumbent than rebuilding the fifth effective House district?

MR. WHITE: I believe -- yes, that would in fact be the sole reason for that split, I think is to avoid the pairing. I guess the same justification would be since they have the Kodiak/Aleutian, if you will, pairing for their third effective Senate seat, you would keep -- you would do the same reasoning.

You would have to take this population out down here, which is mostly non-Native, out of this district in order to bump up the Native VAP in 36 in order to allow you to pair it with 35 down to the third effective Senate seat.

This is the same rationale that we argued on the Proclamation Plan that the Supreme Court would apply

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here. I agree with you in fixing these issues up here. If we just kind of take the northern half of the state, leaving 40 in the configuration that we had, the board has in its Hickel plan and which the board did in its Proclamation Plan, which if you recall we felt strictly complied with the Alaska Constitution, and was not -- didn't deviate.

We didn't need to justify the configuration of House District 40 based on the Voting Rights Act, simply because that's the way that the geography fell and we had enough population within the boundaries that we drew in order to do it.

So basically if you're looking from here up to do the fix, you can do it with two, they have done it with three. And then you have a separate issue here, which would be -- we'll see that in the next Calista plan, version two, which is a good segue to that. That's actually called version one.

CHAIRMAN TORGERSON: On version one did you have time to look into the urban areas of Anchorage, Mat-Su, Southeast to see if there were changes made there?

MR. WHITE: I believe in the Calista plan, since they adopted our Hickel template, that there would have been no changes made in those areas. That's the --

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I took a brief look at it.

I didn't analyze it, but it was my understanding they started with our template, and that's what they told us, and, therefore, those areas would not change.

This is what's called Calista 329 version two. This looks very much like the Proclamation Plan. As with their first plan, Calista started with our Hickel template, and, therefore, I believe it complies with the appropriate Hickel process.

They again solved the rural population shortfall by running, going into Fairbanks to take the population out of there and add it into House District 38.

Under the VRA, it's exactly the same as the first plan. It does meet the numbers, five ability to elect House seats and three ability to elect Senate seats. With the same proviso on Senate District R, which is their Aleutian/Kodiak pairing.

It's lower than the Proclamation Plan, which is the benchmark of course we're using this time.

It's at 41.77 percent, but again it's in that area of the state where that would more likely than not, I believe, based upon my understanding of the VRA and from Lisa Handley's analysis, that would be

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sufficient to create an effective, third effective Senate seat.

So then we look at the state constitutional compliance. And the first problem, of course, is 39, which we have talked about before. This is the fix that you use in order to create compact -- these districts and create the five effective house seats.

House District 39 I think is pretty much like the Proclamation Plan, or even pretty much like the Hickel plan. There might be a few changes along in here, so obviously the same issues we have talked about before; compactness and socioeconomic integration, necessitated by the need to comply with the VRA.

Same thing with 38; socioeconomic integration, possibly some compactness issues, although that challenge has never been made. It has changed a little bit. I think they did some different population changes caused by the need to add Akutan -- or they are putting Akutan back into the Aleutians East Borough. And then they just basically rippled that up through the rest of the state.

37 is where the problem lies with, because they continue to split the Chain. I believe their 37 is pretty much the same. 37, and I think even -- that's 36, isn't it?

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BOARD MEMBER MCCONNOCHIE: Correct.

MR. BICKFORD: All the rural districts here are probably 90, 95 percent the same.

MR. WHITE: I think 38 is a little different. I'm not sure if that's exactly the same up into there, but, once again, the biggest issue with this plan is that they continued to split the Chain, pair it with Bethel after taking Akutan out and adding it back into 36, which then, of course, creates the issue of compactness and contiguity.

The same thing with 36 in terms of its going up into that area. There may be a potential compactness problem just because of a lot of these things there, but I don't think there is much to be said there.

So the bottom line is that in this plan if we're looking at how many times or how many -- where do you have to deviate from strict compliance with the Alaska Constitution, you know, they have done clearly one, two and three, when you believe it's potentially -- you're able to do that with only two.

MR. BICKFORD: You can finish.

MR. WHITE: That's all right.

MR. BICKFORD: Again, it's really the two in this region, along our same reasoning in drawing the Proclamation Plan, is necessitated by the VRA, because

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of the need to, again, unpack this area in order to create the fifth effective House seat.

And then this split-Chain issue, you would assume is being claimed in order to protect the Native incumbent, which is an argument we made at trial, but which is one that the trial court called too speculative.

MR. WHITE: As you know, the Supreme Court provided us with no guidance as to whether that was regarded or not. As we talked about before, that is still potentially an option if the board wanted to make findings and go back and say that's what we need to do.

But as I look at this plan, I see potentially three areas where you don't strictly comply with the Alaska Constitution, necessitated by the drafter's belief that they were required in order to comply with the Voting Rights Act.

And I think the last plan -- you want to do the third Calista plan now, Taylor?

MR. BICKFORD: I think whatever you want to do, Mike.

MR. WHITE: Let's go ahead and do the third one. Calista submitted two Hickel plans, which I have actually looked at, but we're not going to discuss here, because I don't think we need to do.

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The bottom line is I don't think they strictly comply with the Alaska Constitution anyway. Plus it's the board's position, and mine as well, that the board sets the Hickel plan and then people should be working off of that plan.

Calista submitted two of them, and we certainly appreciate that. And then they submitted a plan based upon their Hickel plan, and that's what Taylor is going to take a look at here.

CHAIRMAN TORGERSON: Is that a version three?

BOARD MEMBER MCCONNOCHIE: That's Hickel number one to Calista VRA mod Hickel one?

MR. BICKFORD: It's in very back of the packet. Mike, I actually think that this plan was based on the template, and the reason I say that is because if you look, that's our Southeast District right there.

MR. WHITE: So I misspoke. They used the Hickel plan for that one, so go ahead.

MR. BICKFORD: So what Marcia just said was that it was based on our Hickel plan.

MR. WHITE: As I understand, it's based on your Hickel 1 plan and then they made VRA adjustments. I think from her -- I think if you look at the numbers, there is issues with the VRA numbers, right, Taylor?

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MR. BICKFORD: Yeah, and I'll go over that. I'm going to talk first about the VRA and then about the state constitutional issues, which should be pretty quick, because they are similar to what Mike has already gone over.

If you look at this plan from a VRA perspective, first looking at the House districts, it appears to have the required number of House districts at five. Their lowest House district, which is slightly under Lisa's 41.8 percent standard, is 36 paired with 35. Or I'm sorry.

I'm talking about House districts, is 36, and that is an Aleutian District, so it wouldn't be subject strictly to the 41.8 percent standard, because of the lack of polarized voting in that area.

So clearly that would count as the fifth effective House district. The problem --

CHAIRMAN TORGERSON: Would you reword that? You lost me in a couple --

MR. BICKFORD: Yes. I lost myself.

CHAIRMAN TORGERSON: Let's start over again. Is 36 at what level?

MR. BICKFORD: 36 is district that includes the Chain and some areas in the Bethel and Dillingham region. It is at 41.41 percent Native VAP, which is

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slightly under the statewide average, but given that there is no polarized or low polarized voting in the Chain, this district would work. So that would be the fifth House district.

MR. WHITE: So this district would be a mixed district where you would essentially, what you and I have talked about, we know it's somewhere between probably 35 and 36 and 42. This one comes in at 40, and it runs all the way up to here, doesn't it?

MR. BICKFORD: That is the district, Mike. That Native plus all it's 41.41. So we're good on the House side.

The problem in this plan from a VRA perspective is found on the Senate side. You have a Senate pairing of District 40, North Slope, to McCarthy, which pairs with District 39, which is Bering Straits and part of the NANA Region. And that district is 63.69 percent.

You will see that District 37 plus District 38 is at 63.78 percent. So those two districts are okay. And then you have a district that pairs the Aleutians with Kodiak, and that comes in at 30.79 percent, which even though you have maybe a slightly lower standard with the Aleutians, it's still well below what Lisa has told us that we should be

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considering for that Senate pairing.

So this plan does not have a third effective Senate district under Lisa's standards, and it's Mike and I's belief from going over this, that she would suggest to us that this would not receive preclearance.

And I think that's pretty safe to say. From a constitutional perspective, we have got some of the issues that Mike already has gone over. District 40 has potential socioeconomic integration issues.

District -- also has potential compactness issues. And the reason for that is that it goes from the North Slope and runs down the Canadian border to McCarthy. And then it also includes North Slope with the Interior Athabascan areas, which Mike explained is something the Supreme Court has rejected in the past.

District 39, the same issues that Mike talked about. Actually, I think this district is almost identical as it is in one of the other plans we looked at. You might have some socioeconomic integration issues and some compactness issues.

Moving down, we have District 38. This is where they combine their urban and rural population. Again, they use Fairbanks and so we know you will have a socioeconomic integration issue with this district, but given that urban has to be added to rural somewhere,

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that would be justified.

Below 38 we have District 37, and I didn't see any real issues with this district. I guess you might say that there were some compactness issues. Mike, I don't know if you want to jump in on this one, but to me this looked like it made sense.

MR. WHITE: Yeah. I mean I think that would probably comply. Socioeconomic integration is probably there. It doesn't go into Mat-Su. Denali Borough in here?

MR. BICKFORD: No. It's primarily the Bethel census area, so I don't -- it's not taking any far-flung areas, but I thought maybe a compactness issue, but to me it looks relatively compact.

MR. WHITE: I think you could certainly make that good argument.

MR. BICKFORD: District 36, again, I guess you could say maybe a compactness issue, but we know that any district that includes a Chain is going to look ugly. So as Mike said before, you're probably okay there, just given the geography.

Outside of that, it's exactly the same as the board's adopted Hickel plan. And so given that we adopted the rest of these districts with the state constitution in mind, I didn't feel the need to analyze

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those any further.

What I did do is I made sure that none of them were changed, and it didn't appear to me that they were. So, Mike, I don't know if you want to --

MR. WHITE: So in total then we're looking at, if we're talking about the minimum harm, if you will, that needs to be done to the Alaska Constitution, you got one, you got two, you got three again, and potentially -- but the real main ones are those.

That one might be okay for our purposes, but I think you're looking at two or three there. And it doesn't comply with the VRA.

CHAIRMAN TORGERSON: That's the biggy.

MR. BICKFORD: That's the big one. And the issue here is the three in this instance are all dealing with the reconfiguration of Hickel 37, and we believe that that's more than you need.

This isn't a case where the third has something to do with a Senate pairing. This is all based on reconfiguring that HD 37 area.

MR. WHITE: We want to go the AFFR plan.

MR. BICKFORD: Before Mike talks about our findings with this plan, I mentioned this earlier today, that AFFR had sent us the plan last night.

When I had opened it and Eric had opened it,

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it appeared that the deviation statewide was too high. We contacted AFFR and let them know about it.

They confirmed that the shape files they were sent were correct and that was an issue. When we talked to them after the recess in our board meeting this morning, they indicated that they were having some technical problems on their end and they weren't able to get in and make the adjustments.

So what we offered to do was let Joe McKinnon sit down with Eric, pull their plan up and just took a few minutes and made the change he was going to make anyway in order to bring the plan within 10 percent.

So this plan now is within 10 percent, and it's based on what they sent us last night, along with the changes that one of the representatives made here at the office today.

MR. WHITE: Thank you, Taylor. Starting with the same analytical starting point, the Hickel process, the plan was submitted by AFFR. They did not start with our template. They did not submit their own Hickel plan in saying here is how -- the minimal necessary changes in order to comply with the VRA.

Therefore, I think that under the process this board is required to follow, that would disqualify

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this plan from the beginning. The urban population shortfall they fixed by taking population not only out of Fairbanks, but they also go into the Kenai Peninsula Borough, which we'll talk about in a minute.

So as you can see, they go into the eastern end of Fairbanks. They take this whole big area of Fairbanks North Star Borough here. I assume that Eielson is in that area. They wrap around and go in there. And then they go across here and go into Kenai and take population there out of Kenai.

So they are adding what we consider urban and rural areas, urban to rural in two different areas.

VRA compliance, this plan, based upon my understanding of the benchmark, appears to be retrogressive. That's because it only has two and not three ability to elect or effective Senate seats. Their third Senate seat -- they have five effective House seats or five ability to elect House seats that all meet the minimum, with two potential problems that I'll talk about in a second, which could be problems, but maybe not.

And then you have the third Senate seat is only 39.01, which I think it's -- I don't have those numbers in front of me, Taylor.

MR. BICKFORD: Mike, the third Senate seat

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that we have here is --
MR. WHITE: 39 and 40.
MR. BICKFORD: Right, is District 39 and 40, which is Bethel area with Mat-Su District.
MR. WHITE: So they combine the Bethel District with Mat-Su District and come out of the 39.30 percent, which is less than 3 percent -- more than 3 percent under the standard, and, therefore, we believe that this plan would not have a third effective Senate seat and, therefore, would be considered retrogressive and not pre-cleared by the Department of Justice.
In their House seats, there is some areas where I had some concern. Whether they are actual problems or not, I would want to get some further analysis from. House District 34 -- is that 34 there? I'm looking at this one. That's 35.
House District 35 contains much of the same area as House District 6. It is at 45.31. So it's 3 percent over, but remember House District 6 had to be basically around 50 percent. Is there enough difference between this and House District 6 that 45 would comply? Could be, but I just don't know, and I would want to have an analysis done if this is the plan that the board would want to consider adopting.
MR. BICKFORD: Mike, also the chunk in this

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plan that they took for 35 out of urban, remember both Dr. Handley's advice to the board and the plaintiffs in our lawsuits own Voting Rights Act expert's advice or testimony on the record was that if you're going to add urban population to a rural district, if it's unavoidable, that you should look at adding Democratic areas as opposed to Republican areas, given the higher likelihood that they will cross over in support of a Native-preferred candidate.
So under this plan, they actually go in and take what would traditionally be a more Republican area of the Fairbanks North Star Borough and add it in with a rural district. And given how close this district is to what would be necessary for it to be an effective House district, that would probably cause some concern, some real concerns for Lisa, and I would assume also for the plaintiffs' own expert.
MR. WHITE: If you were going to go with DOJ to a number like this in this district, you would want to have recompiled election results to establish that this House district would in fact be effective, because of what you're adding.
Now, if you add a district that's 60, 70 percent VAP, then the political configuration of that district is not really relevant to the ability to elect

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or effectiveness.
But since this one is at 45, it's actually less than the 46 that we had in our urban to rural solution. It could cause potentially problems. That's why when we were at 46, we took the population from the other side of Fairbanks, which has historically been Democratic.
MR. BICKFORD: One more thing, Mike. Sorry. The focus on the 46 percent number is based on the fact that the statewide average is 42 percent, and in this district encompasses a large portion of Benchmark District 6, which has a higher polarized voting.
And the standard for that district was found to be closer to 50 percent. And so in building a district in this area, we have always taken the approach of kind of splitting the difference and getting it somewhere close to 46 percent, which is a slightly higher standard.
MR. WHITE: The other potential problem in the House area is House District 38, I think has a Native VAP of 34.56.
BOARD MEMBER MCCONNOCHIE: That's a Chain.
MR. WHITE: That is their Chain District. So is it sufficient to comply? It's down around that area where Lisa starts fidgeting in her chair and starts

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going, "I don't know if it is or not, particularly since it's not exactly the same and because they actually go in and take part of the Kodiak Borough here."
BOARD MEMBER BRODIE: No, they go into Homer.
MR. BICKFORD: They go into Homer, which is subject to the 42 percent standard.
MR. WHITE: They also go over into Dillingham and Bethel, which is the same thing. So you're not a pure apples-to-apples comparison in terms of being around the 35 percent.
This would cause me some concern and you would want further analysis on this district, because, given the fact that it's at the bare, bare, bare minimum, it may even be below that, you would want to have recompiled election results to ensure that DOJ would consider this district to be effective.
MR. BICKFORD: I would suggest that given Lisa had serious heartburn and concern about a purely Aleutians District, a district that was almost identical to the Benchmark 37, she had heartburn with that being below 35 percent.
I would think that given you've added some of the other parts of state that are subject to that 42 percent standard, that this would cause her even

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1 greater concern.
2 BOARD MEMBER BRODIE: I thought you had
3 concern with the Valdez District as well, going into
4 Anchorage, wasn't that an issue before?
5 MR. BICKFORD: I think that was the Rights
6 Plan, but we'll check it.
7 MR. WHITE: I don't think that's any VRA Act
8 issue there. We haven't got to state constitutional
9 compliance yet.
10 BOARD MEMBER BRODIE: Oh, I jumped ahead.
11 Sorry.
12 MR. WHITE: We go to state constitutional
13 issues. Whether it's an issue or not I don't know, but
14 they do split the Northwest Arctic Borough here and add
15 it into 39, but that may well be not a problem.
16 I don't believe the Northwest Arctic Borough
17 have sufficient population to support its own House
18 seat. Obviously, it's in another one, so it doesn't.
19 That's just a little different configuration of it. I
20 just wanted to point that out. Historically, that
21 hasn't been done.
22 I don't know whether that constitutes in
23 that area. I guess it doesn't in this district. It's
24 all in terms of the mix of the Athabascans. It doesn't
25 do it in 40. It does do it in 39 however, which causes

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1 potential socioeconomic integration issues.
2 House District 38, given the fact that it
3 crosses over, goes into Kenai, you have some potential
4 socioeconomic integration issues. I would suggest that
5 that might be a real definite issue there, and maybe
6 compactness because of that as well.
7 MR. BICKFORD: Do you mean compactness or
8 contiguity, Mike?
9 MR. WHITE: I would say potentially both,
10 and potential contiguity since you're going over water.
11 That may be close enough, but the fact that the trial
12 court didn't like any amount of -- well, he didn't like
13 open water. That may be a potential issue, the fact
14 that you're crossing to go into there.
15 House District 35, which is that one,
16 obviously, has socioeconomic integration issues in both
17 Fairbanks into that district, with the way that it goes
18 all the way over in the Northwest Arctic.
19 And other issues like that would have -- you
20 have both western and eastern, or eastern and western
21 rural Alaska and Fairbanks there. I suggest that it is
22 not socioeconomically integrated.
23 I probably don't have any compactness issues
24 on there, but I think that more the issue is with the
25 socioeconomic integration. House District 37, the first

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1 time we have seen this. I thought it was a pretty
2 unique approach.
3 Maybe some compactness issues. I mean, they
4 have approved basically that, but does adding that
5 portion on there make it non-compact? I don't know.
6 But it just does raise a potential problem.
7 You have got a long skinny district, but it
8 is all coastal district. It's all united by Native
9 cultures, et cetera. You may not have a compactness
10 issue there, but it does stretch down beyond further
11 than we have seen anything historically.
12 In terms of proportionality issues, the plan
13 splits the Fairbanks North Star Borough two ways, so you
14 a potential proportionality issue there, and takes that
15 district into this part of Fairbanks into House District
16 35, whatever that district is there.
17 And then it also runs this part of the
18 Fairbanks North Star Borough into the Richardson Highway
19 District. It also splits the Kenai Peninsula Borough
20 three ways. It's in House District 38. It's in House
21 District 32 -- 5 under their plan. And then it's also
22 House District 39, has this portion of the Kenai
23 Peninsula Borough.
24 So the Borough itself is split three ways,
25 raising a potential proportionality issue. So as we

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1 have talked about before, using the same analysis,
2 looking at what is -- what the minimal harm or minimal
3 impact to the Alaska Constitution is required, this plan
4 has at least three, and possibly six areas of potential
5 constitutional issues.
6 And, of course, the biggest issue here is
7 the fact that the plan is retrogressive and doesn't
8 comply with the VRA.
9 So I think that's all of our plans that we
10 had to analyze. I would be happy to answer any
11 questions that any of the board members have at this
12 point in time.
13 CHAIRMAN TORGERSON: Well, thank you and
14 Taylor for the work. I know I pushed you a little hard
15 giving you this assignment at 11 o'clock, but you got it
16 done, so that's good. That moves the process along.
17 Other questions of either Michael or Taylor?
18 If there are none --
19 MR. WHITE: One more point, before I go. I
20 just want to make sure -- I mean, if I had more time, I
21 may find other issues. This was a quick and dirty
22 analysis. We think we have got them all. We don't know
23 for sure.
24 And, second, I just wanted to thank all the
25 third parties that have put together plans and put them

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in. I think they have shown us some things we haven't seen before that will help the board and we appreciate them working on what we all know was a very short and hectic schedule.

CHAIRMAN TORGERSON: Definitely we're going to tee one of them up this afternoon, third-party ideas.

Taylor, let's roll right into Fairbanks and see what we have for a fix in Fairbanks. And then I would like to adopt those into, I guess, our amended Proclamation Plan, just so we know we're through with the work.

We can do it in concept and adopt it all later, but I want to get it off the table. Again, right after we finish with Fairbanks, we will be taking about a half-hour break, but then we'll come back in sometime a half hour later, if possible.

MR. BICKFORD: Mr. Chairman, I think we'll have Bob run through the Fairbanks districts, since he drew the first round of them. I made some adjustments to fit them in with our template, and then he came back with me and made some adjustments to that.

CHAIRMAN TORGERSON: Mr. Brodie, you have the floor.

MR. BICKFORD: Jim, do you have this map in front of you? I think Mary probably sent it along.

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BOARD MEMBER HOLM: Yes, I do.

MR. BICKFORD: This is also online, for those that are listening, under, again, the home page. And I think the link is titled "board maps" or something along those lines.

BOARD MEMBER BRODIE: As I recall, the Court had an issue with district, what at the time was District 1 here and District 2 over here being spread out.

I think the first thing Taylor did was at the lower end, took the lower end of the Kenai Borough out of -- I mean the Fairbanks North Star Borough out of the Road District. Is that what you call it, Taylor?

MR. BICKFORD: The Highway District.

BOARD MEMBER BRODIE: The Highway District. So this is the borough line, so it does not get encroached on by the Highway District, so that's maintained.

Up here, the City District was split a couple of different ways, so what I did was at first move all of this district to within the city limits of Fairbanks.

MR. BICKFORD: Bob, should we turn those on, the city limits?

BOARD MEMBER BRODIE: Yeah.

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MR. WHITE: Taylor, is this the TIGER file version of the city limits or the actual ones that now exist?

MR. BICKFORD: This is the census version. We talked about yesterday that issue and also the lieutenant governor's Base issue for precincts. We know that it's okay for the Base issue.

I thought I had the right files for the city, but I actually don't think they are. So if this is ultimately adopted, I would suggest maybe that the board consider authorizing staff to find that fix and make it as part of our technical review.

It wouldn't involve a significant number of people, so it's just something to consider, given that at this point we don't have what we believe are the right files.

BOARD MEMBER BRODIE: So we pretty much put all of this district within the City of Fairbanks. I had first put it up here, which caused this other district to spill out more, but it kind of left an appendage underneath that we questioned whether or not it would look suspicious to have an appendage like that.

So Taylor brought this district down here to try to square it up. District 3 takes in all of the eastern part of the City of Fairbanks down to the river

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and then over to the east to the, I guess is that the Badger area?

CHAIRMAN TORGERSON: Yes.

BOARD MEMBER BRODIE: So pretty much that was the cleanup there. It still incorporates where District 38 comes into the outskirts on the west. That wasn't changed.

And there were a few minor adjustments here and right here, just to make the population numbers come out pretty equal. So we came within, you know, a percentage point or less of making all the districts the same size, less than 1 percent deviation for that.

MR. WHITE: By taking the -- putting all of the excess -- the borough now is split only one way, 38?

BOARD MEMBER BRODIE: Correct.

MR. WHITE: So we took all the excess population that was in 6, put it back within the boundaries of the borough and then incorporated, spread it out over the five districts there, so we have deviations, actually deviations between 3 and 4 percent.

MR. BICKFORD: And that, in our view, was unavoidable, given that we took the chunk out from rural and that we only wanted to split it once.

There was just extra population left over. So what we tried to do is just make sure the range

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between highest to lowest was within 1 percent.
MR. WHITE: So remember it was only our former 4 or former 1 that the Court didn't like the appendage that stuck out there and said we couldn't, when we were going for the lower deviation, said that didn't justify that little appendage, so you had to fix former number 1.
And then that affected the boundaries of both 4 and 5; is that right? And then you had to fix number 2 as well. I assume you will go to that next.
BOARD MEMBER BRODIE: 2 up here stayed pretty much the same. There was a slight adjustment here and here, to pick up a little bit of trading population.
You know, if you move one up, the other has to move out. And as you described, yes, by adding back in what was in the Highway District, it grew all of these by about a percent.
MR. WHITE: So the numbers that we are looking at here do not correspond to the numbers from the Proclamation Plan. If we're going to adopt this as an amendment, I would suggest that we use the same numbering system, rather than having to redo an entire different numbering system, which really isn't an issue.
We know we had fix 1 and we had to fix 2. 1

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and 2 had to be fixed. This is former number 1. It's now fixed. I assume you will go down and show us how you fixed number 2.
BOARD MEMBER BRODIE: It just depends on how we end up pairing. If we pair the two city districts for a Senate seat, they can't be the same numbers, because previously they weren't paired.
So we have to make that decision on how we number them, based on what you ultimately decide for Senate seats.
MR. WHITE: Under the fix, there is no requirement that that be done, because that issue has not been resolved yet is all I'm saying.
BOARD MEMBER BRODIE: Just depends on how you decide to pair those, how you ultimately number them.
CHAIRMAN TORGERSON: Well, I think this is what we want to number them, 3 and 4 or 1 and 2.
BOARD MEMBER BRODIE: This can be 1 and 2 and this can be 3 and 4, however you want to look at it.
CHAIRMAN TORGERSON: Yeah.
BOARD MEMBER MCCONNOCHIE: Do we need to decide on the numbering now?
MR. BICKFORD: No.
CHAIRMAN TORGERSON: No, I don't suppose we

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do, although I don't know why we wouldn't, because we would have Senate District A and Senate District B. I would assume that's what we are looking at.
We don't have to do it now, I guess. But I think one of the goals that particularly Bob had was to put as much of the City of Fairbanks as he could into one Senate district. So that dictates your pairing right there.
BOARD MEMBER BRODIE: They have .89 Senate seat.
BOARD MEMBER MCCONNOCHIE: Good job.
MR. BICKFORD: One little thing that you might notice is up here at the tip of 5 in the college area, you see how there is that little kind of odd shape that comes in. Bob, if you could scroll up. Keep going.
Okay. So the part here from 2 that comes in, that is an unavoidable consequence of the way the block is shaped right here, it's about -- remember this one, Bob. It's about 918 people. And if you zoom out a little bit, it's this whole area.
BOARD MEMBER BRODIE: If you click here, it takes all of that kind of stuff.
MR. BICKFORD: So there is nothing you could do there. You couldn't just add back that little region

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that says "Pearl Creek" or else you would take 900 people and it would ruin your deviations. And there is no way to cleanly break it. It runs all the way up.
BOARD MEMBER BRODIE: The further out you get, the bigger the blocks and the more awkward they become.
CHAIRMAN TORGERSON: Did you look at putting more population into 38 to lower your deviations?
MR. BICKFORD: Mr. Chairman, we didn't, and the reason why is that we were working under the assumption of taking the least amount out of Fairbanks as possible into that district in order to minimize the damage or the -- to minimize the socioeconomic integration problem that might exist, if you see what I mean.
MR. WHITE: And also the effectiveness of the district.
MR. BICKFORD: Right.
CHAIRMAN TORGERSON: That would lower it down, because 38 is still at 46? You didn't do anything to 38?
BOARD MEMBER BRODIE: No.
MR. BICKFORD: This is just Fairbanks.
CHAIRMAN TORGERSON: Okay. And so --
BOARD MEMBER BRODIE: It appears nice and

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clean.
CHAIRMAN TORGERSON: It does appear nice and clean. We talked about there was another -- would you zero in on 4 again, Bob, please?
There was another one here, just while we're talking about it. I think you just followed the boundary. Go up to the top.
There is another little appendage out there, that little thing right below the 2.
MR. BICKFORD: That's another census block.
CHAIRMAN TORGERSON: It's another census block. But you could -- I scoured this, and I know other people have, looking for little, I don't know, whatever the Court wants to call them, but they appear to be necessary, or unavoidable maybe is a better word.
MR. BICKFORD: The block under it, you think you could add that and smooth the shape over, but I don't remember the population, but it was too high.
BOARD MEMBER BRODIE: Too many people.
CHAIRMAN TORGERSON: So back to pairing again, if our thought is to create downtown Fairbanks or City of Fairbanks into as much of one district as we can, then we would be about right.
But we can do that a little later on, if you like, whatever. But I will note that this -- did you

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guys change this from when I had this analysis run?
MR. BICKFORD: On the city?
CHAIRMAN TORGERSON: We're not the full city -- full 8.89 within the city limits?
MR. BICKFORD: When we first ran the analysis, it was based on the last version of the plan before Bob and I sat down with it.
CHAIRMAN TORGERSON: Okay. Never mind.
MR. BICKFORD: So it was 85 percent of that. I think it will actually be higher now because we brought some more areas in.
CHAIRMAN TORGERSON: So you just gave me information that I couldn't use?
MR. BICKFORD: Pretty much.
CHAIRMAN TORGERSON: Thank you for catching me before I said that. Any other questions?
Jim, are you all right with this?
BOARD MEMBER HOLM: I think so. The Senate pairings I guess is the only thing I'm concerned with, but I think downtown Fairbanks thing makes sense to have downtown Fairbanks, no matter what numbers we call downtown Fairbanks and what number we call eastern Fairbanks/Wainwright and that piece should be paired together.
CHAIRMAN TORGERSON: Like I said, if we're

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going to pair the city with two House districts, then we have set our Senate pairings. The numbers are really immaterial.
BOARD MEMBER HOLM: Yeah, I agree.
CHAIRMAN TORGERSON: I think that was the goal of the board that we do keep Fairbanks city, although it's an unsolved issue on whether or not it's a politically salient class different from the North Star Borough, but --
BOARD MEMBER HOLM: We can do it though, and it doesn't seem to make a whole lot of difference, I don't suppose.
CHAIRMAN TORGERSON: I agree. As long as we have it, it's an easy fix.
BOARD MEMBER HOLM: Okay.
BOARD MEMBER BRODIE: I don't know at this time then just to say I believe that this satisfies the Court's concern regarding those two districts, and I guess move to adopt and then we can have a discussion.
MR. WHITE: Did I miss the discussion of how you fixed 2? Remember it isn't these two districts. 4 there was no problem with it.
It was -- this district here, there was no challenge to that under compactness. It was this district here and Highway District 2 that you had to

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fix.
MR. BICKFORD: Mike, the difference though is that it wasn't just the compactness fix, it was also washing 1500 people, that were otherwise taken out of Highway, through the whole Borough.
MR. WHITE: Sure, but you still have to fix the problem with old 2.
BOARD MEMBER BRODIE: We fixed that by squaring that off. Instead of having it run up the road like this, it's now all this here.
CHAIRMAN TORGERSON: It takes in all the bombing range that nobody lives in.
MR. WHITE: No, this district here.
MR. BICKFORD: The corridor has been eliminated.
BOARD MEMBER BRODIE: It used to run longways like that over there.
CHAIRMAN TORGERSON: We took the bombing range and put it in there to make it look fat and sassy.
MR. WHITE: So the borough border comes down right along there? 5 does not go into the borough?
CHAIRMAN TORGERSON: No.
MR. BICKFORD: No. Or 5 does not go out of borough.
BOARD MEMBER BRODIE: 5 is in the borough.

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1 This is the southern eastern borough line here.
2 MR. WHITE: You switched 5. I didn't see
3 that. 5 didn't cross over.
4 CHAIRMAN TORGERSON: It did not. That's the
5 Eielson Farm District that we moved across the river, I
6 think.
7 MR. BICKFORD: That was the portion that was
8 previously in District 6, or part of it.
9 MR. WHITE: Got you.
10 CHAIRMAN TORGERSON: We have a motion to
11 adopt. Is there a second?
12 BOARD MEMBER GREENE: Second.
13 CHAIRMAN TORGERSON: Now let's go into
14 further discussion. I think, since Taylor is a little
15 concerned about having the TIGER files versus the census
16 files, that we should adopt this in concept.
17 I'm not sure that we need to give him the
18 authority to fix things until we adopt the entire plan
19 and then we'll fix the whole thing at one time, but I
20 believe that we should adopt it in concept.
21 I guess I haven't thought through this very
22 clearly, but are we adopting this into what?
23 MR. WHITE: As I understand it, the reason
24 you're doing this is to put it into -- this is the fix 1
25 and 2 that the Supreme Court says if you're going to

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1 come to us for an interim plan using the Proclamation
2 Plan as the interim plan, because you can't get your
3 work done, the work can't possibly be done in time, you
4 have to fix 1 and 2 before you do that.
5 CHAIRMAN TORGERSON: It's also more global
6 than that. If we adopt a final plan, this would
7 probably be what we used for Fairbanks.
8 MR. WHITE: I understand that, but I think
9 you should wait for -- I don't think you need to adopt a
10 second portion, but I don't know if that makes any
11 difference. I think it's easier just to fix it.
12 CHAIRMAN TORGERSON: How about if we just
13 adopt it into the amended Proclamation Plan?
14 MR. WHITE: I think that's the best at this
15 time.
16 CHAIRMAN TORGERSON: We can move ourselves
17 around by motions from one to the other. Just for
18 identifiable purposes, this would be, I guess if I
19 wanted to keep track of it, it would be amendment number
20 one to the Proclamation House Districts.
21 And then as we go further with whatever
22 changes we do for the rural districts, they would be
23 other amendments. Probably too technical. Don't ask
24 technical questions. Go ahead. I'm getting too tired
25 to answer.

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1 MR. BICKFORD: I think that this was based
2 on the -- this probably is technical, but this was based
3 on the Hickel plan, so this might be an amendment to the
4 adopted Hickel plan as opposed the Proclamation.
5 CHAIRMAN TORGERSON: Is this not the final
6 action we're taking on Fairbanks?
7 BOARD MEMBER MCCONNOCHIE: Yes.
8 CHAIRMAN TORGERSON: Or does somebody think
9 we're going to open this back up again? If that's the
10 case, then I would -- I can't see that being the case,
11 unless we have to wash out 38 differently or something
12 than what we had before.
13 MR. WHITE: I thought that -- Mr. Chairman,
14 maybe I misunderstood.
15 First of all, I think in order to comply
16 with the Supreme Court order, you need to make a finding
17 that looking at these districts and what they've done,
18 that they are now relatively compact and meet the Alaska
19 Constitution.
20 I thought you were doing this for purposes
21 only for the potential interim plan. I don't know if it
22 makes any difference --
23 CHAIRMAN TORGERSON: I don't think it does.
24 I'm not working here for an interim plan. So let's be
25 clear about that. I want to get a plan done, but if we

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1 have to, this is a fix for Fairbanks.
2 However we want to get out of this to that,
3 then we can do that. And I'm not sure that the Supreme
4 Court said we had to have findings on constitutional
5 issues within boroughs.
6 I think he was referring to more where you
7 deviate from Alaska Constitution is my thought on what
8 he wanted, but we can make findings on this.
9 I find that those are pretty darn compact.
10 Good job, Bob. But I don't know what --
11 MR. WHITE: We have to -- at the end when we
12 get done and you adopt your plan, then I have to go and
13 submit to the Court, the trial court, a plan saying,
14 "Here, we have complied with the Alaska -- with the
15 fixes -- the Supreme Court order and your order about 1
16 and 2, and here is why we have done that."
17 So maybe the explanation on the record you
18 have is sufficient. I don't think it causes a whole lot
19 of additional work in order just to simply make a
20 finding that you reviewed these plans and that you
21 believe that it fixes the problems that the trial court
22 said existed in the compactness of Proclamation Plan 1
23 and 2, and that based upon review of counsel and the
24 opinion of the board, those fixes are in fact compact.
25 CHAIRMAN TORGERSON: I'm still not sure in

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my mind that we need to make findings on amendments to the portion of the plan that is not using the VRA to deviate from the Alaska Constitution, but we can always put anything on the record.

MR. WHITE: Humor me.

CHAIRMAN TORGERSON: I am humoring you. We did away with the Kawasaki finger, or whatever they called it, right?

And it's now collapsed and redrawn. And we also combined the Eielson Farmer into 5-C, which -- and moved the bombing range into that district, which made it not reflect a highway corridor.

BOARD MEMBER MCCONNOCHIE: Wow, I'm impressed.

CHAIRMAN TORGERSON: I read the court case. We have a motion and a second. We'll adopt this into the -- we'll call it the amended Proclamation Plan.

Is there further discussion? Nothing else we need to add to the record?

MR. WHITE: I think that's sufficient.

CHAIRMAN TORGERSON: We'll do a roll call vote, please.

MR. BICKFORD: John Torgerson?

CHAIRMAN TORGERSON: Yes.

MR. BICKFORD: PeggyAnn McConnochie?

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BOARD MEMBER MCCONNOCHIE: Yes.

MR. BICKFORD: Marie Greene?

BOARD MEMBER GREENE: Yes.

MR. BICKFORD: Bob Brodie?

BOARD MEMBER BRODIE: Yes.

MR. BICKFORD: Jim Holm?

BOARD MEMBER HOLM: Yes.

CHAIRMAN TORGERSON: And so by five yea to zero nay, the board has adopted amendment number one to the amended Proclamation Plan, referred to in this case as the Fairbanks fix for House District 1 and 2.

Now, at this time, unless anything else to come before us, we will take a recess until 4:30 or thereabouts, so that we can -- Taylor can finish up his plan on working on the Bethel and Mat-Su configuration, and then the Bethel to Anchorage configuration.

Anything you would like to bring up at this time? Mr. Holm, we'll call you back at -- I'm not sure that -- we haven't been very accurate on our half-hour breaks, so this might be a little bit longer than that.

So we'll call you back and tee it up when it's time to move forward.

BOARD MEMBER HOLM: Thank you.

CHAIRMAN TORGERSON: We will stand in recess. The time is 4:01 p.m.

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(There was a break.)

CHAIRMAN TORGERSON: We will call the meeting back to order. The time is 5:31. Here in the room we have Member Brodie, Member Greene, Member McConnochie, Member Torgerson. Member Holm could not join us tonight.

Our original intent was to review the plans that we call the AFFR modified PAM-E Plan, which was basically looking at running the district from Bethel to Mat-Su, and also a district from Bethel to Anchorage.

Our hope was to have the plans drawn so that we could review them, but we're running into a little bit more complications than the time allows.

So we are going to adjourn the meeting just real quickly. We will start back up tomorrow morning at 10 a.m., and hopefully, that's our starting point will be the plans.

Staff will work on the plans through the night again, and then we'll have something to present -- hopefully, have something to present to the board tomorrow so they can look at it.

So is there anything else to come before us tonight?

BOARD MEMBER MCCONNOCHIE: No.

CHAIRMAN TORGERSON: I apologize for those

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that might have been waiting on the teleconference to listen in on this, but we just don't have anything prepared.

So at this point in time the board will stand adjourned until 10 a.m. tomorrow.

(Off record.)

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CERTIFICATE

I, SONJA L. REEVES, Registered Professional Reporter and Notary Public in and for the State of Alaska, do hereby certify that the proceedings were taken before me at the time and place herein set forth; that the proceedings were reported stenographically by me and later transcribed by computer transcription; that the foregoing is a true record of the proceedings taken at that time; and that I am not a party to nor have I any interest in the outcome of the action herein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 2nd day of April 2012.

_____

SONJA L. REEVES, RPR
My Commission Expires 8/7/15

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In the Matter Of:

ALASKA REDISTRICTING BOARD

BOARD MEETING

March 30, 2012

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ALASKA REDISTRICTING BOARD

BOARD MEETING

March 30, 2012

10:02 a.m.

411 West Fourth Avenue, Suite 302

Anchorage, Alaska

A-P-P-E-A-R-A-N-C-E-S

BOARD MEMBERS PRESENT:

John Torgerson, Chairman
PeggyAnn McConnochie
Robert B. Brodie
Marie N. Greene
Jim Holm (via speaker phone)

STAFF PRESENT:

Taylor Bickford
Jim Ellis
Eric Sandberg

ALSO PRESENT:

Michael D. White
PATTON BOGGS, LLP
601 West 5th Avenue, Suite 700
Anchorage, Alaska 99501

Randy Ruedrich
Steve Aufrecht
Marcia Davis
Paul Gronholdt
Joe Levesque
Leonard Lawson
Joe McKinnon
Steve Colligan
Laura Tanis
Jon Walsh
Ernest Weiss
Andy Varner

Court Reporter:

Sonja L. Reeves, RPR
PACIFIC RIM REPORTING
711 M Street, Suite 4
Anchorage, Alaska 99501

PROCEEDINGS

CHAIRMAN TORGERSON: We'll call the meeting to order. The time is 10:02 a.m. Have a roll call of the members, please.

MR. BICKFORD: John Torgerson?

CHAIRMAN TORGERSON: Here.

MR. BICKFORD: PeggyAnn McConnochie?

BOARD MEMBER MCCONNOCHIE: Here.

MR. BICKFORD: Marie Greene?

BOARD MEMBER GREENE: Good morning.

MR. BICKFORD: Bob Brodie?

BOARD MEMBER BRODIE: Here.

MR. BICKFORD: Jim Holm?

BOARD MEMBER HOLM: Here.

MR. BICKFORD: All board members are present.

CHAIRMAN TORGERSON: All board members are present, staff is available and we're represented by counsel. Let's go to the next piece, which is the approval of the agenda.

BOARD MEMBER MCCONNOCHIE: Move for approval of the agenda.

BOARD MEMBER BRODIE: Second.

CHAIRMAN TORGERSON: Really there is not much of an explanation on here. For those on

teleconference that haven't received this, we have presentation of draft plans, we have adoption of findings.

After that, we need to adopt findings for the rural areas of the state where we deviated from the constitution. And then the adoption of the Proclamation Plan, if we get that far. And then executive session, if needed.

Is there any discussion on the motion to approve the agenda? Are there opposition? So not hearing any, the agenda is before us.

What we're going to do is Taylor is going to present a couple of plans that he worked on last night. We will look at those and scrutinize the plans, as we do all of them.

It is my intent that after we get through the presentation of plans we will take a recess. Any additions or -- not corrections necessarily, but anything we would like to change on the plans, we will do so during the presentation, and then we will send these plans down to Dr. Handley.

That's the reason for the recess. Dr. Handley is standing by or will be sometime this afternoon, and she has thought that she could get us a quick turnaround on her evaluation of the plans.

So it's my intent, unless the board just absolutely throws these out, that we would be sending down the Bethel/Anchorage configuration, just so we can get an opinion, and also whatever we're calling the -- I think we're calling maybe the other one -- did you name it, probably just the modification to the Proclamation Plan that.

MR. WHITE: The best plan ever.

MR. BICKFORD: What Mike said.

CHAIRMAN TORGERSON: So we'll find an acronym between now and the time we come back on, but anyway, so Taylor -- the recess, I'm going to guess that we might go until 1:30 for a recess.

So it will be a relatively lengthy one, but when we come back, then we'll start making findings and deal with that, until we get the word back from Dr. Handley, which, again, we were assured would be sometime this afternoon.

Again, this is one of the moving pieces that this board doesn't control, so I can't give you an exact time, but we'll do our best. So with that, Mr. Taylor.

MR. BICKFORD: Thank you, Mr. Chairman. Before we get into the plans, I'd just like to make one correction for the record.

We presented the AFFR plan yesterday, and

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1 Mike White and I had indicated that they did not start
2 with the Hickel process. We had not seen a letter that
3 was sent to us that morning, and I just want to clarify
4 this for the record so the record is clear that AFFR, in
5 presenting their plan to us yesterday, has claimed that
6 essentially the plan they gave us yesterday was their
7 Hickel process and that they didn't need to start with a
8 separate Hickel process, similar to what the Rights
9 Coalition process had said, that their plan didn't have
10 any constitutional issues and that they had started with
11 the Hickel process.
12 So I didn't want to let that go without
13 fairly correcting it to reflect what their intent was.
14 Mike, maybe you can just comment on what that means or
15 if that changes anything from our analysis yesterday.
16 My assumption would be that it wouldn't
17 because of the constitutional problems we found, but I
18 don't want to make that assumption without your gracing
19 it.
20 MR. WHITE: I would agree with the
21 assumption, Taylor. I think that if your claim is that
22 you start with a plan that's constitutional and then
23 make changes to comply with the Voting Rights Act and
24 then give us a plan that has constitutional issues, you
25 can fairly assume that the Hickel plan -- plus, I would

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1 have serious questions whether or not or Supreme Court
2 would accept that.
3 I think its dictates to this board are
4 clear. They say, "Give us a plan." That means to me
5 they want to see an actual plan. I think they want to
6 see a process like we have followed.
7 Given that, we don't know for sure, that's
8 why we continued on with the Rights Coalition plan, we
9 continued to do the other analysis.
10 I know that yesterday an AFFR representative
11 also indicated he thought there was an error in what we
12 said about their third Senate pairing. Taylor, correct
13 me if I'm wrong, but we in fact had Eric check that and
14 that number of 39.30 percent is correct.
15 Is that right, Eric?
16 MR. SANDBERG: Yes.
17 MR. WHITE: Under that analysis there is
18 nothing to change in terms of whether or not the opinion
19 that the third Senate seat is not effective and,
20 therefore, the plan would not meet VRA compliance.
21 CHAIRMAN TORGERSON: Can we be more specific
22 on what that district was? I think it was the one that
23 went into Mat-Su.
24 MR. SANDBERG: The Bethel/Mat-Su.
25 MR. BICKFORD: That was a 39 percent

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1 district. Eric, could you give a really short synopsis
2 of what the issue was yesterday, just for the record?
3 MR. SANDBERG: Basically, AFFR came to us
4 after the meeting and said it looked like, just based on
5 the numbers in the spreadsheet, that we had calculated
6 the voting range wrong, but they were going off total
7 population, not voting age population.
8 MR. BICKFORD: So you have done the analysis
9 and you can confidently say that the 39 percent was
10 correct?
11 MR. SANDBERG: Yes.
12 CHAIRMAN TORGERSON: What was our target for
13 that region?
14 MR. BICKFORD: 42 percent, Mr. Chairman.
15 MR. WHITE: And therefore it's my opinion,
16 and Taylor's input, that the plan does not meet --
17 retrogression would not comply.
18 CHAIRMAN TORGERSON: Did we actually get a
19 letter or was it an e-mail?
20 MR. BICKFORD: We did get a letter from
21 AFFR, so we'll enter that into the record.
22 CHAIRMAN TORGERSON: Maybe we could
23 distribute that later this afternoon.
24 MR. BICKFORD: I also, Mr. Chairman, before
25 I get into the plans, been asked by Board Member Greene

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1 to share an e-mail with the board that was received just
2 probably about 10 minutes ago or 15 minutes ago.
3 You have the e-mail in front of you. And,
4 Marie, I don't know the position of the individual who
5 sent it, so if you could, could you explain who this is
6 and essentially what they're saying?
7 BOARD MEMBER GREENE: Thank you, through the
8 chairman. This morning just before we started, I
9 received an e-mail from AVCP's president, Myron Naneng.
10 And it states that, "AVCP and Calista stand together in
11 objection to pairing of rural senators.
12 "It would create the misrepresentation of
13 and will diminish rural representation." And I think
14 this is a response after what we covered yesterday
15 looking at -- I mean, for sure the discussions we have
16 been having all along, Mr. Chairman, about not pairing
17 Kodiak senator with Bethel.
18 And then, you know, I appreciate this
19 feedback. And this is exactly what I hope we'll
20 continue to get, up until we make the final motion to
21 approve our amended Proclamation. Thank you.
22 CHAIRMAN TORGERSON: Marie, just so the
23 record is clear, AVCP is Alaska Village Council
24 Presidents?
25 BOARD MEMBER GREENE: That's correct.

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CHAIRMAN TORGERSON: And that basically is the lower Kuskowim region.

BOARD MEMBER GREENE: They're the nonprofit corporation.

CHAIRMAN TORGERSON: Thank you.

MR. BICKFORD: So with that in mind, Mr. Chairman, I'm going to show two new options that try to avoid any kind of rural senator pairing, while still achieving our Voting Rights Act benchmarks and putting the Chain back together in order to diminish the harm done to the Alaska Constitution.

So I have two options I want to show. Before I show those, I want to talk globally kind of about what I did yesterday. We had seen some proposals from the Rights Coalition and AFFR that had a Bethel to Mat-Su Senate pairing. And we were kind of excited by that, because it looked like it was an option we hadn't considered before.

And so I looked at our Hickel baseline with kind of what we had been doing yesterday with the PAM-E districts incorporated in order to pair the Bethel District with the Mat-Su.

And there were two problems with it. The first was that district as it's drawn contains a senator, an incumbent senator in the Mat-Su.

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CHAIRMAN TORGERSON: The Hickel plan?

MR. BICKFORD: Correct.

MR. BICKFORD: It was District 7 under the Hickel plan, which is also the same as District 7 under the Proclamation Plan, contains an incumbent senator.

Obviously, our goal has been to not pair the Bethel incumbent senator with another incumbent, and so we started off with that issue. What I did was I just built the district without worrying about that at first, just to see what the percentages looked like.

And what I found was I could not get the Senate pairing any higher than about 42 percent Native VAP. In talking with Mike about that, we both had some real concerns, given the out-migration in rural and some of the heavier growth in the Mat-Su, that we might run into some issues with that kind of pairing of those numbers.

It did meet Lisa's target. So that was the first issue. The second issue was the incumbent, and so I had Eric -- I worked off Eric's computer and had Eric put the incumbent files on so that I could see, can we remove the incumbent senator from that district.

And I could tell you that after about two hours of massaging it back and forth, I got very, very frustrated and kind of had a moment of -- kind of a low

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moment where it just, it didn't seem possible. At least it just was very uncomfortable, kind of going through this process of how do we carve blocks around this person to take them out of this district and then what does that do.

And what it would have done was essentially fundamentally change the entire Mat-Su districts. So at that point, I just -- I hit a wall. I wasn't able to adjust the plan to do what we needed it to do.

And I decided to look at some other options. And so what I did was I worked on what we discussed yesterday with the Bethel to Anchorage Senate pairing, and I'm going to show you that today. And I also worked on a new drawing for rural that basically started with something similar to the Proclamation districts and tried to adjust it to fix some of our constitutional issues and to avoid a pairing, and also meet our VRA numbers.

So I just wanted to give you a sense of what I worked on last night, why I'm not showing you a Mat-Su option, and what I'm going to be showing you.

I think we'll start with the Bethel to Anchorage option, Eric, if you can cue that up.

MR. SANDBERG: It's up.

MR. BICKFORD: So the board, you have this

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in front of you as a map. It's entitled "Bethel to Anchorage." It's just an informal name we have given it. Jim, you should also have this by now; is that right?

BOARD MEMBER HOLM: I do. I have a reference though of S45, yada, yada, yada. Do you know which one it is?

MR. BICKFORD: It's one of the ones that was sent this morning. It should say "Bethel to Anchorage" on the map.

For those listening online, you can also download this off the website. If you go to the home page under today's meeting reminder, you will be able to find this map, and it's also entitled "Bethel to Anchorage."

You're not going to be able to see the Anchorage portion, but I'll describe it, and I think in concept you should be able to follow.

What I did with this map, was this is a map that started with the Hickel plan, and I'm going to talk about Districts 39 and 38 to start off with. We discussed this a little bit yesterday, but the real issue we're facing in working off the Hickel map is we had that Interior Horseshoe District that was in the low 30 percent Native VAP range, which Lisa told us was far

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too low. It's not something that surprised us particularly, but we got the confirmation from Lisa that that was in fact retrogressive, and that a fifth district would need to be built in some way.

In working through that, the best way to explain what has to be done is you have to take that district as drawn and figure out a way to break it up to run it into higher density Native areas in order to unpack those areas so you can raise the percentage for the district.

So 39 is -- or something close to 39 or something in the same concept of 39 is really necessary in order to unpack that Interior District, so that's step one. Step one is to run the bottom of the district up to the North Slope and run it over into Nome in order to unpack that high-density Native area.

There is really no other way to do it. And so once you have done that, District 38 sitting below it, we know that we have to add urban to rural somewhere. In the Hickel plan, the board had decided to choose Fairbanks as the most constitutional and best option for doing so.

And so District 38 is similar to the district that, through the trial process, we have recognized is probably not socioeconomically integrated,

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but given the demographic realities the board is facing, we know that that's unavoidable, that you're at least going to have one district that combines urban and rural.

And then, again, because we're breaking up District 37, you need to run it into a higher density Native area. So 39 and 38 are an unavoidable result of following Lisa's advice and building a fifth effective House district.

So once you have done that, you're left with basically everything south of Wade Hampton, you're left with the Bethel census area down through the Chain. And you need to build two more effective House districts in that area, and then you need to do in such a way that the two districts can be paired, hit the VRA requirements and also avoid the Senate pairing of Senator Hoffman with Senator Stevens or whoever else.

So that's been our goal is first doing 39 and 38 to deal with the issue of the fifth effective House district, and then dealing with what's remaining to fix the issue of the third effective Senate district - which Lisa said was missing from our plan - and doing it in such a way that the constitution is minimally harmed and that we meet our Native benchmarks and that we don't have an incumbent Senate pairing.

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So that's been the goal, and here is one idea and one thing I worked on last night to do that. What I essentially did was I ran -- I built the Bethel District and the Aleutians District so that the Aleutians were put back together, and did that similar to what we have seen from our drafts, similar to what we have seen from some of the third parties.

We know that under this kind of a configuration, we know that we cannot pair Kodiak with the Chain, because the percentage simply isn't high enough, so that's not an option. And we know that if we were to run Bethel to be able to connect with Kodiak and pair it that way, we have got the problem of an incumbent pairing.

So following kind of our goals here, that's really not an option either. What you're left with is, okay, where do you take the Bethel House District in this case? And I explained why I stopped with the Mat-Su project, and now I'm going to show another idea we had, which was running the Bethel District in to connecting with an Anchorage District.

And what I looked for was -- the closest district distance-wise would be District 19, which is west Anchorage, but that district has an incumbent senator in it, so that really wouldn't fix our problem.

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The next closest open House district that I found was District 16, which is sort of a midtown, sort of a west Anchorage, little parts of what you might consider downtown district in Anchorage.

It touches the water here at the Inlet by Westchester Lagoon, and it has a Native percentage that is similar to the Kodiak range at about 14.84 percent. So, again, this is just one option we wanted to look at.

MR. WHITE: That's midtown.

MR. BICKFORD: It's basically midtown.

MR. WHITE: So you're putting me with Bethel.

MR. BICKFORD: So we targeted Michael White.

MR. WHITE: I have no problem with that.

MR. BICKFORD: I'm not going to editorialize this. I think we can all see that this is -- you're jumping over a lot of open water to get there.

I would assume it is probably nobody's first choice of how you do a Senate pairing, but, again, we know that we're dealing with some hard choices here.

And we have looked at jumping the water and going to Kodiak in the past and now we're looking at another option. Soo if you were to do this the Senate district's VAP would be 43.05 percent. That meets our target.

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1 Unlike the Mat-Su, it didn't require us to
2 sort of start carving around incumbents and shifting the
3 whole plan. You know, when I was looking at Mat-Su, it
4 looked like you would probably have to split the city of
5 Wasilla and do some strange things. And so you didn't
6 have to do that.
7 It hits the Native percentages. You will
8 see that under this plan there are three effective
9 Senate districts at 43.05, 44.01 and 64.30. I would
10 imagine that that would hit Lisa's benchmarks.
11 There are five effective House districts.
12 The only district that's under the 41.8 percent
13 benchmark is District 37. It's at 41.52, but District
14 37 includes a large, or includes all of the Aleutian
15 Chain and is very similar to Benchmark District 37,
16 which Lisa found has less polarized voting and,
17 therefore, has a lower standard than 42 percent. So I
18 would imagine that that district would also be good.
19 So this plan accomplishes our goals of
20 figuring out what to do with the Bethel through
21 Aleutians region, and coming up with House districts
22 that work and a Senate pairing that hits the numbers
23 without splitting the Chain and without pairing the
24 incumbent.
25 Are there other problems associated with it?

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1 Well, I would think that you're making a pretty big jump
2 to Anchorage, and I'll leave it at that, in terms of
3 editorializing it before the board has to a chance to do
4 that and maybe Mike has a chance to.
5 If I'm looking at an issue, that's clearly
6 the issue. You didn't have to do anything too
7 significant in 36 or 37. There is no obvious
8 constitutional issues there. There is no Voting Rights
9 Act issues.
10 So the real issue would be that jump to
11 Anchorage. I would be happy to answer any questions
12 about this.
13 CHAIRMAN TORGERSON: Is Dillingham in 36?
14 MR. BICKFORD: I believe, like Eric said,
15 that it is in 37.
16 BOARD MEMBER MCCONNOCHIE: 37.
17 MR. BICKFORD: So Dillingham in this is in
18 37. You don't have any pairing of Native-preferred
19 candidates on the House side either.
20 CHAIRMAN TORGERSON: I thought we talked
21 about trying to connect Fire Island, nobody living on
22 it. You still have that in District 19.
23 Does that make it look any better on the
24 across the water jump, or would it hurt it?
25 MR. BICKFORD: I can certainly just do that

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1 and we can see what it looks like.
2 CHAIRMAN TORGERSON: I know there is a
3 relatively large space of water, but I thought that Fire
4 Island might get us a little bit closer.
5 MR. WHITE: But here we're talking a few
6 miles, not hundreds of miles.
7 MR. BICKFORD: So Fire Island has been
8 connected with that Anchorage district now, so I guess
9 maybe that makes your sea voyage a little shorter.
10 CHAIRMAN TORGERSON: Did you look at trying
11 to get that little connection to the water up here a
12 little wider or would that get us to redrawing Anchorage
13 if we did that?
14 MR. BICKFORD: I didn't, Mr. Chairman, and
15 the reason why is because this is all pretty densely
16 populated area. And in order to increase your exposure
17 to the water, you would have to probably redraw
18 Anchorage. Maybe --
19 CHAIRMAN TORGERSON: And this is currently
20 -- there is no incumbent senator in that --
21 MR. BICKFORD: That's right.
22 CHAIRMAN TORGERSON: But we would have to
23 re-pair Anchorage to some degree?
24 MR. BICKFORD: If you were to go with this
25 option, you would unavoidably have to reconfigure the

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1 Anchorage Senate districts. And I would say, yes, the
2 impact would be as follows: The first thing you would
3 have to do is, given that Anchorage currently pairs one
4 of its districts out to the Kenai, that District 27
5 would pair back into Anchorage.
6 What the result of that would be would be
7 that the Kenai Peninsula Borough would then pair with
8 Kodiak, because Kodiak is now under this plan not being
9 paired with rural.
10 CHAIRMAN TORGERSON: Go down and show that.
11 MR. BICKFORD: So the impact would be Kodiak
12 has got to go somewhere. I'll just go there. I think
13 logically it follows the best.
14 Now Kodiak has to go somewhere. It would, I
15 would think, most logically pair with the Kenai, which
16 would then leave two more districts in the Kenai, which
17 would pair together.
18 That would force District 20 -- and stop me
19 if I'm moving too fast. I probably am. Does that make
20 sense about the Kodiak to Kenai issue?
21 MR. WHITE: That's what it is now, right?
22 Kodiak is not paired with Kenai?
23 CHAIRMAN TORGERSON: No. The current 29 and
24 30 are paired and 28 and 27 are paired.
25 MR. BICKFORD: I think what Mike means is

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1 the Benchmark, right, Mike?
2 MR. WHITE: The plan that's in place right
3 now, the 2002 plan.
4 CHAIRMAN TORGERSON: Yeah. Right.
5 MR. BICKFORD: So Kodiak would pair with
6 Kenai, because it's got to go somewhere. There is now
7 two districts left in Kenai. Those would pair together.
8 District 27, which under our original plan is paired
9 with the Kenai, would then pair back into Anchorage.
10 And then you have -- and I haven't looked at
11 the impact of what happened in the rest of Anchorage,
12 but then you would clearly have some -- you would have
13 to relook at the Senate pairings in Anchorage.
14 CHAIRMAN TORGERSON: So that's an impact we
15 would have if we adopt that?
16 MR. BICKFORD: That's right.
17 CHAIRMAN TORGERSON: One of the negatives, I
18 guess.
19 BOARD MEMBER GREENE: Say that again, Mr.
20 Chairman.
21 CHAIRMAN TORGERSON: Because we have already
22 agreed on pairings, we would be changing those around
23 some. Change sometimes is viewed different ways.
24 MR. BICKFORD: So, Michael, in your opinion,
25 is that too far a jump from across the water to -- is

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1 that going to raise some constitutional issues?
2 MR. WHITE: As we have talked about before,
3 the Court has said some amount of open water is allowed.
4 Here we're dealing with a Senate seat, not a House
5 district, as the Proclamation Plan does where it splits
6 across open water.
7 And the standard under -- the constitution
8 says that House districts must be contiguous, compact
9 and relatively socioeconomically integrated. Senate
10 seats must be contiguous as nearly as practicable.
11 So I think that there is less -- that "as
12 nearly as practicable" language means that it's a little
13 more flexible in the standard.
14 I don't think across the Inlet is -- I mean,
15 that's, what, it can't be more than 20 miles.
16 CHAIRMAN TORGERSON: Yeah, probably ten or
17 so to Fire Island. Maybe 15 all the way across. I
18 don't know. I'm just guessing.
19 MR. WHITE: We're not talking about 1,000
20 miles, like the House seat was, or even 100 miles. The
21 Inlet just isn't that wide.
22 CHAIRMAN TORGERSON: Isn't there a
23 precedence when the 1990 board paired Kodiak with
24 Southeast?
25 MR. WHITE: There was, before there was any

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1 constitutional amendment and there was no contiguity
2 requirement, I do believe. There is that precedent. I
3 cited that to the trial court, if you remember, when we
4 argued up in Fairbanks in December.
5 I think, I'll have to go back and check, but
6 I think he comments on that in his opinion on that
7 issue. But there is that precedent, yes.
8 CHAIRMAN TORGERSON: So you don't think --
9 it could be an issue, but it's not --
10 MR. WHITE: To me, if you were only talking
11 about going across Cook Inlet, that's not the same issue
12 as going across, quote, unquote, "open seas."
13 CHAIRMAN TORGERSON: Taylor, can you go this
14 way with your map to the left? What about this leg
15 coming down here, do we have a contiguity issue,
16 compactness -- not contiguity, but compactness.
17 MR. WHITE: I think you're looking -- that
18 was done for population reasons in order to get that
19 population up. Is that right, Taylor, that combination
20 of the two, the way that you have to configure these?
21 MR. BICKFORD: That's correct, Mike. I
22 would suggest that some of this awkward shape could be
23 worked out on technical review.
24 MR. WHITE: The standard is relative
25 compactness. The fact that it does come down like that,

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1 you kind of might have a little bit of concern. It's
2 clearly done for population reasons, and the whole idea
3 behind it is you had to move up to 37, you were trying
4 to get its population up?
5 MR. BICKFORD: I can say, not from a legal
6 perspective, but just a practical perspective of having
7 gone through this drawing process as much as we have,
8 that when you get into rural Alaska, you almost have to
9 throw compactness out the window.
10 I mean, it's not -- you're not in an urban
11 area, you're not pulling little square blocks and
12 building nice-looking shapes. It's just really not
13 realistic to expect perfect compactness.
14 I mean, I think if we look at the Benchmark
15 Plan it's clear that I don't know how House District 6
16 can be called compact, but it's just a function of the
17 geography. So it could be smoothed over, I think.
18 And, you know, given that what we have got
19 in front of us at this point for dealing with the Senate
20 pairing to avoid an incumbent pairing, we have Bethel to
21 Mat-Su, Bethel to Kodiak, and Bethel to Anchorage.
22 And I can't imagine that any of those are
23 easy choices or good choices, but they are the choices
24 that are there.
25 MR. WHITE: Right now you have 36 at

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1 negative 5.10?
2 MR. BICKFORD: Yeah. Some of the -- or one
3 of the districts does go under the negative 5 percent
4 range, but we're still well within the 10 percent
5 statewide range. So it's a 9.1 percent overall plan
6 deviation, which isn't very far off from what our
7 original Proclamation Plan was.
8 CHAIRMAN TORGERSON: Okay. Other questions?
9 Let's take a look at the other one that you worked on,
10 and then we'll hop back and forth.
11 We'll just kind of get them both out so we
12 can be thinking about them back and forth. If any other
13 questions come up, we can go back and review those.
14 MR. BICKFORD: Okay. This plan is in front
15 of the board, both on the projector and as a map that I
16 think is labeled 330 number one. This map is also
17 online for anybody who is listening on the
18 teleconference. You can get it from the website.
19 And I took a different approach with this
20 map.
21 CHAIRMAN TORGERSON: There is some Kleenex
22 right there. We've got the man on overload; he's
23 getting a nosebleed.
24 I didn't get a map on the one you're talking
25 about.

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1 BOARD MEMBER MCCONNOCHIE: I got a map, no
2 numbers.
3 CHAIRMAN TORGERSON: I have nothing. We're
4 going to take probably about a five-minute at-ease while
5 Taylor takes care of his nosebleed, but we'll stand in
6 recess for five minutes.
7 I'm going to stay online so the mics are
8 still hot, but we'll mute the main phone. Thank you.
9 (There was a break.)
10 CHAIRMAN TORGERSON: We'll come back to
11 order. The time is 10:43 a.m. We were interrupted for
12 a little bit while Taylor had to take care of a
13 nosebleed.
14 So now we're back with the presentation of
15 the modified PAM-E Plan labeled 331 or 330, number one.
16 Mr. Bickford?
17 MR. BICKFORD: Thank you. Thank you for the
18 break. It's allergy season. My nose gets dry.
19 Okay. So this plan, like I said -- I just
20 want to make something clear here. We have been talking
21 a lot about this incumbent pairing issue.
22 We're only talking about this as a Voting
23 Rights Act consideration. As Board Member Greene read
24 the letter from this morning, we have consistently over
25 the course of this process been told by the Native

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1 community to avoid incumbent pairings. I think all of
2 you are aware of the brief that was filed with the
3 Supreme Court that was signed on by AFN and a number of
4 other Native organizations that said avoid Native
5 incumbent pairings where possible, we believe it's
6 retrogressive.
7 And so we're trying -- at this final stage,
8 we're talking a lot about it, but it's because this is
9 all we're left with is this decision of how to come up
10 with this third Senate district.
11 And the effort is to not have a Native
12 incumbent paired, if it's avoidable to do so.
13 So what I did here, I'm going to start with
14 the top again, just to reiterate this for the record,
15 that the drawing of 39 and 38 are a result of fixing the
16 Voting Rights Act issue that Lisa identified of having
17 the Interior District in our Hickel plan not being
18 considered an effective House district.
19 And so in order to make that an effective
20 House district, you have to reconfigure that area and
21 you have to run it into the higher density Native areas.
22 And we know that 38 combines urban and rural. So we
23 have gone over that, but I just want to reiterate the
24 same concept was put into this plan, which then again
25 leaves you with everything underneath.

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1 And what I did for this plan was I decided
2 to start with a configuration similar to the
3 Proclamation Plan where we had split the Chain and see
4 if there was a way to reunite the Chain while keeping
5 Bethel in the Chain District, so that Kodiak could pair
6 with District 36 and not run into a Native-preferred
7 candidate being paired, as we have seen in other similar
8 configurations.
9 So what I did was I started with Bethel at
10 the top of District 37, and I'm going to put some place
11 shapes on. You see Bethel is -- this district kind of
12 starts here and then works with Bethel and works its way
13 down.
14 And, you know, the other day I think we were
15 all frustrated, and I certainly was, and thought that
16 there was no way to reconfigure this area to get this to
17 work, but having slept on it and gotten back to the
18 drawing board, it looks like there actually probably is.
19 And I think this accomplishes what we have
20 been talking about. What it does is it brings Bethel --
21 well, let me actually start on the Chain first.
22 I started with our assumption of reuniting
23 the Chain. And what we considered to be the Chain would
24 be Aleutians East and Aleutians West. In the original
25 Proclamation Plan, Aleutians West was split off from

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1 Aleutians East and paired up with Bethel across this
2 large expansive open water.
3 Under this plan, I have reunited Aleutians
4 West with Aleutians East, and I have ran the Aleutians
5 up as far into the Peninsula as I could and then crossed
6 over through Bristol Bay here to work our way up towards
7 Bethel.
8 So what this plan -- what this Aleutians
9 District does, it goes from Bethel through the Peninsula
10 into a unified Chain. In my mind, this solves our
11 problem of having split the Chain. Clearly, the Chain
12 is not split. This is, in terms of contiguity across
13 Bristol Bay and water, this is very similar to what we
14 have seen proposed by a number of third-party groups in
15 a number of other plans.
16 And I don't view this as a stretch going
17 from Lake and Pen here across to Dillingham. You're
18 going to have, no matter what you do in this area,
19 you're going to have some jumps across water, and we've
20 seen that in a lot of other plans.
21 So it keeps the Chain together and then it
22 works its way --
23 CHAIRMAN TORGERSON: Taylor, it doesn't
24 really go to Dillingham. It's south of Dillingham.
25 BOARD MEMBER MCCONNOCHIE: I was going to

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1 ask you, can you put on place points, maybe take off --
2 MR. BICKFORD: Thank you, Mr. Chairman, for
3 clarifying that. I'm looking at here with -- Dillingham
4 census area goes across, but not the city of Dillingham,
5 which is probably what most people thought when I said
6 that.
7 So it does go into the Dillingham census
8 area, but it actually stays south of the city of
9 Dillingham. I'll turn the place points on here to show
10 you that. Dillingham actually is located, for those of
11 you here in the room, you can see it here. It's in
12 District 36.
13 And we know that there is a Native-preferred
14 incumbent that lives in Dillingham and there is a
15 Native-preferred incumbent that lives in Bethel, so you
16 would not want to, if you could avoid it --
17 CHAIRMAN TORGERSON: My understanding is
18 most of that connection had no population, except for
19 Clark Point, and they have a little bit of folks there.
20 MR. BICKFORD: That's right.
21 CHAIRMAN TORGERSON: So most of that is
22 uninhabited, where we made the connection on 37?
23 MR. BICKFORD: Okay. Let's go over what
24 else I did. Basically, that was the major change. And
25 36 absorbed the rest of what was previously in 37. 38

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1 is slightly changed. We had to pick up a couple of
2 villages here into 36 for population reasons.
3 It's Holy Cross - I'll zoom in - and Flat
4 have been moved from 38 into 36. So this is very
5 similar to the board's Proclamation Plan, but it has
6 corrected the constitutional deficiency of splitting the
7 Chain.
8 And given that we have shown that urban had
9 to be added to rural in 38, and that 39 is a result of
10 the unpacking of that district, what I was trying to do
11 was to reconfigure this in a way that did minimal harm
12 to the constitution.
13 And in terms of the Senate pairings, let's
14 just go over the numbers real quick. 40 and 39 pairing
15 again is at 65 percent. The 38 to 37 pairing is at
16 43 percent, 43.91 percent. And the 35 and 36 pairing,
17 which is Kodiak and Bethel region, with the exception of
18 the city of Bethel is at 46.76 percent.
19 So those clearly hit Lisa's benchmarks for
20 what effective Senate districts should look like. In
21 terms of the House, we have also got five effective
22 House districts. The only district that is slightly
23 below her 41.8 is District 37 at 41.62 percent, but,
24 again, this includes a large portion of Benchmark
25 District 37.

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1 So you would be subject to a lower standard.
2 I'm confident that 41.62 would be okay. The one issue
3 with this plan, we pointed out the issue in the last
4 plan I showed, that you're making the pairing from
5 basically Tyonek across the water into Anchorage.
6 This plan makes the Senate pairing -- you
7 will see that District 38 picks up, is it Nunivak
8 Island?
9 CHAIRMAN TORGERSON: Yes.
10 MR. BICKFORD: Picks up Nunivak Island, and
11 you would be making the Senate pairing from 38 to 37
12 here. I think it's, again, like Mike pointed out, it's
13 as near as practicable argument, given that we can't
14 pair 35 with 37 and 36 with 38, because that just
15 wouldn't work for the Voting Rights Act.
16 CHAIRMAN TORGERSON: Does that help or hurt
17 us if we put St. Paul and St. George into 37?
18 MR. BICKFORD: Mr. Chairman, I think they
19 already are in 37.
20 MR. WHITE: Those are in 37.
21 CHAIRMAN TORGERSON: All right. Do we
22 divide the Lake and Pen Borough with this plan?
23 MR. BICKFORD: The Lake and Peninsula
24 Borough is divided under this plan. Mike, would you
25 have anything to say about if we would have any issues

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with that?
MR. WHITE: Well, the last time they actually sued saying you can't divide us, and the Court said you don't have enough population to support an elective district. For purposes -- the number is whether that standard appears to control. If you have over 51 percent, you can at least make an argument that as a politically salient class -- et cetera.
So Lake and Pen I think has, what, 2,000, 3,000 people in it tops?
MR. BICKFORD: I think it's even less than that.
MR. SANDBERG: Less than 2,000.
MR. WHITE: There would be no proportionality issue with dividing them, particularly since it's necessary for population reasons.
CHAIRMAN TORGERSON: How many are actually -- we went over this morning, but the majority of them live in the Chignik area that we have taken out.
MR. SANDBERG: I'm not sure. I think the majority might live in the Iliamna area.
MR. BICKFORD: I would also suggest that dividing Lake and Pen is something we have seen pretty consistently across a lot of the plans. A lot of them on the wall here you can see do the same thing.

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MR. WHITE: Taylor, this plan does not incorporate the Fairbanks fix, does it?
MR. BICKFORD: No, but it wouldn't be impacted by it.
MR. WHITE: Well, it would.
MR. BICKFORD: No, it wouldn't.
MR. WHITE: Well, it does with your deviations. There would have to be tweaking, just so you know. If I understand, the Bethel/Anchorage does include the Fairbanks fix?
MR. BICKFORD: That's correct.
MR. WHITE: So you have a district in there that's 4.02 percent, and then you have a district in here that's negative 5.99, which gives an overall deviation range of 10.01.
Not a big deal. I'm just pointing out that there is some obvious cleanup that would need to be done to this.
MR. BICKFORD: Yes. That's true, Mike. And what I would say is what I have done here is built the rural districts in concept. They can be -- if the board were to ask us to take a further look at this, we could take the rural districts out and put them into the Hickel plan and then make some tweaks from there.
But like I said, in this plan, I was

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starting from the Proclamation Plan, which has the same rural boundaries as the Hickel plan, but like you said, there is some different deviations in the urban areas.
So the statewide deviation, once we plug it into the Hickel plan, would be a little bit different. But this is essentially working off the the Hickel template. The Hickel template is no different in this plan as opposed to working off the Hickel plan. This just doesn't have the Fairbanks fix.
CHAIRMAN TORGERSON: What are you referring to a Fairbanks fix?
MR. WHITE: The one you adopted yesterday, Mr. Chairman.
CHAIRMAN TORGERSON: Oh, I see. What you're saying is those House districts that are in the municipality, North Star Borough, don't necessarily affect what we have here, because in 38 we only carved out the proper number of people to make 38?
MR. BICKFORD: And what I would have done, if I had more time, is I would have taken the rural districts out of the Proclamation Plan and imported those into the Hickel template with the Fairbanks fix.
I just didn't have time to do that last night. And so what I assumed we would do is if this is something we wanted to take more of a look at, I would

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do that, I guess, today or at some point.
CHAIRMAN TORGERSON: Well, it's my intent for you to send these down to Lisa when we take our break and have her do her Voting Rights analysis, but in the global sense, when you combine this with Hickel 1, the most constitutional plan that we've ever designed --
BOARD MEMBER MCCONNOCHIE: Ever.
CHAIRMAN TORGERSON: -- would that change the rural configuration to any degree, or do you know? It might not be a fair question.
MR. BICKFORD: The answer to that, Mr. Chairman, is probably that it may slightly, but not in a significant way that would impact the numbers.
I'm happy to do that before we send it to Lisa, if that's something you want me to do, but I would suggest that her analysis based on these rural --
CHAIRMAN TORGERSON: How long would it take to do that, if we want to do this? If this is going to be -- I'm more concerned if it's not going to change much and we can get Lisa's opinion on the concept, I would rather do that later or maybe simultaneously after you send it to her and start working on it, we would start importing this, either one of them into the Hickel plan.
MR. BICKFORD: I think that if we recessed

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until 11:30, I could come back with this, put into the Fairbanks -- to the plan with the Fairbanks fix. And we know Lisa isn't going to be back at her desk until about 12:30 our time anyway, so I think we would have time to do it before it gets sent down to her, which might be smart.

CHAIRMAN TORGERSON: Do you have a lock on your door? So you think you can get it done in a half hour, if we don't pester you?

MR. BICKFORD: Yeah.

CHAIRMAN TORGERSON: Any questions or anything you want Taylor to work on during this period of time?

BOARD MEMBER MCCONNOCHIE: No, but I would like to thank you, Taylor, very much for working hard and coming up with something that we had not considered. I think it's fantastic.

CHAIRMAN TORGERSON: Anything else? Jim, do you have anything?

BOARD MEMBER HOLM: No. Thanks again, Taylor. It really sounds good.

CHAIRMAN TORGERSON: I think we'll stand in recess until 11:30, at which time we will bring these plans up again and look at the changes Taylor has made with his instructions to put these into the Hickel plan

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and try to get our deviations down a little bit.

We had talked about that earlier, with Taylor doing that, but he can certainly take the time now to do it. So with that, we'll stand in recess until 11:30.

(There was a break.)

CHAIRMAN TORGERSON: All right. We are back on teleconference. I'll call the meeting back to order. The time is 11:32 a.m.

All board members are present. Mr. Holm joins us via teleconference. We're represented by counsel and staff is here to show us the presentation.

So we took a break for -- Taylor had a proposal, but he started with the Proclamation Plan, and what they did is took a break, or we took a break so he could incorporate that into the Hickel constitutional plan that we started, so we would all be working on the same basis and from the same underlying plan.

I'll turn it over to you, Mr. Taylor. Tell us the changes and what you did.

MR. BICKFORD: Mr. Chairman, just to clarify, I did start with the Proclamation Plan's rural districts, but I was using the Hickel template as a basis.

We just didn't have the new Fairbanks

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districts incorporated. So what we did was we incorporated the plan we just showed into the Hickel template with the Fairbanks fixes. And what we knew was, because the Fairbanks districts, their deviations were a little higher, that we had to do a little bit of adjusting to get the whole plan under 10 percent statewide.

Eric has also done another thing. I asked him to look at it. One moment, John.

CHAIRMAN TORGERSON: Can we identify your changes by the map number? Call it whatever, 331 or 332 or whatever you want to do, dash two, just so we are clear.

MR. BICKFORD: Sorry for the delay here. We're just finding the exact right version of this. This will just take one second and we'll be ready to go.

So the first thing we did was, like I just explained, we loaded this into the Hickel template with the Fairbanks districts. And we were a little bit over 10 percent. And so we went into Fairbanks and just made some really minor tweaks.

It doesn't affect any of the things we talked about yesterday. We just moved -- I believe the overpopulated district was District 2. District 2 was overpopulated, so we just shifted a few blocks. It

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actually brought the Fairbanks deviations within a better range. They are all within -- let's see, the lowest is 3.12 and the highest is 3.74, so you have an overall range in Fairbanks of 6.2, which was a little bit higher before we did this, so that's a good thing.

MR. WHITE: You mean .62?

MR. BICKFORD: Yeah .62. So the reason for doing that was to bring our highest districts down so that we were under 10 percent.

The second thing I did, after we did that, I asked Eric to look at --

CHAIRMAN TORGERSON: Can we back up? I'm sure Jim, since he is from Fairbanks, would like to know what blocks you switched. Can you show us?

MR. BICKFORD: I can describe it. Jim, I'm sorry, we don't have a map of that kind of detail to show you, but I'll just explain.

Like I said, it wasn't significant. We just shifted some population from 3 -- or from 2 into 3, and then a little bit from 3 into 1.

So we just -- I can't tell you the exact blocks, but it was -- we're talking about, you know, a switch of less than 100 people.

CHAIRMAN TORGERSON: Did we create any anomalies, like the one we were just looking at there?

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MR. BICKFORD: No. I mean, that's a block line. You can't really do much about that.

CHAIRMAN TORGERSON: Is that the railroad? There is nobody living in -- I think we looked at that before.

MR. BICKFORD: If you see, this block is enormous. It's 242 people, and you really -- you know, it's just the nature of the shape of the blocks.

CHAIRMAN TORGERSON: All right.

MR. BICKFORD: So that's what we did there. And then I asked Eric to look and see if he could bring -- remember we're at negative 5.99 with District 36.

I asked him to see what he could do to bring that a little bit lower. So he started by adding both Anvik and Grayling. Grayling is right -- is this village -- okay. That's Anvik.

MR. SANDBERG: Grayling is further up the Yukon.

MR. BICKFORD: So he added both Anvik and Grayling, and that actually brought District 36 under 5 percent, but the problem is once you have done that, you create a really tenuous connection between 38 and Wade Hampton.

It seemed like that was a bad tradeoff. And so what I did is I told him to add Grayling back into

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38, but we kept Anvik in 36, and that brought 36, their deviation down to 5.51. And so you will see right here this is Anvik.

We'll clean up the zero blocks to make this look cleaner. It's not going to affect any population. And the net result of reducing the highest -- reducing the deviation of the most overpopulated district and reducing the deviation of the most underpopulated district was that it brought our total deviation statewide down to 9.2 percent.

It's slightly higher than in the Proclamation, but it's still well under the 10 percent.

CHAIRMAN TORGERSON: Remind me again of the Proclamation. Was it 8.47?

MR. BICKFORD: If Mike was here, he usually -- I think it was 8.47 for the Senate, but it was closer to 8.8 for the House.

CHAIRMAN TORGERSON: Not a substantial move?

MR. BICKFORD: No.

CHAIRMAN TORGERSON: You mentioned this corridor there right above Grayling, I guess, but there is -- you think you're concerned about that connection?

MR. BICKFORD: I'm not now. I just would have been if we would have added Grayling into District 36, but no, I'm not concerned about that.

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CHAIRMAN TORGERSON: There is nobody in those other two right there that you could take right below? Right down in here doesn't look like there is anybody in there.

So if you wanted to tighten that up and make this corridor look a little better, you could pick those two, it looks like.

MR. BICKFORD: I agree, John. I think that would be -- for example, I will just do this to show you.

CHAIRMAN TORGERSON: Does that take Anvik out you said?

MR. SANDBERG: Anvik would become an island, so you put Anvik back in 38.

MR. BICKFORD: Our point is we can do the cleanup with these zero blocks. We're just trying to get this ready to send to Lisa.

So there we are. It's the same as what we have been discussing. We just got it into the right template with the Fairbanks districts to work on the statewide deviation.

The statewide deviation is now at 9.2 percent. It is under the 10 percent statewide. And it is only slightly higher than what existed in the Proclamation Plan.

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CHAIRMAN TORGERSON: Would you zero in on 36 in the lower Kenai? There was some discussion that we're dividing Kenai twice now?

MR. BICKFORD: Yeah. Kenai has about .3 percent of a district to give, and Kodiak takes part of it, and that's part of their connection to the rest of their District 35.

And then remember we had two villages went into District 36. That existed in the Proclamation Plan and that was never an issue.

Basically, you have -- what are the two villages?

MR. SANDBERG: Nanwalek and Port Graham.

CHAIRMAN TORGERSON: We are concerned with those because they are primarily Native?

MR. BICKFORD: Yes.

CHAIRMAN TORGERSON: It helps the VAP for 36. Then the other portion of the Kenai was the Tyonek?

MR. BICKFORD: That's the Tyonek. And, again, that's needed for population purposes. What I will you tell is that the way 37 is drawn, basically nothing can be taken out of 37.

If you did, you would create contiguity problems, so that's not an option. If you were to take -- if you were to take those villages out of 36, it

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raises the deviation for 36 over 7 percent. It raises the statewide deviation too high, and so it's something we can look at, but it would create more shifts.

Like I said, it existed in the Proclamation Plan.

BOARD MEMBER MCCONNOCHIE: It's also going to change your VAP.

MR. BICKFORD: I would say that would be pretty minor, PeggyAnn, but the population deviation would be real significant.

CHAIRMAN TORGERSON: You feel as far as our goal to get these analyses from Dr. Handley, that these would work, what you have now would be enough detail for her to give us an opinion?

MR. BICKFORD: I believe so, and I would suggest that if you want us to do that, that Eric and I could work on getting everything put together.

We know she is not going to be back at her desk until 12:30, and I can't speak for some of the stuff Eric has to do, but Eric, would you think that we could be probably done by 12:30?

MR. SANDBERG: I think if we started now we could get her election results that she needs by 12:30.

CHAIRMAN TORGERSON: Is that what you need?

MR. SANDBERG: I think that's what she

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needs. She needs the recompiled election results.

CHAIRMAN TORGERSON: For 36, 37 and 35?

MR. SANDBERG: Probably what would be Senate District R and Senate District S.

MR. BICKFORD: So we could put that together, if you want us to do that. As with all of these, there might be some technical or small changes we find along the way after sending it to her, but I think for her purposes of Voting Rights Act analysis, this is ready.

CHAIRMAN TORGERSON: Now, do you anticipate her calling in when she gets her -- I know we're pushing her, so she may not have time to write up a preliminary written report for us, but how are we going to handle her report, or at least ask her that when you -- we don't need to know that right now.

MR. BICKFORD: Mike has been the one communicating with her. I don't know what her availability is. I'm assuming she probably can.

CHAIRMAN TORGERSON: Okay.

MR. BICKFORD: So we would be asking her to analyze this plan, the Bethel to Anchorage plan, and I'm also going to ask her to -- I mean she is going to be comparing this to the Proclamation Plan.

If she runs recompiled election results, she

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would include that as well, the Proclamation Plan.

CHAIRMAN TORGERSON: Okay.

BOARD MEMBER BRODIE: As I understand it, we're going to, once her computer spits it out and she has an opinion, we'll ask her for that verbally and then she can follow it up?

CHAIRMAN TORGERSON: I didn't know.

BOARD MEMBER BRODIE: That's what I would hope, so that we don't really need to have it all in writing.

CHAIRMAN TORGERSON: I agree with you. I was just curious if they had already asked her about that, because they have already had conversation with her about timing, but in my opinion, what we're trying to do is just to get from her a yes or no, basically are we on the right path or are we just totally off, and let her look the reports and the shape files and get us that.

I'm very comfortable with having the verbal with backup tomorrow to what she said, something in writing tomorrow. As you know, she doesn't do finals until we actually adopt something, and that's when we get the "final" final, but her preliminary is I think all we need right now.

We can take other action after we get that.

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Any other questions or discussion? Okay. So she said two hours, so that would be 3:30.

If we recessed -- what I would like to do is start working on findings the rest of the afternoon for some of the other districts. If we end up changing them -- but we haven't done anything on findings. I would like to start us into that process while we're waiting.

So I'm thinking about breaking, recessing until 1:30. We could go a little later if you think that would be a good idea. I know we won't have Lisa's by 1:30, but we have other work to do while we're waiting.

MR. BICKFORD: Maybe 2 o'clock, Mr. Chairman. That might give us a little more time, if there is any data we need to put together for the findings. I'm just thinking out loud.

CHAIRMAN TORGERSON: That's why I asked. I didn't have any particular time in mind. Is 2 o'clock all right then for board members? Mr. Holm, are you all right with 2 o'clock?

BOARD MEMBER HOLM: Absolutely.

CHAIRMAN TORGERSON: The board will stand in recess until 2:00 p.m. The time is now 11:46. So, again, we will go off teleconference and we will

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1 reconnect at 2:00. Thank you all for listening in.
2 (There was a break.)
3 CHAIRMAN TORGERSON: We'll call the meeting
4 to order. The time is 2:05. All board members are
5 present. Mr. Holm is on teleconference from Fairbanks.
6 We have staff and we're represented by counsel.
7 I guess the global news is that Lisa might
8 have us something at 2:30 p.m., and so we'll work a
9 little bit on findings until Lisa calls in.
10 I guess the first thing that I would be
11 interested in is defining what we mean when we say we
12 have to make a finding.
13 MR. WHITE: I believe, Mr. Chairman, that
14 that requires the board to put on the record, whether
15 that's the transcript or in writing or perhaps both, I
16 don't think you need both, but in this instance perhaps
17 that's the way to go, in essence you need to follow the
18 dictates I think of Footnote 15, which so far what we
19 have done is we have gone through, we did the Hickel
20 plan.
21 We made a finding that the Hickel plan
22 complied with the Alaska Constitution. We then sent
23 that to our Voting Rights Act expert. She reviewed it
24 and told us it did not comply with the federal Voting
25 Rights Act.

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1 I'm not sure whether we made a finding on
2 that or not. I know we talked about it on the record.
3 That might be sufficient to have a finding. It might
4 not.
5 CHAIRMAN TORGERSON: I need clearer advice
6 than maybe or not maybe.
7 MR. WHITE: My recommendation is that the
8 board actually make specific findings literally saying:
9 The board finds this, therefore --
10 CHAIRMAN TORGERSON: And if we had discussed
11 it prior, we still make it?
12 MR. WHITE: I say we still make the finding
13 to summarize it. We can say, "Based upon the evidence
14 in the record --" I don't think we need to go back over
15 the fact that we have all talked about it, Lisa gave you
16 her opinion on whether it complied or not.
17 You can simply say, "Based on the Voting
18 Rights Act, the report of Lisa Handley, as discussed on
19 the record and in her report, the board finds this.
20 Based upon the review of our counsel and the evidence in
21 the record, the board finds this."
22 And I think at this point, we are sufficient
23 -- we have sufficient evidence in the record for: One,
24 we have a Hickel plan. The Hickel plan complies with
25 the constitution.

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1 Two, that the Hickel plan does not comply
2 with the Alaska Constitution, and --
3 MR. BICKFORD: Sorry, Mike. I thought I
4 heard you say that, number two, the Hickel plan does not
5 comply with the Alaska Constitution. Do you mean
6 federal Voting Rights Act?
7 MR. WHITE: The Hickel does not comply with
8 the Voting Rights Act. First, the Hickel plan does
9 comply with the Alaska Constitution.
10 Two, based upon the advice of legal counsel
11 and our Voting Rights consultant, the Hickel plan does
12 not comply with the Alaska Constitution -- the Voting
13 Rights Act.
14 I'll get it right here one of these time.
15 Doesn't comply with the Voting Rights Act, and,
16 therefore, we must create a plan that deviates from the
17 Alaska Constitution. And under the board's -- or the
18 Supreme Court's dictate, we have to adopt a plan that
19 deviates from the requirements of the Alaska
20 Constitution, quote, "to the least degree reasonably
21 necessary to ensure compliance with the Voting Rights
22 Act."
23 So we are now at a point where we are
24 considering what final plan to adopt. So I don't think
25 we can make findings on that until we get the

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1 information back from Lisa Handley.
2 And then the board would decide, debate,
3 determine which plan it wants to adopt. During that
4 discussion, talk about where it deviates from the Alaska
5 Constitution and why that is reasonably necessary in
6 order to comply. And Taylor?
7 MR. BICKFORD: I was just wondering, if you
8 -- you talk about Footnote 15. Can you just kind of
9 read through that? To me, that explains it really
10 clearly in my head. It might help.
11 MR. WHITE: Sure. The Footnote 15 of the
12 Supreme Court's order of March 14th says as follows: In
13 order to expedite further judicial review, we recommend
14 that the board make findings in furtherance of the
15 Hickel process.
16 One -- they don't say "one," but I'm just
17 doing this for -- one, the initial design plan complies
18 with the requirements of the Alaska Constitution.
19 We have done that.
20 That it either does or does not comply with
21 the Voting Rights Act.
22 MR. BICKFORD: Do we need to do that more
23 formally?
24 MR. WHITE: I think the evidence is there
25 that it doesn't. Whether the board has made a, quote,

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1 unquote, "formal finding," which I'm recommending they
2 do, just because it makes my job easier in defending the
3 plan with the Court.
4 And then three, if the latter, we know that
5 based upon the evidence we received that the Hickel plan
6 does not comply with the Voting Rights Act, that the new
7 Proclamation Plan ultimately adopted by the board
8 deviates from the requirements of the Alaska
9 Constitution to the least degree reasonably necessary to
10 ensure compliance with the Voting Rights Act.
11 CHAIRMAN TORGERSON: I read that yesterday
12 in its entirety also.
13 MR. WHITE: I think what that tells us is
14 that this third step has to be the final plan that the
15 board adopts, then it needs to make findings as to how
16 and why this deviates from the Alaska Constitution to
17 the least degree reasonably necessary.
18 And in order to do that, you have to have a
19 plan that you've actually adopted. We have gone through
20 and looked at all the other plans and we have found that
21 either they didn't comply with the Hickel process, they
22 didn't comply with the Voting Rights Act or that they
23 had far more constitutional violations than the plan
24 that the board is now considering for adoption.
25 CHAIRMAN TORGERSON: When will these

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1 transcripts be available?
2 MR. WHITE: We have already got three of
3 them. I expect that my submission to the trial court
4 next week will go with the transcripts and we'll be able
5 to cite specifically to the findings in those
6 transcripts.
7 I suspect we will have all of these by when,
8 if we go through tomorrow?
9 COURT REPORTER: Monday.
10 MR. WHITE: We'll have them by Monday. I
11 would further recommend, Mr. Chairman, that after the
12 process is done and you have made findings on the
13 record, that we put together a similar type of
14 resolution, which basically summarizes those findings
15 and have it signed off on like we did before.
16 CHAIRMAN TORGERSON: You can write down I'm
17 thinking on record.
18 MR. WHITE: Put down "smell of wood
19 burning."
20 BOARD MEMBER BRODIE: Mr. Chairman, just the
21 report we get from Lisa, are we essentially going to ask
22 her -- we submitted her two plans; is that correct?
23 MR. BICKFORD: Right.
24 BOARD MEMBER BRODIE: So we're going to ask
25 her essentially one question: Do the submitted plans

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1 comply or not?
2 CHAIRMAN TORGERSON: That's my
3 understanding.
4 MR. BICKFORD: That's right.
5 CHAIRMAN TORGERSON: Then we'll have to make
6 a choice. Actually, maybe three choices: Either adopt
7 plan A, plan B or draw another one.
8 BOARD MEMBER BRODIE: And I think we may
9 want to be careful in asking her which plan -- grading
10 the plans, right?
11 CHAIRMAN TORGERSON: I'm not sure she ever
12 did grade them, but I agree it's not up to her.
13 BOARD MEMBER BRODIE: I don't think we want
14 that. They either pass or they don't, because we don't
15 want to get trapped into having to take the sledge
16 hammer when a regular hammer would work, as long as they
17 all meet the requirements of the Voters Rights Act.
18 CHAIRMAN TORGERSON: In things past, she has
19 indicated maybe where higher VAPs are, but I don't think
20 she was grading them. I wasn't anticipating having her
21 like pick which one is best, if that's what -- that's up
22 to us.
23 BOARD MEMBER BRODIE: I think, yeah. I
24 think that's correct.
25 CHAIRMAN TORGERSON: She could give us her

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1 opinion on which is best as far as DOJ preclearance.
2 That's what we hired her for, but all the other
3 ramifications -- I'm not sure. I think our deviations
4 are really close on both of them. I'm not sure that
5 comes into consideration. Taylor?
6 MR. BICKFORD: Mr. Chairman, I think that
7 Lisa will essentially be giving us a thumbs up or a
8 thumbs down on the plans, do they comply or do they not.
9 BOARD MEMBER BRODIE: I would hate for us to
10 have somebody come and say, "Well, you had two choices
11 and you took the lesser choice," and have our own
12 evidence against us.
13 CHAIRMAN TORGERSON: Well, this now gives us
14 six choices that we have done, or five I guess, or maybe
15 six, that have all been within VAP, but each one has its
16 own warts.
17 BOARD MEMBER BRODIE: That's our decision.
18 CHAIRMAN TORGERSON: Yeah.
19 MR. BICKFORD: Would it be prudent -- I
20 think this is a question for you, John, and Mike, to
21 once Lisa has told us -- let's assume she comes back and
22 says both of the plans comply, or even if she says one
23 of the plans comply, to then sit down with the plan as
24 we did with the third-party plans and say, okay, we need
25 these to comply with the VRA, what do they do to the

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1 Alaska Constitution, that way we can make sure that
2 whatever constitutional deviations there are were in
3 fact required.
4 Maybe that's part of our fact-finding
5 process, but it seems if you followed a similar thing to
6 what we did with the third-party plans, that might get
7 you there.
8 MR. WHITE: Mr. Chair, I would suggest that
9 that is a good idea. Just looking at -- just
10 determining -- there might be one plan that in the
11 opinion of myself and even the board has lesser
12 violations of the Alaska Constitution than the other.
13 I'm not prepared to give an opinion now. I
14 have some preliminary thoughts, but I want to make sure
15 they both pass DOJ compliance first.
16 If we do that analysis, I don't think that
17 will take very long to do and come back and tell you on
18 the record what my thoughts are on that.
19 Taylor and I can do that. And then the
20 board can debate those two plans, if in fact both
21 pre-clear Lisa Handley.
22 CHAIRMAN TORGERSON: Other thoughts?
23 Ms. Greene?
24 BOARD MEMBER GREENE: Thank you,
25 Mr. Chairman. I think that's a real good idea, because

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1 it will not only allow us to have that on the record,
2 but also help complete the findings or add more to the
3 findings.
4 CHAIRMAN TORGERSON: Which I think we
5 already did, we just didn't count it, but it doesn't
6 matter. We need to treat our own plans and evaluate
7 them with the same criteria that we have everybody
8 else's. I think that's what we're saying here.
9 BOARD MEMBER GREENE: Okay. Thank you.
10 BOARD MEMBER BRODIE: I think to a certain
11 degree that's right. But, once again, if we -- if we
12 come up and decide one plan has less violations over the
13 other, but they both qualify, and we take the lesser,
14 then we have got on record we chose less.
15 So I think we should choose the plan, if it
16 meets the Voters Rights Act, I think we should choose
17 that plan and then let them examine it for the other
18 constraints.
19 CHAIRMAN TORGERSON: It's called making a
20 finding, geez, which is what --
21 BOARD MEMBER BRODIE: But I mean, I would
22 rather not have two findings on record and us take the
23 lesser.
24 CHAIRMAN TORGERSON: We don't make a finding
25 on the plan we don't use.

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1 MR. WHITE: Mr. Chairman, Bob, I think that
2 the finding might be that you're saying basically ignore
3 what the evidence is, and just because we have discussed
4 what they are doesn't necessarily -- I mean, the bottom
5 line is you should be voting on plans based upon a
6 position of knowledge and information.
7 And so I think you really do need to know
8 what your consultants think, which of the two plans --
9 BOARD MEMBER BRODIE: I guess it becomes
10 qualitative. If you say it violates the constitution
11 because we do X over here and we violate the
12 constitution because we do Y over there, what's that
13 tell us?
14 It becomes a subjective judgment anyway,
15 because we take population out of one part of the state
16 or another part of the state. I just would hate for
17 somebody to say, "Oh, well, you ignored that one and
18 took this one."
19 So if we choose a plan, then we write up the
20 findings and away we go.
21 MR. WHITE: I'm not talking about the
22 findings themselves. I'm just suggesting that you vet
23 these plans the same way we did the plans that third
24 parties submitted.
25 And we know that we have already vetted --

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1 we are following the Hickel process, so we know that.
2 We know we submitted our plan for VRA compliance and it
3 hasn't complied. And now we're on that third step, how
4 does it pair up --
5 BOARD MEMBER BRODIE: We should have done
6 that before we sent it away.
7 MR. BICKFORD: I think my concern would be
8 if we picked a plan without doing the evaluation, then
9 what if new plaintiffs, or once we go back into that
10 stage, could then come in and say, "Well, you didn't
11 evaluate this plan and this plan actually had less
12 violations in the state constitution and following the
13 Hickel process, you chose a plan that was not -- that
14 did not minimally deviate from the constitution."
15 If you were to just ignore -- if you were to
16 pick, before knowing that you might be setting yourself
17 up to maybe the other plan is less, and it's not as if
18 the challengers or potential challengers wouldn't be
19 looking for that.
20 I would think they are going to do that
21 analysis anyway, and if the board didn't do it on both
22 beforehand, it could potentially be a problem.
23 MR. WHITE: Mr. Chair, Bob, I think I
24 understand your point, but it might be that you look at
25 one plan and you say, okay, you have to deviate here,

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1 here and here, and this plan you have to deviate here,
2 here and here.
3 And as we know, the plans north of Fairbanks
4 are the same exactly, so the deviations are going to be
5 the same there. So it's only in the southern part of
6 the state you look at. It might be that you go, okay,
7 there might be deviations in different areas, but they
8 are in effect the same, so it comes down to the board's
9 judgment on which -- in other words, both plans might
10 deviate to the reasonable degree minimally necessary and
11 it's just a matter of choice for the board to choose
12 which one.
13 BOARD MEMBER BRODIE: That's fine. I just
14 find "minimal degree necessary" to be a pretty abstract
15 concept.
16 MR. WHITE: I'm glad they at least gave us
17 the word "reasonable" in there.
18 BOARD MEMBER MCCONNOCHIE: So is Lisa just
19 going to call in when she is ready?
20 MR. WHITE: I'm going to go call her in five
21 minutes and see where she is at.
22 MR. BICKFORD: You could probably do that
23 now, Mike.
24 CHAIRMAN TORGERSON: She is not going to be
25 done at 2:30, I'm pretty confident.

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1 I'm still not clear on these findings.
2 Let's stay with the findings and what we need to do
3 before we get off.
4 I have heard a couple of different things.
5 One is we don't have to make a finding until we adopt a
6 plan. I don't agree with that, because I agree we have
7 districts that we're not considering changing at this
8 point in time, so we can make findings.
9 You just made about six of them that are
10 already on the record that we could make, if we're
11 creating a list to go to the end. But I'm more
12 concerned about how we get from here to there, or even
13 if we need to do it in this particular board setting or
14 if it's something that the board tasks you and Taylor
15 with and say, "You develop the findings and come back
16 and then we can vote on teleconference."
17 That's kind of the conversation I want to
18 have. We can do some, but I don't want to postpone the
19 board's process in adopting a plan because we haven't
20 done a procedural thing like a finding. That's very
21 simple stuff to me, complex in nature, but what a
22 finding is so far has just been the dialogue that is on
23 the record.
24 How many times have we put in the record
25 that this is the most constitutional plan in the history

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1 of the United States and Alaska and the universe?
2 MR. WHITE: That was your 67th time.
3 CHAIRMAN TORGERSON: We're saying that
4 that's not a finding, but maybe it is because it's in
5 the record.
6 Anyway, what I want to know in my mind, to
7 kind of help our schedule out, what we anticipate the
8 board's involvement. I know we have to adopt something
9 in the end run, but is it something we want to start
10 talking about, or do we want to just task legal to write
11 it up?
12 I'm thinking that you're just going to have
13 to go through the record, the transcripts, and you
14 probably got 90 percent of what you need.
15 MR. WHITE: Other than the final portion, I
16 would agree with you, Mr. Chairman, that last step that
17 we need -- here is how I would anticipate potential for
18 moving forward.
19 We get Lisa's information, and then Lisa
20 says it either does or doesn't. If something doesn't
21 comply with the VRA, then that's fine. We remove that
22 from the consideration and then we talk about the other
23 plans.
24 If they both are, then I think that you give
25 me 15 minutes to study these things and come back in and

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1 say, "Okay, I looked at these. Here is my opinions on
2 these two plans." I can come in and say, "They both are
3 minimal. They are just in different areas that they do
4 it, or one I think is better than the other."
5 And then this board can look and decide and
6 say, okay, and then have a discussion about that, ask
7 any questions that they want and then could on the
8 record simply make a determination, all right, we like
9 plan X, because based upon this, this and this, it's the
10 one that is most reasonable, does the minimum violation
11 to the Alaska Constitution.
12 And then I think you have in the record
13 everything that you need in order to adopt a plan, and
14 then you can adopt that plan and do the same tasks that
15 we did last time.
16 We're going to have to do Senate pairings,
17 we're going to have to do the analysis for truncation,
18 pick the terms, the same thing we had to do last time.
19 And then you can actually adopt a plan in concept like
20 you did last time, give your staff a few days to do all
21 the cleanup work, put it all nice together, and then
22 sign the formal Proclamation via phone, or however you
23 want to decide to do it probably.
24 I don't know how much time staff thinks they
25 need, but that can be done when it's done. That does

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1 not delay a process in going to the Court. I think you
2 can get the information together.
3 CHAIRMAN TORGERSON: Do we need to -- I
4 don't remember what we did last time, but prior -- do we
5 need to review your submittal to the Court? Did we do
6 that last time as a board?
7 I'm just trying to see if we came back
8 together as a board and went over. I don't remember.
9 I'm having a senior moment, I guess.
10 MR. WHITE: Because remember last time we
11 just adopted our Proclamation and then we put it out
12 there and then people challenged that Proclamation.
13 CHAIRMAN TORGERSON: That's right. We
14 didn't submit to the Court, we just threw it out there.
15 MR. WHITE: We did have a meeting and
16 discuss the draft.
17 CHAIRMAN TORGERSON: Is there a need for a
18 meeting to only look at -- I'm trying to get to if we
19 need to come back together for an official function.
20 I understand signing could be one reason,
21 but I'm trying to think if there is another reason that
22 the board would come back to Anchorage or come back to
23 the board room, let's say, ten days from now or
24 something.
25 MR. WHITE: Mr. Chair, I don't believe that

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1 you need to do that. All you have to do is, like you
2 did last time, give me the authorization to file the
3 amended plan with the Court and then I will file it and
4 use the justifications based upon the record to show
5 that we have compliance, here is how we complied with
6 the court's and Supreme Court's orders.
7 CHAIRMAN TORGERSON: I know you went through
8 the whole thing this afternoon, but we automatically
9 make findings on why we're adopting one of these over
10 the other, but I was -- what I understand is that before
11 we adjourn this session we adopt the plan, we make the
12 Senate pairings and truncation over again, because
13 that's probably changed.
14 MR. WHITE: I think we have to redo the
15 Senate seats.
16 CHAIRMAN TORGERSON: Because of Fairbanks.
17 MR. WHITE: That and because of we changed
18 the --
19 CHAIRMAN TORGERSON: I don't know about the
20 Chain, but we might. Anyway, potentially what was the
21 third?
22 BOARD MEMBER MCCONNOCHIE: We have to at
23 least review them to make sure that we have everything
24 in line.
25 MR. WHITE: Then we have to do truncation

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1 issue, so they have to do the analysis.
2 CHAIRMAN TORGERSON: Truncation comes with
3 the Proclamation, with the adoption of the plan -- I
4 mean, with the Proclamation or the adoption of the plan.
5 Probably with the adoption of the plan.
6 MR. WHITE: I'm trying to remember last
7 time. I think that what you can do is essentially,
8 since we're not going to -- I would recommend that you
9 would say, "This is our final plan," just like we did
10 last time, "Staff, do this fix-up stuff," and then come
11 in and do the actual Proclamation. You can even do it
12 by telephone next week.
13 CHAIRMAN TORGERSON: Let me ask the board
14 just a general question. If we do this and make
15 findings and we come to an agreement on adoption of the
16 plan, is it a reasonable assumption that we would task
17 legal and staff to make findings and present them to the
18 findings (sic), and then we would adopt them over a
19 phone kind of interview?
20 Or do we try to do it as a board and muddle
21 through it? I'm just trying to see which way you want
22 to go, if you want staff to present the findings to us
23 first. It can be next week sometime is my point.
24 It doesn't have to be at this particular
25 marathon session that we're currently in. It could be

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1 put off until next week, maybe not put off. That's the
2 wrong word, but handled at a different time.
3 BOARD MEMBER GREENE: I'm comfortable with
4 having staff do that.
5 CHAIRMAN TORGERSON: Bob, you indicated
6 you're okay with that?
7 BOARD MEMBER BRODIE: Yes, Mr. Chair.
8 CHAIRMAN TORGERSON: We still review it.
9 BOARD MEMBER BRODIE: We review it. For
10 example, back home the planning and zoning makes a
11 decision and the staff comes up with the findings and
12 then they are reviewed by the board.
13 BOARD MEMBER HOLM: I think, you know, if
14 you could send them to us in written form, we have got a
15 chance to study them a little bit before we vote on
16 them, that would be great.
17 CHAIRMAN TORGERSON: This is something we
18 can put on our web for public involvement, or
19 teleconference will be open to the public anyway.
20 MR. WHITE: Absolutely. I would suggest
21 that when you leave here today, you will have everything
22 on the record and have as a board voted on everything
23 that would constitute sufficient findings to go to the
24 Court.
25 I'm just recommending that you then

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1 authorize staff to put those in written form, summarize
2 them so that everybody can look at them, make sure that
3 we're comfortable with everything, that we can look at
4 the record and make sure we didn't miss something, and
5 then you will have those before the next meeting so you
6 can provide input.
7 And then we meet and the board can vote at
8 the same time and then adopt the formal Proclamation.
9 CHAIRMAN TORGERSON: I don't think we're
10 going to get done today, but I understand what you're
11 saying. I think we'll wrap up tomorrow, because I still
12 want to let staff clean this up a little bit.
13 There is still some -- I want to look at as
14 close to the final plan as I possibly can when we vote.
15 I would assume most board members would like to do that.
16 And then we'll authorize them with a similar
17 motion we did last time, to make changes like Eric did,
18 we authorized Eric to make changes when he does metes
19 and bounds within whatever, I forget one-tenth of 1
20 percent of deviation, that they just do it.
21 Anything more than that, they call the board
22 back together. So I'm okay with that, but the
23 truncation issue, we will probably take up tomorrow, at
24 least understand it better and take a look at what we
25 have got.

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1 And then the final Proclamation we can do
2 over the phone and make -- adopt the findings and then
3 the final Proclamation at the same time. Okay.
4 Anything else right now? What I think we'll
5 do is take another recess. We will -- Mr. White has to
6 call Dr. Handley and see where she is at. And then you
7 might as well start looking at the constitutional
8 portion, evaluate these two plans at the same time.
9 We might as well take a little bit longer
10 break and try to get that done at the same time than to
11 come on and off record. You think you need about 15
12 minutes you said?
13 MR. WHITE: I have been looking at them
14 already. I just had some questions for Taylor.
15 CHAIRMAN TORGERSON: Is that 15 legal
16 minutes or 15 minute Michael White minutes? They have
17 not been the same.
18 So if we went until 3 o'clock?
19 MR. WHITE: More than enough, ample time.
20 CHAIRMAN TORGERSON: Mr. Holm, are you all
21 right for a recess until 3:00?
22 BOARD MEMBER HOLM: Sure. I'll call back at
23 3:00.
24 CHAIRMAN TORGERSON: Thank you very much.
25 We will go off teleconference and off record. We'll

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1 pick back up at 3 o'clock. We should have Dr. Handley
2 on by then and we'll have an analysis on the
3 constitutionality of plan A and B, for lack of a better
4 word, and we'll deliberate then.
5 So thank you very much, everyone online, and
6 we'll hook back up at 3:00.
7 (There was a break.)
8 CHAIRMAN TORGERSON: We'll call the meeting
9 back to order. The time is 3:31.
10 I have a note to make, then I will be right
11 with the process. The end result of what's going to
12 happen is that we are going to adjourn in about five
13 minutes until tomorrow morning at 10:00 a.m.
14 We sent the maps down to Lisa, and Lisa had
15 some concerns, primarily that our VAP wasn't high enough
16 in District 37. And she and Taylor had had a
17 conversation about the possibilities of trying to get
18 that higher.
19 Of course, we all know the higher the
20 better, the more probability of preclearance from DOJ.
21 And at this point in time, that's -- if we're going to
22 go with an expedited review process, I want the highest
23 and best possibility that we can get a plan approved
24 through DOJ.
25 Taylor needs to, according to him -- he can

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1 certainly talk for himself, but he needs a couple of
2 hours to continue working on the map to try to get that
3 VAP up a little bit. And then I just considered that
4 would be probably a little late for tonight.
5 I also really want to make sure that
6 whatever we come out with, that we're not totally
7 rushing the process too much and spending the time we
8 need to make sure that we get everything done. And then
9 legal still needs to look at it, to take a look at the
10 two maps and make their comparison for the Hickel
11 process and so forth that we did to the other ones, so
12 that will take some time too. So that's where we're at.
13 BOARD MEMBER HOLM: Mr. Chairman, tomorrow I
14 have a class I'm teaching at 2 o'clock in the afternoon,
15 just so you know.
16 CHAIRMAN TORGERSON: Thank you, Mr. Holm.
17 I'm working down the path of, yes, so I hope -- you're
18 not kidding me. The Final Four starts at 2:00. What
19 are you talking about a class you got to teach?
20 BOARD MEMBER HOLM: Actually, you're right,
21 it does start, but I'm teaching a class on hanging
22 baskets and container planting.
23 CHAIRMAN TORGERSON: Yeah, right. I saw
24 right through that, baskets and container planting.
25 Thank you for letting us know that. It will be my

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intent that we roll right through.

If we have four board members, we have four board members. I have appreciated the board being unanimous in their decisions at 5/0, but I don't want to be here forever either.

So if we're close to finishing up our process, then it would be my intent to pass up the planter painting class (sic) and continue on with the plans, with the hopes and possibilities that we might be able to have a plan adopted by sometime tomorrow.

BOARD MEMBER HOLM: Okay. Well, we can make a decision in the morning, but I just wanted to let you know. And if we could take lunch a little later or something like that, it might work out just fine. The class won't be more than 30 to 45 minutes.

CHAIRMAN TORGERSON: We may do that, work until 2:00 and then take our lunch break. That's a good compromise right there.

BOARD MEMBER HOLM: Thank you very much.

CHAIRMAN TORGERSON: All right. Thanks. Anything else that we really need to talk about, really really need to talk about? Taylor, go ahead.

MR. BICKFORD: I just want to touch on what John said about --

CHAIRMAN TORGERSON: I knew that.

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MR. BICKFORD: -- about what Lisa said, just so the record is clear. I have been spending too much time with Mike. I'm joking.

But what she told us is that we're close, the Senate districts work, all the other House districts work. The one district we're looking at is 37, and the reason for that is it's at 41 percent, and remember our target has been 42 percent.

When I described it earlier, I said that because it contains some of District 37, that we might be subject to the lower standard, but she said that you have gone in and taken new parts that weren't in 37 and that, you know, it's wishy-washy and that we would be better off just getting it over the target.

And so that's what we're going to work on tonight, but the plan is very close. All the other districts work.

The Senate districts work, which is what we thought our problem was going to be. And so we just think there is going to be some small tweaks over that target, given that it picks up some other areas of the state.

MR. WHITE: She is talking here about the PAM-E Plan. She reviewed the Bethel plan as well and said that one didn't work?

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MR. BICKFORD: Not the PAM-E, Mike.

MR. WHITE: Whatever we're calling the non-Bethel plan.

MR. BICKFORD: Right.

CHAIRMAN TORGERSON: Anchorage to Bethel.

MR. WHITE: 330 number one.

CHAIRMAN TORGERSON: We asked for names a couple of hours ago, but we haven't got around to that yet. We will name these things one of these days.

Is there anybody else that would like to clarify the record?

Seeing none, we'll stand adjourned until tomorrow morning at 10 a.m.

(Off record.)

-o0o-

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CERTIFICATE

I, SONJA L. REEVES, Registered Professional Reporter and Notary Public in and for the State of Alaska, do hereby certify that the proceedings were taken before me at the time and place herein set forth; that the proceedings were reported stenographically by me and later transcribed by computer transcription; that the foregoing is a true record of the proceedings taken at that time; and that I am not a party to nor have I any interest in the outcome of the action herein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 2nd day of April 2012.

_____

SONJA L. REEVES, RPR
My Commission Expires 8/7/15

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In the Matter Of:

ALASKA REDISTRICTING BOARD

BOARD MEETING

March 31, 2012

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ALASKA REDISTRICTING BOARD

BOARD MEETING

March 31, 2012

10:05 a.m.

411 West Fourth Avenue, Suite 302

Anchorage, Alaska

A-P-P-E-A-R-A-N-C-E-S

BOARD MEMBERS PRESENT:

John Torgerson, Chairman
PeggyAnn McConnochie
Robert B. Brodie
Marie N. Greene
Jim Holm (via speaker phone)

STAFF PRESENT:

Taylor Bickford
Jim Ellis

ALSO PRESENT:

Michael D. White
PATTON BOGGS, LLP
601 West 5th Avenue, Suite 700
Anchorage, Alaska 99501

Randy Ruedrich
Steve Aufrecht
Paul Gronholdt
Joe Levesque
Bill Walker

Court Reporter:

Sonja L. Reeves, RPR
PACIFIC RIM REPORTING
711 M Street, Suite 4
Anchorage, Alaska 99501

PROCEEDINGS

CHAIRMAN TORGERSON: Let's call the meeting to order. The time is 10:05. Roll call members, please.

MR. BICKFORD: John Torgerson?

CHAIRMAN TORGERSON: Here.

MR. BICKFORD: PeggyAnn McConnochie?

BOARD MEMBER MCCONNOCHIE: Here.

MR. BICKFORD: Marie Greene?

BOARD MEMBER GREENE: Good morning.

MR. BICKFORD: Bob Brodie?

BOARD MEMBER BRODIE: Here.

MR. BICKFORD: Jim Holm?

BOARD MEMBER HOLM: Here.

MR. BICKFORD: All board members are present.

CHAIRMAN TORGERSON: All board members are present. We have staff running around doing things. We're represented by counsel.

The next is approval of the agenda.

BOARD MEMBER MCCONNOCHIE: Move for approval of the agenda.

BOARD MEMBER GREENE: Second.

CHAIRMAN TORGERSON: Is there a discussion on the agenda? It's the same agenda as yesterday. We

just changed the date. For those on teleconference, it's presentation of draft plan, adoption of findings, adoption of amended Proclamation Plan and executive session.

The pieces that are just components of this adoption of the plan would include Senate pairings and truncation issues, or not issues, which I think will be the same as the Proclamation Plan, so it shouldn't be that hard to do.

And then we will have Mr. White give us a presentation on the two plans that we had yesterday on their constitutionality, so that shouldn't take a long amount of time.

So I'm going to, as we ended up yesterday, we had "Bethel into the Chain" component or plan.

BOARD MEMBER MCCONNOCHIE: Do we want to vote on the agenda?

CHAIRMAN TORGERSON: Our Voting Rights expert that had suggested that our VAP too low, that she she had run the analysis and because we added Bethel in, we had changed the demographics enough that it made that district perform like any of the other districts in the state, so somewhere around that 42 percent number.

And so Taylor went back to the drawing board last night, and what we'll be seeing today is his

redrawing that VAP.

So with that, is there any objection to adoption of the agenda? Hearing none, the agenda will be adopted.

Mr. Bickford, presentation of plan?

MR. BICKFORD: Thank you, Mr. Chairman. So following our meeting yesterday, I went back to the drawing board with the plan we presented.

BOARD MEMBER HOLM: Can you speak a little closer to the mic, Taylor?

CHAIRMAN TORGERSON: We have got to move it over there. Thank you, Jim, for that.

MR. BICKFORD: For those listening online, the map that we're looking at here in the office is very similar to what was posted on the website yesterday. It's still there if you want to download and follow it.

There are a couple of minor shifts that had to be done, and I'll talk about those and we'll have a more detailed map up later today, but you should at least be able to follow along.

And so like the chairman explained, we had to make those adjustments to get the VAP higher, given that this new 37 went outside of the old 37. And so it was more subject to that 42 percent standard, and so I worked on that. And I'll show you guys what I was able

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to do.

Primarily, what I did is I moved Nunivak Island into District 37. It was, prior to that, it was in District 38, which forced me to pick up some population for 38, because 38 was -- I don't remember the exact percentage, but it was too far under and the statewide deviation was off.

And so primarily what I did is picked up Tanana into 38. So I'm going to put the place shapes on to show you. So you can see that Tanana is now in 38. And beyond that --

BOARD MEMBER MCCONNOCHIE: Go slowly, please.

MR. BICKFORD: I'm sorry. On the northern end here Tanana is in 38, and that brought 38's deviation -- again, we're working with all of these deviations slightly over five, but I will show you that the statewide deviation still is under ten and closer to nine.

And so primarily that's what I did, and what it allowed me to do was raise the Native percentage of 37 just enough to get us over the 42 percent standard. So you will see that under this drawing of the plan, District 37 is now at 42.97 percent.

CHAIRMAN TORGERSON: Zero in on 37. Walk us

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through this so we understand. See what boundaries and places you moved.

MR. BICKFORD: Okay. So 37 the only real change was Nunivak Island. It was before in District 38, and I moved it into District 37. It helped raise the Native percentage.

CHAIRMAN TORGERSON: When you say "the only real change," you're talking from yesterday?

MR. BICKFORD: From yesterday, that's right.

CHAIRMAN TORGERSON: And Dillingham is in 36 still?

MR. BICKFORD: Dillingham is still in 36, which we know there is a Native-preferred candidate for the House in Dillingham and a Native-preferred -- I'm sorry, not candidate, but incumbent, in the House for Dillingham and a Native-preferred incumbent in the House for Bethel, and so this would keep them apart.

CHAIRMAN TORGERSON: Questions? Marie?

BOARD MEMBER GREENE: Can I look at Tanana? I'm sorry, a close-up. I just wanted to see, because you said you moved -- okay.

MR. BICKFORD: Are the letters big enough, Marie?

BOARD MEMBER GREENE: Yeah.

BOARD MEMBER MCCONNOCHIE: Thank you.

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That's much better.

CHAIRMAN TORGERSON: That helps.

MR. WHITE: That's why they pay you the big bucks, Taylor.

CHAIRMAN TORGERSON: I tell you, there will be a bonus in your envelope this month. Zero in a little closer on Tanana.

BOARD MEMBER GREENE: So that's good, because you got the cluster of communities in Tanana as one.

MR. BICKFORD: Marie, I didn't have your sheet in front of me, but I was pretty sure Tanana went with Minto and Manley Hot Springs and so forth.

BOARD MEMBER GREENE: Yeah, Yukon/Tanana cluster, so that's good.

MR. BICKFORD: I guess we had a question about what map we're working on. I will reiterate that it's similar to the map from yesterday, just a few minor changes. We'll get an update on this afternoon, but if you want to follow along, you can go to yesterday's board meeting reminder and download the maps.

And this is -- I don't remember what we called it.

CHAIRMAN TORGERSON: It was 3-30-1 is what it was posted on the web at.

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MR. BICKFORD: I think that's right.

CHAIRMAN TORGERSON: We requested it to be named something, but it didn't get done.

MR. BICKFORD: There goes my bonus.

BOARD MEMBER GREENE: Thank you.

MR. BICKFORD: You're welcome, Marie.

CHAIRMAN TORGERSON: Other questions? Anything we want to zero in on and take a look at?

Mr. Holm, do you have any questions?

BOARD MEMBER HOLM: No. I don't know if that makes any particular difference to the folks in Tanana, I don't suppose. They are going to have the same type of representation.

CHAIRMAN TORGERSON: Yeah, I wouldn't either. I don't know if Nunivak would have went either with 38 or --

BOARD MEMBER HOLM: It has to go someplace.

MR. BICKFORD: So the Senate pairing for -- I know we haven't done Senate pairings yet, but for Voting Rights Act reasons, the idea is that the Senate pairing would be Kodiak to 35 to 36, and then 37 to 38 and with Nunivak Island in 37, you will see that it would just connect there with 38.

CHAIRMAN TORGERSON: Which is what we had in the PAM-E Plan, but different configuration, of course.

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1 So we haven't changed that approach.
2 BOARD MEMBER MCCONNOCHIE: Once again,
3 what's the overall deviation for this plan?
4 MR. BICKFORD: PeggyAnn, the software for
5 some reason -- usually it shows it up here in the left,
6 it's not right now. We'll just have to add them up by
7 hand.
8 The most underpopulated district is negative
9 5.33, and that is District 36. The most overpopulated
10 district is --
11 MR. WHITE: Fairbanks.
12 MR. BICKFORD: -- District 2 in Fairbanks at
13 positive 3.74. If we add those together, that is
14 9.07 percent statewide.
15 BOARD MEMBER MCCONNOCHIE: Great. Thank
16 you.
17 MR. BICKFORD: Which is actually a little
18 lower than we had it yesterday.
19 CHAIRMAN TORGERSON: We had 9.1 plus, so it
20 came down a couple percent.
21 MR. WHITE: Taylor, can you explain why it
22 was you needed to have the districts down, some of the
23 Native districts over 5 percent?
24 MR. BICKFORD: Mike, it just worked out that
25 way. It was a result of building the plan this way. We

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1 knew that we had it -- we had 36 was under 5 percent,
2 and what I showed yesterday, the result of getting 37
3 over Lisa's target resulted in those shifts that I
4 talked about, and I essentially had taken Nunivak Island
5 from 38, that dropped 38's percentage down.
6 I then took Tanana from 39, and that dropped
7 39's percentage down and brought 38's percentage up a
8 little bit, so it was just a result of the shifts.
9 CHAIRMAN TORGERSON: You're making me dizzy.
10 Anything else, Mr. Taylor?
11 MR. BICKFORD: That's all I have,
12 Mr. Chairman, unless there are questions.
13 CHAIRMAN TORGERSON: There appear to be
14 none. Let's go into Mr. White's analysis of the two
15 plans, as we did with third-party plans.
16 We ran them through -- had basically legal
17 look at them and determine where or when we were
18 violating the constitution or any particular problems
19 that might show up.
20 MR. WHITE: Mr. Chair, you want to do that
21 before we go to the VRA issue?
22 CHAIRMAN TORGERSON: I guess we could do
23 that. No, I'm sorry. Since you brought it up, who
24 wants to talk about that?
25 MR. WHITE: Sure. Taylor and I both have

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1 communicated at length with Lisa last night. As you
2 know, it was very late in the afternoon when we got
3 Lisa's preliminary analysis back.
4 And she had indicated that there was some
5 potential issues with the House District 37 and her
6 concern about its ability to perform. She wanted that
7 number higher. It was at, what, about 41 and a half,
8 right, Taylor?
9 MR. BICKFORD: Thereabouts.
10 MR. WHITE: So the changes that Taylor just
11 told you about were designed to fix that problem. Lisa
12 was very gracious, stayed up very late last night. We
13 got her a plan about after 11:00 her time last night, I
14 believe.
15 And she took an analysis, did an analysis of
16 it. And according to her, it meets the numbers. She
17 has an e-mail that Taylor has passed out to everybody.
18 She, like last time, when we went to the board, went to
19 DOJ, she doesn't seem to think this is a slam dunk, and
20 the problem is caused because our trial court, in any
21 event, the Supreme Court didn't rule, but the trial
22 court has expressly said you can't divide the Chain, and
23 that causes a lot of problems.
24 Because we know the lower part of Chain is
25 mostly non-Native. And by doing that, you also change

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1 the configuration. Last time in the Proclamation Plan,
2 since we split the Chain off the bottom, we didn't
3 really do any -- we didn't look at the analysis of that.
4 It was because that district was 71 percent. There was
5 no need to look at it.
6 She goes we dropped down to that 41 percent,
7 she starts getting a little concern that DOJ might have
8 concerns. She emphasized to us that the plan that we
9 got pre-cleared in the Proclamation Plan was the first
10 time she had seen where DOJ had ever pre-cleared plans
11 under 50 percent in this go-around.
12 And she had real legitimate concerns about
13 that. So basically, she looked at the numbers. We got
14 them up to where we made her at least comfortable that
15 she can say you meet the numbers, given the analysis
16 that she talks about in here about some election
17 results.
18 You guys remember from the trial that we
19 talked about, both Lisa and Dr. Arrington, the
20 plaintiff's Voting Rights Act expert, said that now
21 ability to elect is a dichotomy, so it's either a thumbs
22 up or a thumbs down.
23 If you do the analysis now and the changes
24 Taylor needs to make not only got the numbers up, but
25 change out election results closer, so if you compare

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1 this plan with the Benchmark, this plan I believe is,
2 based upon what Lisa has told us, is not retrogressive.
3 Lisa is -- you have a good shot or you have a shot at
4 getting preclearance from the Department of Justice,
5 just like last time, if you have the Native support
6 behind you.
7 The reason why we went this way obviously is
8 that they said put the Chain back together, and at the
9 same time, this board has listened to the concerns, as
10 we saw from the e-mail that was received yesterday, and
11 the amici briefs that were filed with the Supreme Court,
12 the Alaska community is speaking with a loud and strong
13 voice that they are very protective of their incumbents
14 and do not want them paired.
15 That wasn't the do-all end-all in this plan.
16 We didn't just simply say, "Okay, we're going to look at
17 this and who cares what it does to the Alaska
18 Constitution to unpair people." We were looking for a
19 way that both complied with the VRA and did the least
20 amount of harm to the Alaska constitutional
21 requirements, and that's a result of this plan.
22 MR. BICKFORD: One thing I just want to -- I
23 think you said that under the Proclamation, the district
24 that split the Chain and went up to Bethel, I think you
25 said it was 71 percent. It was actually -- that was the

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1 46 percent district.
2 MR. WHITE: I'm talking about the one up --
3 the one that contained the bottom part, the Aleutian and
4 then up into the Interior. The one I would compare more
5 closely resembles the current 37.
6 MR. BICKFORD: That's what I'm talking
7 about, Mike, is the one that takes Aleutians West to
8 Bethel. So that district I would say more closely
9 resembles this, because we're going Bethel all the way
10 down to the Chain.
11 MR. WHITE: That was at 46 percent.
12 MR. BICKFORD: That was at 46 percent. The
13 point -- Lisa said, "Why are you dropping this district
14 from 46 percent down to 42 percent?"
15 And that's what gave her heartburn to begin
16 with. And what we explained to her was, "Well, our
17 court has told us you can't split the Chain. If you
18 don't split the Chain, this is as high as you can get
19 it."
20 And so that was our goal, was to build this
21 district in a way that got over her target, didn't split
22 the Chain and didn't have any unnecessary pairing of
23 Native-preferred incumbents.
24 MR. WHITE: Very good point, Taylor, if I
25 misspoke. And now that we have done 37, it looks -- it

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1 looks -- we put the Chain back together, which was
2 similar to the current plan in place. And so Lisa
3 wanted to look at how that -- the effectiveness of that
4 district.
5 And she had a -- her concerns were caused by
6 dropping that number, but by moving it up, she believes
7 it gets us over. We can make an argument, once again,
8 she believes Native support is important for this. We
9 think we have that. We haven't paired any incumbents in
10 this, and I think this plan, as I'll talk about in a
11 little bit, does the least amount of harm to the Alaska
12 Constitution than any of the plans that this board has
13 seen in this past week.
14 MR. BICKFORD: One other thing, you know,
15 we're looking at this plan, which is not the Bethel to
16 Anchorage plan. She also analyzed the Bethel to
17 Anchorage plan.
18 And what she found was -- because there was
19 some differences in how 37 was arranged in that plan.
20 There was some slight differences. What she found was
21 that that plan, after having looked at the numbers and
22 the recompiled election results from those three races
23 that she has been looking at, that you had a harder
24 Voting Rights Act argument with the Bethel to Anchorage
25 plan.

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1 So she communicated that to us yesterday. I
2 think Mike is probably going to touch on this in a
3 minute, but I'll just let Mike cover why this plan would
4 be less harmful to the Alaska Constitution than the
5 other plan.
6 CHAIRMAN TORGERSON: Her analysis on the
7 Bethel to Anchorage wasn't necessarily the Bethel to
8 Anchorage pairings, again, what happened to the Chain?
9 Isn't that what made her uneasy?
10 MR. BICKFORD: That was primarily it. We
11 did talk to her about any time you're doing a Senate
12 pairing like that with Bethel with Anchorage, when
13 Bethel is losing population and Anchorage is gaining
14 population, you might run into some Voting Rights Act
15 issues with that Senate pairing also, but primarily she
16 was concerned about the way the Chain was configured in
17 that plan, which was slightly different.
18 MR. WHITE: In that plan that Taylor
19 mentioned, recompiled election results, it was a thumbs
20 down, because it lost two out of the three. In this
21 plan it wins two out of the three, and the third one is
22 within 30-some odd votes.
23 Also, in the current plan, the one election
24 that the Native-preferred candidate also loses in that
25 plan, and by a far wider margin. And so under those

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1 circumstances, it's hard to see how there could be
2 retrogression when the plan that's in place is better
3 than that Benchmark.
4 And if that is the Benchmark, as you guys
5 remember we talked about DOJ, when we asked them said,
6 "We don't know what the standard is. We don't know
7 whether it's the current plan or the 2002 plan or
8 whether it's the Proclamation Plan that is pre-cleared."
9 When we present to resubmit to the justice,
10 we will show why it is not retrogressive as opposed to
11 both of those plans. And they did that last time as
12 well. They kind of presumed that the new plan that had
13 already been pre-cleared was the standard, but did that
14 argument anyway. We will do the same.
15 That's all I have on that.
16 CHAIRMAN TORGERSON: Any questions on Lisa's
17 analysis or e-mail or anything on Voting Rights Act of
18 Michael at this time?
19 CHAIRMAN TORGERSON: Taylor, now go ahead
20 and continue on.
21 MR. WHITE: Taylor, let's just pull out to
22 look at the whole map. Do you have the Bethel -- you
23 know, I think I could do a comparison with just the one.
24 Basically, what we're looking at here is
25 that we know that we did our Hickel process, we adopted,

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1 as our chairman has said I think once, maybe twice, this
2 is the most constitutional plan in the history of the
3 state.
4 CHAIRMAN TORGERSON: Universe.
5 MR. WHITE: Universe now. And then we sent
6 that plan to Lisa. Lisa said this plan does not meet --
7 is retrogressive, would not be pre-cleared, because it
8 only has four effective or ability to elect House seats
9 and two effective or ability to elect Senate seats.
10 And, therefore, in order to fix those
11 problems, the last task given to this board by the
12 Supreme Court was to make the map comply that does the
13 least amount of reasonable amount -- least necessary
14 reasonable harm to the Alaska Constitution.
15 So really what you have is two fixes. We
16 talked about this before. How do you fix the House
17 seat?
18 Well, in order to get that fifth effective
19 House seat, you have to take the unpacked, the higher
20 Native areas and spread those out and basically collapse
21 6, because 6 was the one that was not effective.
22 MR. BICKFORD: 37, Mike, under the Hickel
23 plan. You're saying Benchmark District 6. That was 37
24 under the Hickel plan.
25 MR. WHITE: Okay. Thank you, Taylor. 37

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1 under the plan, yes, historical. We had to take that,
2 which we looked at that, you will recall that district
3 there, the Interior that came around.
4 You have to collapse that basically and then
5 find population from unpacked districts and spread that
6 around in order to create that third effective Senate
7 seat.
8 In order to do that, the fix that the board
9 found, and I believe of all the plans we have seen does
10 the least amount of harm to the Alaska Constitution, is
11 the fix that's proposed both in the Bethel plan and
12 here, that is, the creation of House District 39, which
13 obviously would potentially have some compactness and
14 some socioeconomic integration issues.
15 And, therefore, to the extent that there is
16 no strict compliance, the best way to fix that is by the
17 configuration of 39 and 38.
18 We have seen in all the plans that their
19 attempted fixes involve something similar. The bottom
20 line is the least amount of harm that you can get away
21 with to the Alaska Constitution, because you're going to
22 affect only two districts.
23 Remember when looked at some of the
24 third-party plans, they had districts that were
25 effective that affected the constitution three or four

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1 or five times. This plan just for the northern part of
2 fixing the House seat only has two. So we have the 39
3 fix and then the 38, which has some socioeconomic
4 integration issues.
5 You could argue that that district is
6 compact. To the extent that it's not, I would have to
7 say similar as to Southeast, that to the extent it's not
8 compact, it's necessitated by the need to create this
9 fifth effective House seat.
10 Then the second issue, of course, becomes
11 how do you comply -- how do you create that third
12 effective Senate seat. And we know that that was always
13 an extraordinarily difficult task, because the Court
14 mandate is put the Chain back together.
15 That really requires some difficult
16 machinations, and it's the problem that every plan seems
17 to have. This plan successfully does that, and I think
18 does it without really any additional -- the only harm I
19 see in creating the Senate seats, that affect the Alaska
20 Constitution, would be that you have to, through the
21 Senate pairing, the Senate goes from 37 through Nunivak
22 Island up to 38.
23 Now, we know that our Court has said that
24 some degree of open water is okay. The trial court
25 didn't like this amount of open water, saying the 1,000

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1 miles or so probably isn't good. Here we're talking, I
2 don't know what the exact measurement is, but we're
3 talking 100 miles, or far less than going clear across
4 here.
5 MR. BICKFORD: Mike, they said that for the
6 House district.
7 MR. WHITE: They said that for the House
8 district. And the reason why --
9 CHAIRMAN TORGERSON: Mr. White, I don't know
10 if "here," when you say "across from here," you're using
11 your pointer and the room understands, but I think you
12 need to use some geographic explanations.
13 MR. WHITE: Thank you Mr. Chairman. I will
14 give geographical references. We know the last time the
15 Court said in our House District 36 in the Proclamation
16 Plan, isn't it, Taylor? No, it's 37.
17 The Bethel District in the Proclamation Plan
18 is 37? In 37, we split the Aleutian Chain and then
19 paired it across the Islands over into Bethel. And the
20 Court said that was neither contiguous nor compact.
21 We argued it was necessary for the Voting
22 Rights Act. The trial court said no. The Supreme Court
23 did not provide us with any guidance. It threw out the
24 trial court's numbers issue, so we know that that's not
25 a problem.

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1 So the only rationale that the trial court
2 used that could still be applicable here would be doing
3 that for non -- for attempting to not pair Native
4 incumbents was too speculative.
5 Our trial court or the Supreme Court
6 provided us no guidance on that. The key issue here is
7 that the trial court, the issue with the Proclamation
8 Plan is that you were dealing with a House seat.
9 And under the constitution, the requirements
10 are that they be contiguous, compact and relatively
11 socioeconomically integrated. The only constitutional
12 requirement from the State of Alaska Constitution for
13 Senate seats is that they be as nearly as practicable --
14 or contiguous as nearly as practicable.
15 So I interpret that as providing a little
16 more flexibility to the board and would provide that
17 flexibility necessary to make this Senate pairing from
18 the 37 Aleutian part that comes up to Bethel, runs it
19 across to Nunivak and then up to 38 for the pairing.
20 BOARD MEMBER GREENE: Nunivak.
21 MR. WHITE: I'm sorry? Nunivak. Thank you,
22 Marie.
23 CHAIRMAN TORGERSON: We pointed out the
24 other day that in past plans that were okayed by the
25 Court, there was substantial across-water Senate

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1 pairings.
2 MR. WHITE: Interestingly, Mr. Chairman, I
3 just happened to have -- Taylor and I were waiting for
4 Lisa to get back to us last night.
5 I saw a binder sitting on the floor, so I
6 picked it up. It was the 1960 plan. The 1960 plan
7 split the Aleutian Chain four ways.
8 CHAIRMAN TORGERSON: Right. I'm referring
9 more for the Kodiak to Southeast Alaska Senate pairing,
10 which went across the Gulf of Alaska, probably more than
11 1,000 miles, and that stood the -- so I was just
12 pointing out that our little 150-mile jump is
13 potentially okay, because the Court has reviewed and
14 approved larger a expanse across water.
15 MR. WHITE: That is a rationale. The
16 Islands have to go somewhere, and doing it this way, I
17 think, provides the least amount of harm, because the
18 only alternative to that to create a third effective
19 Senate seat in a plan that does the least amount of harm
20 reasonably necessary to comply with the Voting Rights
21 Act would be to split the Aleutian Chain.
22 So in order to avoid splitting the Aleutian
23 Chain between that and this, I think this is far less
24 harm to the Alaska Constitution, if it's even a
25 violation at all.

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1 I would argue to you that -- and this is the
2 position probably presented to the Court, is that this
3 complies with the Alaska Constitution.
4 We have lots of islands. It says, "As
5 nearly as practicable." This is as nearly as
6 practicable as you can get and still meet all the
7 balancing and competing requirements.
8 MR. BICKFORD: Thanks, Mike, for that last
9 point, because that's what I was going to ask you to
10 kind of back up a step.
11 In my head, like you said, that island has
12 to go somewhere. Nunivak Island has to go in one of
13 those districts. We put it in 37.
14 MR. WHITE: You could have just as easily
15 put it in 36.
16 MR. BICKFORD: And then the island -- well,
17 you couldn't have. We needed that for 37. So I just
18 wanted to make sure, you're talking a lot about minimal
19 harm.
20 It's not clear to me that there is any harm
21 to the Alaska Constitution done by this.
22 MR. WHITE: I would agree. I think that
23 this complies as nearly as practicable to the Alaska
24 Constitution. To the extent that a Court may say,
25 "Well, maybe not strictly," then the harm would be small

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and it would be necessitated by the need to create that third effective Senate seat that avoids any pairing of Alaska Native incumbents.

So go ahead and pull back out.

BOARD MEMBER GREENE: Mr. Chairman, didn't you go -- try to go this way too when you first were working on it?

MR. WHITE: By "this way," you mean across --

BOARD MEMBER GREENE: Go along the coast there, because we started looking at some of those villages right there and it was just changed.

MR. BICKFORD: Thank you for that question, Marie. The answer is yes. I tried to do that, but you cannot connect this portion, and by "this portion of 37," I mean kind of the Bethel portion of 37, you cannot connect it up to 38 by land without adding too much population to it.

And what we had done is we had started with the Proclamation Plan, which did have that chunk of 37 sitting right up on the border of 38, but our whole process of reuniting the Chain led us to shed the top part and work our way down.

And so that's exactly right, Marie. We did try to do that. It wasn't possible, given the need to

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reunite the Chain. We could very easily make it a contiguous by land, but then we would have to split the Chain and we're right back where we started. Thank you, Marie.

MR. WHITE: If we look at the rest of the districts, I don't see any issues with the Alaska Constitution in any of the others. I think that all the districts -- the Chain we have talked about before. That's just by geographic necessity going to be long, and any compactness tests that are run on it are going to be very low, just as a matter of course, because that's the way that it looks. Just the geographic reality.

So in this instance I would suggest that in order to -- because the Hickel plan does not comply with the federal Voting Rights Act, in order to make that plan comply, you have to take 39 and you would have to configure it so that it does not strictly comply with the compactness requirements and probably not socioeconomic integration, I suppose, you could make some arguments.

38, socioeconomic integration, because you're adding the urban to rural, but we know that urban to rural is necessitated just purely by population reasons that have nothing to do with the Voting Rights

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Act. And since we know that the Hickel plan 37 District that includes the Fairbanks population, that contains a good portion still of House District 38, was constitutional and socioeconomically integrated, you have to then just go and basically you can look at it either two ways: You push over in order to get the Native population to create a fifth district, you push it over to the heavily populated Native areas, which is over in Wade Hampton and on the coast.

CHAIRMAN TORGERSON: We know we can't do that.

MR. WHITE: I'm sorry?

CHAIRMAN TORGERSON: You're making it sound like if we pushed this this way and did this way we could recreate another map.

MR. WHITE: What I'm saying is by fixing it this way you do the least amount of harm to the Alaska Constitution, because you contain a good portion of the district, which is in fact constitutional.

So all you have to do is basically start looking for, by unpacking the nearest area to grab that makes the most sense, is to take this Wade Hampton, because it allows you to create that third effective House district in those two areas.

CHAIRMAN TORGERSON: Do you remember how the

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trial court ruled on 38?

MR. WHITE: Found that it was completely constitutional. It said that, one, it's reasonable to take the -- urban has to be added to rural.

Two, it's reasonable to take that population out of Fairbanks for the reasons that I won't repeat here, because they are replete in the record, and, therefore, it was reasonable for the board to do that.

But then it said that it wasn't reasonable harm necessary, because of the numbers argument, that the Supreme Court has said doesn't work. And the other one was this speculative pairing argument.

I think that that was just factually wrong, because the pairing last time between -- the splitting of the Chain had nothing to do with the configuration on House District 38, because it was the same in the PAM-E Plan as it was in the Proclamation Plan.

So other than that, and the going over the water there, which I think is necessary because it's reasonably practicable, Senate pairing is now as near as practicable contiguous, I think that the districts in which you have to depart from strict compliance with the Alaska Constitution are 39, 38, I would argue 37 you don't need to, but to the extent that you do, that would be necessary in order to comply with the Voting Rights

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1 Act.
2 CHAIRMAN TORGERSON: I think the record is
3 clear on that now.
4 MR. BICKFORD: Oh, I think so. My question,
5 Mike, is, I might be being a little stubborn here, but
6 you're making a lot of statements about 39. I'm not
7 convinced that district isn't compact.
8 We have drawn enough districts in rural
9 Alaska to know that you only have so much to work with
10 rural Alaska. If that's not compact, I don't understand
11 how Benchmark --
12 CHAIRMAN TORGERSON: Let me inject. I don't
13 want a debate between you and Mr. White on whether or
14 not it's compact or not. Let's just leave it.
15 We're going to have to make findings on it
16 anyway. We have already discussed that we would make
17 findings next week sometime and handle that over
18 teleconference.
19 MR. WHITE: I would agree with you that an
20 argument could be made that that is compact given the
21 geographic realities of Alaska. To the extent that it's
22 not, that would be necessitated by the need to create
23 that fifth effective House seat.
24 CHAIRMAN TORGERSON: What about the Kenai
25 Borough, how many times did we divide that? We were

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1 trying to fix that so we only divided it once, but I
2 don't know what you ended up with.
3 MR. BICKFORD: Mr. Chairman, we split it
4 twice. You basically -- you needed to pick up -- let me
5 put the county lines on here.
6 You needed to pick up the -- this is all
7 Kenai Peninsula Borough territory, as you know. This
8 portion up here is Tyonek, Beluga, and you needed to be
9 able to pick that area up and put it in some Alaska
10 Native district.
11 I believe traditionally that's been done,
12 and in this case it was picked up by 36, so there is
13 your first split. Your second split is from Kodiak,
14 which came up and picked up some of the areas that it
15 traditionally has now into Kodiak.
16 There was also two villages from the tip of
17 the Peninsula here that were put into 36, but, again, 36
18 had already split the Kenai Peninsula Borough up north.
19 CHAIRMAN TORGERSON: I was just curious,
20 because I know you were going to look at trying to move
21 Tyonek back into rural.
22 But what you're saying is that the
23 deviations wouldn't allow you to move that around.
24 Okay.
25 MR. WHITE: Taylor, is it fair to say we

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1 know Kodiak does not have enough population to
2 constitute a district, so you have to get population
3 from Kodiak somewhere.
4 The board's choice that was not challenged
5 previously was to stretch this across over this way and
6 that's where you pick up the population. And then in
7 order to find some extra Native population, the part
8 that's across the Inlet from the Kenai Peninsula proper
9 is put into 36, a little portion of it as well, to
10 increase the Native VAP in House District 36?
11 MR. BICKFORD: That's correct, Mike. And
12 that's actually a very good point, because if you look
13 at the deviations in District 35, it's at a negative
14 4.53, so if you were to take that Kenai portion out of
15 35, you would be threatening to push that up and pushing
16 our statewide deviation up.
17 Again, like you said, this exact
18 configuration was done in our Proclamation Plan and
19 there were no challenges.
20 CHAIRMAN TORGERSON: When you refer to
21 picking up the population over there, I think you are
22 referring to Cordova? You were using your pointer
23 again.
24 I'm just trying to let people online know
25 what "over there" meant. And "over there" meant Kodiak

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1 skirting along the bottom of the Kenai Peninsula and
2 picking up the community of Cordova?
3 MR. WHITE: Correct. Then, Mr. Chairman, in
4 Fairbanks, we might as well put this on the record, I
5 think we discussed the Fairbanks fix and what it does.
6 Although this Court now -- although the
7 issue was ruled in our favor by the trial court, was not
8 addressed by the Supreme Court, the trial court found
9 that it was reasonable and justifiable for the board to
10 split Fairbanks two ways for the reasons we have
11 discussed in our briefing.
12 And so it's already in the board's record
13 from the first pretrial board work. In this plan, as
14 the board is well aware, since it adopted it yesterday,
15 it took that excess population and split the Fairbanks
16 North Star Borough only once.
17 And I think that the reason the board is
18 doing that is they don't want to -- you don't have to do
19 that, but you're doing that just in order to hopefully
20 get this matter done and so that the people of Alaska
21 can have a plan in place in time to elect their
22 officials.
23 I think that there is nothing wrong with the
24 previous plan, except for the fix to 1 and 2, which was
25 done. I don't see any proportionality issues on the map

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1 anywhere.
2 CHAIRMAN TORGERSON: Anchorage to Bethel.
3 MR. WHITE: Anchorage to Bethel, I think
4 it's fairly simple. It's pretty much, other than the
5 Voting Rights Act concerns, we're talking about just the
6 state constitution, the major difference is that in the
7 Bethel to Anchorage plan, you now would have two Senate
8 districts that would cross, be contiguous only by water.
9 And you would have to go across from House
10 District -- is it 36 that was in the Bethel plan? And
11 it runs across the Cook Inlet up and takes the House
12 district in Anchorage.
13 To the extent that that open water would be
14 allowed -- the bottom line is in this plan you only do
15 that once. In the Anchorage to Bethel plan, you do that
16 twice.
17 So to the extent somebody reviewing the
18 board's work or the courts say, "Well, no that's too
19 far," the fact that you only have to do it once and have
20 a Senate seat contiguous by water only once, would make
21 the first plan that we're talking about, which we still
22 haven't named -- we'll call it whatever -- makes it, I
23 think, do less amount of harm to the Alaska Constitution
24 than the Anchorage to Bethel plan.
25 I don't think there is much of any other

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1 differences other than the configuration of House
2 District 37, and we have already discussed those in the
3 VRA issues.
4 I think the rest of the state is pretty much
5 the same. So I think that if you were looking at the
6 two and you say, "Which ones had less harm potentially
7 to the Alaska Constitution," it would be the plan that
8 Taylor presented this morning.
9 CHAIRMAN TORGERSON: The Bethel to the
10 Chain.
11 MR. WHITE: Bethel to Anchorage would have
12 more harm to the Alaska Constitution than the plan that
13 Taylor, the Taylor plan that he presented this morning.
14 CHAIRMAN TORGERSON: Questions of Mr. White
15 of any of these?
16 BOARD MEMBER MCCONNOCHIE: No.
17 CHAIRMAN TORGERSON: I said, but I was kind
18 of talking over you, I think we'll just refer to the 37
19 as the Bethel to Chain plan since --
20 MR. WHITE: Makes sense. So the Bethel to
21 Chain plan would have less potential harm to the Alaska
22 Constitution than the Bethel to Anchorage plan.
23 And just so that we're on the record, there
24 are no pairing of Alaska Native incumbents, other than
25 the one unavoidable one in Southeast, Senator Kookesh

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1 and whoever he is paired with down there.
2 CHAIRMAN TORGERSON: Senator Stedman, yeah.
3 Okay. Any other questions or comments on where we're
4 at?
5 I'm personally ready for a motion to adopt
6 the plan, if there is no more discussion or anything
7 else you want to do.
8 I just have a procedural question for you,
9 Mr. White. If the motion is made to adopt the plan, do
10 we call this the amended Proclamation Plan or we do that
11 later?
12 If we just make a motion to adopt -- we have
13 to be able to identify this particular map is what I'm
14 trying to say. Any thoughts?
15 MR. WHITE: My thought would be that -- I'm
16 anticipating that the motion would be to adopt this in
17 concept, subject to staff review to clean up the warts
18 and do the other stuff.
19 So I would say that you would -- you adopt
20 the Bethel/Chain plan in concept as the amended
21 Proclamation Plan.
22 CHAIRMAN TORGERSON: Amended Proclamation
23 Plan. Mr. Brodie, do you have something?
24 BOARD MEMBER BRODIE: No. I did, but I was
25 going to wait for the appropriate time to make a motion.

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1 I move to adopt the plan as presented, known
2 as the Bethel to Chain plan, as the amended Proclamation
3 Plan, and labeled as such to differentiate it from the
4 first Proclamation Plan.
5 CHAIRMAN TORGERSON: In concept.
6 BOARD MEMBER BRODIE: In concept, pending
7 the cleanup and containment of unassigned blocks and
8 things.
9 BOARD MEMBER GREENE: I'll second.
10 CHAIRMAN TORGERSON: Moved by Mr. Brodie and
11 seconded by Board Member Greene. Is there a discussion
12 on the motion?
13 Just not really discussion, but I think I
14 would entertain another motion to authorize staff to
15 make the changes like we did last time, so that it's
16 clear on the record that we're authorizing them to do
17 that.
18 So we'll be adopting this plan in concept,
19 so that when we actually adopt the final Proclamation
20 Plan, we'll have the metes and bounds and everything
21 else done and adopt everything at one time.
22 So is there anything discussion on the
23 motion? Roll call vote, please.
24 MR. BICKFORD: John Torgerson?
25 CHAIRMAN TORGERSON: Yes.

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MR. BICKFORD: PeggyAnn McConnochie?
BOARD MEMBER MCCONNOCHIE: Yes.
MR. BICKFORD: Marie Greene?
BOARD MEMBER GREENE: Yes.
MR. BICKFORD: Bob Brodie?
BOARD MEMBER BRODIE: Yes.
MR. BICKFORD: Jim Holm?
BOARD MEMBER HOLM: Yes.
CHAIRMAN TORGERSON: So by five yea to zero nay, the board has adopted the Bethel to Chain Alaska map labeled Bethel to the Chain Alaska map, in concept.
Now, I think at this time we could do the motion, but last time we had authorized staff to make changes, minor changes, and we identified that as one-tenth of 1 percent of deviation.
I don't know if that's too tight now as much as we have done, but maybe we have to go a little bit higher than that, but what we want to do is let them, when they do the metes and bounds, Eric do that, and Taylor goes over every district to look for any particular appendages or things that aren't proper, that they would have the authority to fix those, and then note them and bring them back to the board.
Is that all right?
BOARD MEMBER MCCONNOCHIE: Sounds good.

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That sounds like a motion, whatever he said.
BOARD MEMBER BRODIE: Second.
CHAIRMAN TORGERSON: Moved and seconded. We would authorize staff to work on the plan. Is there discussion? Is there anybody that really needs to discuss anything?
MR. BICKFORD: My only question, Mr. Chairman, is are we setting a baseline? You said or you might not. I would suggest that we might need more than one-tenth of 1 percent, just because we've had less time with this plan than we did this summer.
CHAIRMAN TORGERSON: Well, I did bring that up and then I skipped over it. Well, no, I'm not -- I think you can note anything that you make changes and give us a report on it.
I tell you why I say that, is fundamentally the concern that I had last time that I suggested to the board that we have a tighter range for authorization to staff without board approval, is because we had all the maps in front of us, which was Anchorage, Fairbanks, Mat-Su, Kenai and Southeast, but in this case we didn't touch those in this plan as far as redrawing.
We're only talking about the rural areas. And if you find some anomalies, I think you can just let us know and then we'll adopt it.

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I'm thinking that most what we have out in rural Alaska are populations a little bit bigger than what we were dealing with on those. So just make a list and bring them back.
Any more discussion on the motion? Roll call, please.
MR. BICKFORD: John Torgerson?
CHAIRMAN TORGERSON: Yes.
MR. BICKFORD: PeggyAnn McConnochie?
BOARD MEMBER MCCONNOCHIE: Yes.
MR. BICKFORD: Marie Greene?
BOARD MEMBER GREENE: Yes.
MR. BICKFORD: Bob Brodie?
BOARD MEMBER BRODIE: Yes.
MR. BICKFORD: Jim Holm?
BOARD MEMBER HOLM: Yes.
CHAIRMAN TORGERSON: So by five yea to zero nay, the board has adopted the authorization for staff to clean the plan up.
Now, it would be my intent to take a break. I guess I need to figure out from staff how long you need, but I want to go ahead and adopt the -- take a look at the Senate pairings and adopt the Senate pairings, which I'm assuming would be primarily all the same, except for Fairbanks changes, and possibly the

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Kodiak 6 might be a different. I don't know, but how long would it take you to run that report?
MR. BICKFORD: Not very long, Mr. Chairman. Maybe 15 minutes.
CHAIRMAN TORGERSON: And the truncation issue along with it?
MR. BICKFORD: Well, I guess it depends on what you want to do. I'm assuming -- I mean, we know that --
CHAIRMAN TORGERSON: What I would like to do is adopt as close to what the board did in the Proclamation Plan. You started with Senator Egan, and not allowing him -- he didn't have to run again and that kind of dictated everything else we did in the plan.
I don't see that there would be a lot of changes to that either, but I could be wrong.
MR. BICKFORD: I agree, Mr. Chairman. From a staff perspective, Eric -- we don't -- Eric traveled back to Juneau today, and so we could send him, if we had to do more analysis.
I don't think more analysis is needed, because I know that all the districts -- it's not a different situation than the Proclamation Plan.
CHAIRMAN TORGERSON: Good. Ten minutes?
MR. WHITE: Mr. Chair, legal suggests or

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1 would recommend you might as well run the same plan --
2 the same analysis you did last time. Why at this point
3 in time risk someone complaining because you didn't
4 actually do it?
5 I would run the same report, and then I
6 think the truncation issue can easily be dealt with when
7 you come back to sign the Proclamation Plan.
8 I agree with Taylor that I don't see,
9 looking at it from 30,000 feet, that there is going to
10 be any difference, but we don't know what happens,
11 since, as I understand it -- well, we'll have to see,
12 but there is some potential if you put the Fairbanks
13 back together, that there may be a difference there.
14 CHAIRMAN TORGERSON: When is Mr. Sandberg
15 going to be in Juneau? Is he leaving at noon or
16 arriving at noon?
17 MR. BICKFORD: Leaving at noon.
18 CHAIRMAN TORGERSON: You got his contact
19 numbers yesterday?
20 BOARD MEMBER MCCONNOCHIE: He doesn't have a
21 cell phone.
22 MR. BICKFORD: I have his home number. I
23 would suggest this to both legal and to you,
24 Mr. Chairman. We know for sure that the only districts
25 that could potentially be different for truncation

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1 issues are the Fairbanks districts.
2 The Senate pairings amongst the rural
3 districts for truncation purposes are no different. In
4 Fairbanks, I would suggest that it depends on what the
5 board does.
6 If it pairs the city back together, Senator
7 Paskvan did not run in 2010, so he wouldn't, even if
8 that district was substantially the same as in the
9 Benchmark, he still wouldn't need to be truncated. I
10 don't know that if that makes sense, but even if it was
11 substantially the same and you would say we're not going
12 to truncate it, he would still be up for election in
13 2012.
14 CHAIRMAN TORGERSON: All these geniuses I
15 have around here and Eric is the only one that can do
16 this report?
17 MR. BICKFORD: He is, Mr. Chairman. He is
18 the expert on this software.
19 BOARD MEMBER GREENE: And he left?
20 CHAIRMAN TORGERSON: Well, so the answer to
21 my question is, he lands in Juneau or takes off from
22 Anchorage at noon, do you remember?
23 MR. BICKFORD: I believe he takes off at
24 noon. No, actually, I believe he takes off at 2:00.
25 BOARD MEMBER MCCONNOCHIE: I believe it's

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1 2 o'clock.
2 CHAIRMAN TORGERSON: Well, let's see if we
3 can get ahold of him right away. It would probably take
4 him two seconds to do this, since he is the only living
5 person on earth that knows how. Maybe we can tee it up
6 and get something done.
7 I would like to adopt those today. What I'm
8 thinking right now is we'll try to get ahold of him and
9 do it and then we would have a complete plan. The
10 people that are out there waiting know what we have
11 done.
12 We only partially have completed our job on
13 that without adopting the truncation and the Senate
14 pairings. So let's take about a half-hour recess, try
15 to get ahold of Eric, and then we'll come back on and
16 make a decision from there where we go.
17 I don't mind doing this over teleconference
18 a little later on, but I didn't even know Eric was
19 leaving until late yesterday afternoon. I think that
20 was a little bit premature for him to do that, our
21 hanging again.
22 Let's take a break until 11:30.
23 (There was a break.)
24 CHAIRMAN TORGERSON: We'll call the meeting
25 back to order. The time is 11:30. All members are

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1 present. Member Holm is calling in from Fairbanks. We
2 have staff, and we're represented by counsel.
3 Earlier we had passed the motion to adopt
4 the amended Aleutians Chain plan as our statewide plan.
5 Now we're going to --
6 BOARD MEMBER MCCONNOCHIE: The Bethel Chain
7 plan.
8 CHAIRMAN TORGERSON: What did I say?
9 BOARD MEMBER MCCONNOCHI: The Aleutian Chain
10 plan.
11 CHAIRMAN TORGESON: So currently we have
12 four motions that we're going to entertain, very similar
13 to what we did last time.
14 We want to adopt truncation. We want to
15 adopt Senate pairings, and then a couple procedural
16 motions. So I will turn it over to -- PeggyAnn, would
17 you give us the first motion?
18 BOARD MEMBER MCCONNOCHIE: Yes. I would
19 like to make a motion to adopt in concept the Senate
20 pairing into the Bethel Chain plan, and with your
21 indulgence, I'll go ahead and read that for the folks
22 who are online.
23 CHAIRMAN TORGERSON: If you would, so we can
24 get it on the record.
25 BOARD MEMBER MCCONNOCHIE: So it will be 1

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and 2, Senate District A.
3 and 4, Senate District B.
5 and 6, Senate District C.
7 and 8, Senate District D.
9 and 10, Senate District E.
11 and 12, Senate District F.
13 and 14, Senate District G.
15 and 16, Senate District H.
17 and 18, Senate District I.
19 and 20, Senate District J.
21, 22, Senate District K.
23, 24, Senate District L.
25, 26, Senate District M.
27, 28, Senate District N.
29, 30, Senate District O.
31, 32, Senate District P.
33, 34, September District Q.
35, 36, Senate District R.
37, 38, Senate District S.
39, 40, Senate District T.
And that is my motion.
CHAIRMAN TORGERSON: Is there a second?
BOARD MEMBER GREENE: I'll second the motion.
CHAIRMAN TORGERSON: I will note that these

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are the same as in the Proclamation Plan.
MR. BICKFORD: Yes, Mr. Chairman. And they are based on the what's on the map.
CHAIRMAN TORGERSON: And it's also the same that's on the map. So there is no changes to the Proclamation Plan that we adopted, is what I wanted to get out?
MR. BICKFORD: That's correct.
MR. WHITE: That is incorrect. We put Fairbanks back together. The Senate pairings are changed in Fairbanks, correct?
MR. BICKFORD: Mike, the numbers are reflected on the map.
MR. WHITE: We do know, then, Mr. Chairman, just for the record, although the Court -- the issue of whether or not Fairbanks, the City of Fairbanks is entitled to a Senate seat on its own has not been resolved, but as I understand it, this board has determined that that is -- in the interest of public interest, they decided that is an issue that will await another day to be determined and that the board has adopted a plan that will put the City of Fairbanks back together, leaving that legal issue unresolved on whether the City of Fairbanks constitutes a politically salient class.

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CHAIRMAN TORGERSON: Is there any more discussions on adoption of the Senate pairings? Roll call, please.
BOARD MEMBER HOLM: Mr. Chairman, I don't -- can you have Taylor just describe for me 1, 2, and 3 and 4?
CHAIRMAN TORGERSON: Yeah. Mr. Bickford -- what do you mean describe, you mean the boundaries again?
BOARD MEMBER HOLM: Yeah, just describe the boundaries to me again just for my edification. 1 is essentially what used to be 4; is that correct?
MR. BICKFORD: Jim, this is Taylor. No. 1 is what used to be 2. 2 is what used to be 4. And then 3 and 4 are the city districts.
BOARD MEMBER HOLM: Okay. So you numbered from the eastern side to the western side; is that correct?
MR. BICKFORD: That's correct, Jim.
BOARD MEMBER HOLM: I just couldn't visualize that.
MR. BICKFORD: I think that the map that we have probably doesn't have Fairbanks zoomed in enough, is my guess; is that right?
BOARD MEMBER HOLM: That's correct, it does

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not, and also doesn't have any of the roads, so I can't really determine where the breaks are, but the populations are right, so that's good.
CHAIRMAN TORGERSON: Any other discussion on the motion to adopt Senate pairings? Roll call, please.
MR. BICKFORD: John Torgerson?
CHAIRMAN TORGERSON: Yes.
MR. BICKFORD: PeggyAnn McConnochie?
BOARD MEMBER MCCONNOCHIE: Yes.
MR. BICKFORD: Marie Greene?
BOARD MEMBER GREENE: Yes.
MR. BICKFORD: Bob Brodie?
BOARD MEMBER BRODIE: Yes.
MR. BICKFORD: Jim Holm?
BOARD MEMBER HOLM: Yes.
CHAIRMAN TORGERSON: So by five yea to zero nay, the board has adopted the Senate pairings in concept into the Bethel Aleutian statewide plan. PeggyAnn?
BOARD MEMBER MCCONNOCHIE: I would like to make another motion to adopt in concept the Senate truncation. What I'll do is I'll read first of all the Proclamation Plan Senate district followed by the assignment of term length in the 2012 election.
A will be four.

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1 **B will be two.**
2 **C will be four.**
3 **D will be two.**
4 **E will be four.**
5 **F will be two.**
6 **G will be four.**
7 **H will be two.**
8 **I will be four.**
9 **J will be two.**
10 **K will be four.**
11 **L will be two.**
12 **M will be four.**
13 **N will be two.**
14 **O will be four.**
15 **P will be two.**
16 Q will be four.
17 R will be two.
18 S will be four.
19 T will be two.
20 And please note that P incumbents in those
21 districts will not stand for reelection in 2012. I
22 think that's my motion.
23 CHAIRMAN TORGERSON: Is there a second?
24 BOARD MEMBER GREENE: I'll second it.
25 CHAIRMAN TORGERSON: Moved and seconded. I

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1 will again say that is the same as the Proclamation
2 Plan, the numbering, or the four/two, A/B, so forth.
3 What we don't have before us today is the
4 population percentages as compared to the previous
5 Senate district, which is what we used for actually the
6 truncation -- of allowing the term to not have -- or an
7 incumbent not to run in the district.
8 At this time we don't believe there is going
9 to be any changes, but it should be mathematically
10 calculated. This will be done next week by our GIS
11 expert. He is unavailable today. And then when we come
12 back together for adopting the final Proclamation Plan
13 and the findings, we will also adopt this, the final
14 percentages will be before us and we'll be able to adopt
15 this into the plan.
16 Yes, Mr. White?
17 MR. WHITE: Mr. Chair, I think that what you
18 have done here is fine for these purposes, but I don't
19 think that you have actually made a motion of finding on
20 the truncation.
21 What you have done is assign the election
22 districts. You do, I think, need to make a motion that
23 truncates the old election, the original plan election
24 districts. For example, in the Proclamation Plan, the
25 districts under the old system of identification that

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1 were truncated were D, Senate F, Senate H, Senate J,
2 Senate L, Senate N, Senate P, Senate R and Senate S.
3 So in other words, first, you have to vote
4 to truncate, because they substantially changed, and
5 then you assign.
6 BOARD MEMBER MCCONNOCHIE: Wasn't that
7 contained within the motion I read, because I read every
8 single one of the districts and indicated what the
9 length of the term was.
10 MR. WHITE: Remember that that was assigned
11 randomly based upon Senate District P, because the only
12 -- remember there are ten Senate seats that are elected
13 every two years.
14 And so this board's task is to look at those
15 ten seats that are up in 2012 and determine whether any
16 of those current seats that are midterm, in other words,
17 but for redistricting they wouldn't be running for
18 election this year, and determine whether they need to
19 be truncated.
20 Once you make that determination, then you
21 go in and make two- and four-year assignments, which
22 have nothing to do with truncation.
23 BOARD MEMBER BRODIE: Mr. Chairman, I would
24 like to table Ms. McConnochie's motion.
25 BOARD MEMBER MCCONNOCHIE: Until?

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1 BOARD MEMBER BRODIE: Until later in the
2 meeting. My intention would be to then make a motion
3 consistent with Mr. White's recommendation, and then
4 remove from the table her motion and get it in the
5 proper order.
6 CHAIRMAN TORGERSON: I think we fix this in
7 two seconds.
8 BOARD MEMBER BRODIE: Whatever you want.
9 CHAIRMAN TORGERSON: It's up to the board, I
10 guess. The only reason I want to adopt this in concept
11 now is I don't want to have 60 calls asking me who is
12 going to be placed where. This would be on the record
13 as our intent to adopt.
14 MR. WHITE: Mr. Chairman, I don't think
15 there is any problem with that. I just don't think you
16 have taken the first step of actually --
17 CHAIRMAN TORGERSON: I heard what you said.
18 MR. BICKFORD: I would suggest that this
19 sheet does handle truncation.
20 CHAIRMAN TORGERSON: We're going to do it
21 different, Taylor. Thank you.
22 BOARD MEMBER GREENE: Under discussion could
23 the rest of the board members also could have a copy of
24 that? Oh, right there. Sorry.
25 MR. WHITE: Truncation has nothing to do

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with the assignment of the terms.
MR. BICKFORD: This assumes that all of them except for her are truncated.
CHAIRMAN TORGERSON: We'll stand at ease. Thank you. We'll put on mute. I won't disconnect from the teleconference.
(There was a break.)
CHAIRMAN TORGERSON: We'll go back on record. The time is 11:43 a.m. PeggyAnn?
BOARD MEMBER MCCONNOCHIE: What I would like to do is I would like to read, based upon what happened -- the plan that was in place last time, what will be the currently truncated districts.
So far so good? It will be D, F, H, J, L, N, P, R, and S. Those will be the districts that will be truncated.
What I read to you previously is the amended Proclamation Senate terms with the districts and the assignment of term length. Is that not what you wanted?
MR. WHITE: That's what I understand to be. Basically, as I understand what Mr. Taylor -- Mr. Bickford has told us is that the new map, the amended Proclamation Plan that you're adopting in concept, the Senate districts there he believes the analysis will show that the truncation issue would not

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change. Is that correct, Mr. Bickford? You believe the numbers will show that the districts, the old districts we truncated before last time in the Proclamation Plan are going to still need to be truncated in this plan?
MR. BICKFORD: I would agree, Michael. I just don't understand why we're having them read the old districts and not just say here are the districts under the new plan, which we're truncating.
MR. WHITE: Because that doesn't say this.
CHAIRMAN TORGERSON: Let me get back ahold of the meeting here. Does the second agree with the motion that was made by PeggyAnn?
BOARD MEMBER GREENE: So this is an amendment?
CHAIRMAN TORGERSON: I think she withdrew the one that was kind of.
BOARD MEMBER GREENE: So I'll withdraw my second for the first motion, and then I'll second.
CHAIRMAN TORGERSON: Moved and seconded we adopt the truncation as outlined by the motion.
Is there discussion? Roll call.
MR. BICKFORD: John Torgerson?
CHAIRMAN TORGERSON: Yes.
MR. BICKFORD: PeggyAnn McConnochie?
BOARD MEMBER MCCONNOCHIE: Yes.

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MR. BICKFORD: Marie Greene?
BOARD MEMBER GREENE: Yes.
MR. BICKFORD: Bob Brodie?
BOARD MEMBER BRODIE: Yes.
MR. BICKFORD: Jim Holm?
BOARD MEMBER HOLM: Yes.
CHAIRMAN TORGERSON: So by five yea to zero nay, the board has adopted the truncation. The next motion, which we don't have written up here yet, but it would be to adopt amended Proclamation Senate terms.
BOARD MEMBER MCCONNOCHIE: So I move that we adopt the amended Proclamation Senate terms, and I'll go through them one more time.
A, four years.
B, two years.
C, four years.
D, two years.
E, four years.
F, two years.
G, four years.
H, two years.
I, four years.
J, two years.
K, four years.
L, two years.

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M, four years.
N, two years.
O, four years.
P, two years.
Q, four years.
R, two years.
S, four years.
T, two years.
And that's my motion.
BOARD MEMBER GREENE: I'll second it.
CHAIRMAN TORGERSON: Moved and seconded we adopt the amended Proclamation terms as read. Is there discussion? In concept, by the way.
Roll call, please.
MR. BICKFORD: John Torgerson?
CHAIRMAN TORGERSON: Yes.
MR. BICKFORD: PeggyAnn McConnochie?
BOARD MEMBER MCCONNOCHIE: Yes.
MR. BICKFORD: Marie Greene?
BOARD MEMBER GREENE: Yes.
MR. BICKFORD: Bob Brodie?
BOARD MEMBER BRODIE: Yes.
MR. BICKFORD: Jim Holm?
BOARD MEMBER HOLM: Yes.
CHAIRMAN TORGERSON: So by five yea to zero

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1 nay, the board has adopted the amended Proclamation
2 Senate terms as outlined in the motion. PeggyAnn?
3 BOARD MEMBER MCCONNOCHIE: I would like to
4 make a motion to direct legal and staff to prepare
5 written findings that summarize the findings that are on
6 record.
7 BOARD MEMBER BRODIE: Second.
8 CHAIRMAN TORGERSON: Is there discussion on
9 the motion? Did I go far enough?
10 MR. WHITE: I think you did, Mr. Chairman.
11 This is more --
12 CHAIRMAN TORGERSON: I think everything we
13 have is on record.
14 MR. WHITE: I agree, and I believe you have
15 made adequate findings on the record. We are just, out
16 of an abundance of caution, are going to summarize those
17 into written formal findings.
18 CHAIRMAN TORGERSON: Is there discussion on
19 the motion? Roll call, please.
20 MR. BICKFORD: John Torgerson?
21 CHAIRMAN TORGERSON: Yes.
22 MR. BICKFORD: PeggyAnn McConnochie?
23 BOARD MEMBER MCCONNOCHIE: Yes.
24 MR. BICKFORD: Marie Greene?
25 BOARD MEMBER GREENE: Yes.

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1 MR. BICKFORD: Bob Brodie?
2 BOARD MEMBER BRODIE: Yes.
3 MR. BICKFORD: Jim Holm?
4 BOARD MEMBER HOLM: Yes.
5 CHAIRMAN TORGERSON: So by five yea to zero
6 nay, the board has authorized and directed the staff to
7 make written findings for presentation to the board at a
8 later time. PeggyAnn?
9 BOARD MEMBER MCCONNOCHIE: I would like to
10 make a motion to authorize legal to start preparing any
11 legal documents necessary to file our plans with the
12 courts.
13 BOARD MEMBER GREENE: Second.
14 CHAIRMAN TORGESON: Mr. White, did I capture
15 your thoughts on that one?
16 MR. WHITE: You did. Basically what we're
17 looking for here is our need to file the notice of
18 compliance and request for entry of judgment, and I
19 assume you will have a separate motion regarding
20 preparing the DOJ submission as well, or is that
21 supposed to be encompassed here?
22 CHAIRMAN TORGERSON: I did not do that, but
23 we certainly will. What I was going to do is ask if
24 there is any more motions. We'll pencil up another one
25 real quick.

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1 The motion is to authorize legal to start
2 preparing the legal documents to comply with court, file
3 our plans. Is there a discussion?
4 Roll call, please.
5 MR. BICKFORD: John Torgerson?
6 CHAIRMAN TORGERSON: Yes.
7 MR. BICKFORD: PeggyAnn McConnochie?
8 BOARD MEMBER MCCONNOCHIE: Yes.
9 MR. BICKFORD: Marie Greene?
10 BOARD MEMBER GREENE: Yes.
11 MR. BICKFORD: Bob Brodie?
12 BOARD MEMBER BRODIE: Yes.
13 MR. BICKFORD: Jim Holm?
14 BOARD MEMBER HOLM: Yes.
15 CHAIRMAN TORGERSON: So by a vote of five
16 yea to zero nay, the board has authorized and directed
17 legal to start the proceedings to file our plan with the
18 Court.
19 Now, just give me a moment.
20 BOARD MEMBER MCCONNOCHIE: I would like to
21 make a motion to authorize legal to start the filing for
22 preclearance with the Department of Justice.
23 BOARD MEMBER BRODIE: Second.
24 CHAIRMAN TORGERSON: Mr. White?
25 MR. WHITE: That's all I need.

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1 CHAIRMAN TORGERSON: Is there any discussion
2 on the motion? Roll call, please.
3 MR. BICKFORD: John Torgerson?
4 CHAIRMAN TORGERSON: Yes.
5 MR. BICKFORD: PeggyAnn McConnochie?
6 BOARD MEMBER MCCONNOCHIE: Yes.
7 MR. BICKFORD: Marie Greene?
8 BOARD MEMBER GREENE: Yes.
9 MR. BICKFORD: Bob Brodie?
10 BOARD MEMBER BRODIE: Yes.
11 MR. BICKFORD: Jim Holm?
12 BOARD MEMBER HOLM: Yes.
13 CHAIRMAN TORGERSON: So by a vote of five
14 yea to zero nay, the board has adopted and authorized
15 legal to start preparing the documents necessary for
16 preclearance with the Department of Justice.
17 That's all the motions that PeggyAnn had
18 prepared for us to consider. Anybody's thought, is
19 there any other motion or authorization that needs to
20 happen at this time?
21 Seeing none, I know everyone knows this, but
22 the board will get back together as soon as staff and
23 legal has -- it won't be today, but sometime next week
24 it's my intent to call a teleconference with the board
25 to approve the Proclamation in formal and to approve

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everything that we approved in concept today, so it can be formalized.

I don't at this time see a need for face-to-face, but if there are issues that come up that require that, then we will of course bring everybody to town if we need to review a lot of documents or something like that.

I don't know -- any guesstimate of when, the middle of the week?

MR. WHITE: I would think that if you held a meeting on Wednesday afternoon, that would give us -- I think staff, of course, obviously has to vet the plan, create the new Proclamation, so not a lot of amount of work to be done, but middle of afternoon on Wednesday.

CHAIRMAN TORGERSON: I'm not going to exactly call it now, but I just wanted everybody to kind of think that. It would be Wednesday or Thursday is what we're looking at.

So if people can check your schedules. We'll send out a reminder. We have to, of course, notice the meeting.

MR. WHITE: It has already been noticed, hasn't it, Taylor? We're noticed for all next week?

CHAIRMAN TORGERSON: Noticed for all next week, but I did not notice teleconference of the board.

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So I have to think of whether or not that's something we should renotice, but we have time.

BOARD MEMBER MCCONNOCHIE: Thursday is better than Wednesday.

CHAIRMAN TORGERSON: We'll look at that, but either Wednesday or Thursday we will, unless some issue comes up where we have to get together.

Is there anything else to come before the board today? Seeing none, then this board is adjourned.

Again, no time for speeches, but anyway, good job everyone. We made it through. Hopefully, we'll get through the courts.

BOARD MEMBER BRODIE: Thanks everybody for their patience.

BOARD MEMBER HOLM: I would just like to thank each and every one of you for all the hard work you have done. I do appreciate it. I'm looking forward to finishing this up, so thank you very much.

CHAIRMAN TORGERSON: PeggyAnn, any comments?

BOARD MEMBER MCCONNOCHIE: I want to thank you everyone, including Michael and Taylor and our court reporter, for their time and patience.

I'm just -- I'm very proud of what we did and what Taylor did.

CHAIRMAN TORGERSON: Ms. Greene, any

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comments?

BOARD MEMBER GREENE: Ditto.

CHAIRMAN TORGERSON: I agree. Michael, you need to work with the court reporter on whether or not we need her to transcribe the teleconference. I couldn't answer the question. Before I forgot, I wanted so we can -- if we're going to need it transcribed, we just need to keep her in the loop, I guess.

Anything else to come before the board? We will stand adjourned. The time is 11:53 a.m. We are adjourned.

(Off record.)

-o0o-

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CERTIFICATE

I, SONJA L. REEVES, Registered Professional Reporter and Notary Public in and for the State of Alaska, do hereby certify that the proceedings were taken before me at the time and place herein set forth; that the proceedings were reported stenographically by me and later transcribed by computer transcription; that the foregoing is a true record of the proceedings taken at that time; and that I am not a party to nor have I any interest in the outcome of the action herein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 2nd day of April 2012.

_____

SONJA L. REEVES, RPR
My Commission Expires 8/7/15

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In the Matter Of:

ALASKA REDISTRICTING BOARD

BOARD MEETING

April 05, 2012

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ALASKA REDISTRICTING BOARD

BOARD MEETING

April 5, 2012

10:00 A.M.

411 West Fourth Avenue, Suite 302

Anchorage, Alaska

A P P E A R A N C E S

BOARD MEMBERS PRESENT:

John Torgerson, Chairman
Marie N. Greene

Via teleconference:

PeggyAnn McConnochie
Robert B. Brodie
Jim Holm

STAFF PRESENT:

Taylor Bickford
Jim Ellis
Eric Sandberg (via teleconference telephonically)

ALSO PRESENT:

Michael D. White, Esq.
PATTON BOGGS, LLP
601 West 5th Avenue, Suite 700
Anchorage, Alaska 99501

Ernie Weiss

Marcia Davis

Steven Aufrecht

Joe Levesque

Tom Begich

P R O C E E D I N G S

-o0o-

CHAIRMAN TORGERSON: We'll call the meeting to order. The time is 10:00.

We'll have roll call of the members, please.

MR. BICKFORD: John Torgerson?

CHAIRMAN TORGERSON: Here.

MR. BICKFORD: Marie Greene?

BOARD MEMBER GREENE: Here.

MR. BICKFORD: PeggyAnn McConnochie?

BOARD MEMBER McCONNOCHIE: Here.

MR. BICKFORD: Jim Holm?

BOARD MEMBER HOLM: Here.

MR. BICKFORD: Bob Brodie?

BOARD MEMBER BRODIE: Here.

MR. BICKFORD: All board members are present.

CHAIRMAN TORGERSON: Okay. Let the record show that three board members, McConnochie and Brodie and Holm, are via teleconference. We do have staff here and we're represented by counsel.

The next thing on the agenda is the approval of the agenda.

BOARD MEMBER McCONNOCHIE: I move for approval of the agenda.

BOARD MEMBER GREENE: I'll second.

CHAIRMAN TORGERSON: It has been moved by PeggyAnn and seconded by Board Member Greene. Is there a discussion on the motion to adopt the agenda?

Hearing none, we'll have a roll-call vote, please.

MR. BICKFORD: John Torgerson?

CHAIRMAN TORGERSON: Yes.

MR. BICKFORD: Marie Greene?

BOARD MEMBER GREENE: Yes.

MR. BICKFORD: Bob Brodie?

BOARD MEMBER BRODIE: Yes.

MR. BICKFORD: Jim Holm?

BOARD MEMBER HOLM: Yes.

MR. BICKFORD: PeggyAnn McConnochie?

PeggyAnn McConnochie?

BOARD MEMEBER McCONNOCHIE: Yes.

CHAIRMAN TORGERSON: Okay. So hearing five yeas to zero nays, the agenda has been adopted.

Next on the agenda is the Executive Director's report. Taylor?

MR. BICKFORD: Thank you, Mr. Chairman.

Just a little housekeeping first of all. Everyone here, both the board and the public who's attending in person, should have a collection of materials that's in front of you. The board members

that are attending telephonically, I've checked in with all of you, and it sounds like everything has gotten to you electronically, and so I'm just going to -- once we get to the point of the agenda we're going to start running through the documents, I'll do my best to go slow and make sure that we're all on the same page.

For the members of the public who are listening, there was an e-mail that was sent out this morning that includes all the materials for today, with the exception of one document, which is the proposed findings. All of that, including the proposed findings, are available for download from our Web site. So I just want to thank the public for their patience. We know that this is moving very fast and, you know, documents probably aren't up as fast as all of us would like, but we're doing our best, and we at least wanted to get them up before the start of the meeting. So I thank everyone for their patience.

I guess I just want to talk about, really quick, what's happened since Saturday, since our last meeting. And some of this I'll save for later on in the agenda, but the main goal that we had, after the plan was adopted in concept on Saturday, was to do the technical review, the cleanup of the plan, and put

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1 together the necessary reports, data, spreadsheets
2 that we -- similar to what we did this summer. So we
3 were able to accomplish all of that.
4 The other thing that we did was we reached
5 out to the Division of Elections and invited them to
6 come over on Wednesday, yesterday, and we put the
7 projector up on the wall, and we just asked them to
8 verify that the precinct issue that they had
9 identified in Fairbanks was fixed. They were able to
10 verify that it was fixed. They saw no other problems
11 with the plan. So I just wanted to let you know that
12 that issue has been fully resolved.
13 We've also received some public comment this
14 week, and I want to just really briefly run through
15 what we received. I think the board, most of you have
16 seen the majority of this, but if not, we'll
17 double-check after the meeting and make sure that you
18 have it in front of you. But I'll just run through
19 the comments we have received.
20 Yesterday we received a letter from Joe
21 McKinnon of Alaskans for Fair Redirecting, and the
22 letter essentially talks about how AFFR had
23 experienced problems with their software last week --
24 we talked about that on the record -- and that they
25 had made some correction to their plan. They

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1 essentially sent us a new plan yesterday.
2 With this plan and with another one I'm going
3 to mention, I'm just going to say that we haven't had
4 time to do much with them. We've been preparing for
5 this meeting. You know, getting plans at the 11th
6 hour, it has been difficult for us to do anything with
7 it. But we have received them, and these documents
8 are all in front of the board at this time.
9 So the next comment would be from Calista
10 Corporation. They submitted a plan to us as well.
11 And outside of that, we also received some public
12 comments from some folks in the Kenny Lake area.
13 There was a man by the name of Keith Fellman
14 [phonetic] who submitted a comment on Sunday,
15 indicating that he was not happy about Kenny Lake
16 being put in District 39. We also received a comment
17 on Monday from a Matt with the Cooper River Record,
18 also indicating that he was not happy with Kenny Lake
19 being placed in District 39.
20 What I'll say about that issue, is that in
21 both of their comments, they talk a lot about wanting
22 to be linked with the highway. I would just point out
23 that under the current plan, Kenny Lake finds itself
24 in District 6, which is of course the big interior
25 rural Native district, and so they weren't in the

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1 highway district in the benchmark plan.
2 We also received a comment from an Alan
3 LeMaster. And it's not clear to me where Alan is
4 from. His e-mail address says Gakona. I don't know
5 if that means that he lives there. But the bottom
6 line is he also had some issues with the boundary
7 between District 6 and District 39. It looks like
8 some of these issues have been present since the
9 summer when we adopted our original plan, but at any
10 rate, we did receive that set of comments, really
11 focused on the Kenny Lakes or highway area.
12 I think, outside of that, Mr. Chairman, the
13 rest of any comments me or staff would have, would
14 probably be saved for later on in the agenda.
15 CHAIRMAN TORGERSON: Are there questions of
16 Mr. Taylor?
17 MR. WHITE: Mr. Chairman.
18 CHAIRMAN TORGERSON: Mr. White.
19 MR. WHITE: I'm sorry; I stepped out for just
20 a second, Taylor. Did you talk about the timeline
21 that the Division of Elections spoke of, or is that
22 for later?
23 MR. BICKFORD: I can talk about that now, if
24 you think so, Mr. Chairman.
25 CHAIRMAN TORGERSON: That's fine, yeah. We

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1 might repeat ourselves a few times, but yeah.
2 MR. WHITE: Okay. If we're going to go into
3 it someplace else. I just didn't know where it was
4 going to be on the agenda.
5 MR. BICKFORD: I'll just go into it now.
6 Last week, we all remember that we reached
7 out to the two major political parties and asked them
8 what they thought a reasonable amount of time would be
9 to know whether or not an interim plan was going to be
10 implemented. Both parties indicated that two weeks
11 would probably be the minimum amount of time needed.
12 And we also reached out to the Division of Elections,
13 and this is a conversation we had while they were
14 looking at the precinct boundaries, and they also
15 indicated that that two-week timeline is what they
16 would need as well.
17 They -- my understanding is that they have to
18 finalize their precincts by May 19th. There's less
19 fixability in moving the filing deadline than there
20 would have been in previous cycles, because of federal
21 regulations that have been passed that dictate when
22 military ballots need to be sent out and that sort of
23 thing. So the bottom line, from their perspective, is
24 that they would need about that same two-week cushion.
25 So the two parties and the Division of Elections are

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all on the same page with when they would want to know whether or not an interim plan was going to be implemented.

MR. WHITE: Mr. Chair, so I take that, Taylor, as meaning that either our amended proclamation plan has to be precleared by that time, or we have to move forward with the interim plan?

MR. BICKFORD: That would be my interpretation of it, Mike. I mean, essentially what they want to know is what plan is going to be used by that May 15th timeline. And the reason for that is they have to get -- you know, they figure that if they know by May 15th, they'll be able to get whatever precinct work they need to be done in those days leading up to the 19th. And so I think your description is probably right, that the two options are either we've gotten preclearance and heard back from the state courts on the new plan, or we will have to implement the interim plan. At least from their perspective, that's the kind of time that they're looking for.

CHAIRMAN TORGERSON: And it's on the agenda as Item 8, but I will note that the Division asked us to adopt the Supreme Court's offer for us to adopt the proclamation plan as the interim plan with the

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Fairbanks fixes, so that they might start -- be able to start drawing precincts' boundaries on a plan that has been adopted by the board as the interim plan, if we need to do such. And so that is Item 8 that we will discuss a little bit later on when we get to that piece, but that's what it's all about: Trying to get this -- abide by these timelines and try to get something set up in time for the June 1 filing deadline.

Other questions of Taylor, or does anybody on teleconference have a question of Taylor?

BOARD MEMEBER McCONNOCHIE: No. Thank you, Taylor.

CHAIRMAN TORGERSON: Hearing none, we will go to Item 5, which is legal briefing on timeline and process.

Mr. White.

MR. WHITE: Thank you, Mr. Chair.

The anticipated timeline at this point in time, it looks like we're going to adopt the amended proclamation plan today, start by adopting the findings that we've done, and go through all of that process.

Once the plan is adopted, then the next step is it to bring the plan back to the trial court

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through a notice of compliance with the order and request for a final judgment. My goal is to have that filed by Monday. That's -- you know, I can't promise that, but I think, hopefully, we should be able to have it done on Monday. We're working on getting the appropriate pleadings into place, getting the appropriate record done. It may be that we'll have to -- can't have all, the whole record, ready by Monday, but I don't want to delay getting it filed in front of the court, so that we can set a timeline for that.

Then I expect that the trial court will set a timeline like it did. It'll set a scheduling order along the lines of what it did on March 15th, and we will push the trial court to try and make that timeline as succinct as possible. I suspect it will be a similar type timeline, in terms of giving people a chance to object, and then our response determination, whether there has to be a hearing.

So we would be -- if we file on Monday, we would be about four, five days ahead of what the original trial court's pretrial order was, so we'll at least be able to move, I think, that forward that amount of time. But I would suspect that -- I find it extraordinarily difficult to believe that if this

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process has to go back up through the Supreme Court again, that we are looking at having the state court proceedings completed by May 19th. And of course, whether or not we have preclearance during that amount of time is difficult to predict at this point in time as well.

Once we get filed with the trial court, we'll be moving simultaneously with putting together our preclearance submission back to DOJ. We'll need to have -- we've got Lisa's findings that we got prior to the adoption of the planning concept. I believe to have another report from her. She is out of pocket this entire work, and so I don't know when we're going to get her report. Sometime, hopefully, next week.

My goal on getting preclearance submission in would be the following Monday, whatever day that is --

CHAIRMAN TORGERSON: The 16th.

MR. WHITE: The 16th. You know, that may push a day or so, but our goal is to get it on file by that point in time; then we would ask for expedited consideration of DOJ consideration. We are expecting a letter from the Department of Elections setting forth their request that we make expedited consideration to the DOJ and setting forth the reasons why. They deal -- the Department of Elections

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1 provided the board a similar letter last time, and
2 that's the basis for asking the DOJ for expedited
3 consideration.
4 Looking at the DOJ regs, they can certainly
5 do that, but they're not required to. They can take
6 up to the full 60 days if they want to. We anticipate
7 that after we are on file, that we would attempt,
8 request another meeting with DOJ sometime the end of
9 April, first part of May, something like that. We
10 have to give them a little bit of time to at least
11 look at this stuff and to do the same thing that we
12 did last time, and go back there and explain the plan
13 to them and lobby for preclearance with them.
14 Lisa was not optimistic that, given the
15 timeline of filing mid-April, that you would have
16 preclearance in time for June 1st; she was not
17 optimistic about. May 19th, we haven't really
18 broached that subject with her, but it's possible that
19 we will not have preclearance by that time. It's
20 possible that we will not have state court
21 preclearance or state court okay by that point in
22 time. So that's why I recommended, along with the
23 Board of Elections, that we adopt an interim plan,
24 which then allows us to get the appropriate pleadings
25 ready, so that if we have to pull that trigger, it can

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1 be done on a very short leash. I don't think there's
2 any other way that the board can go at this point in
3 time.
4 Moving forward, of course, then I'm still
5 trying to run the ground whether you have to get
6 preclearance on the interim plan. My review of the
7 case law is that I think that we do, but I have a call
8 into the gentleman who was the DOJ attorney in charge
9 of Alaska, that, Marie and John and Taylor, we met.
10 Do you remember the gentleman that asked -- had a
11 buddy in Alaska and asked whether we knew him? People
12 outside seem to think that everybody in Alaska knows
13 everybody. John knows 90 percent of the people in
14 Alaska, but I don't think everybody knows everybody.
15 So I will report back to Taylor as soon as I
16 get any information from them. But right now my
17 review of the case law is that unless a plan is a
18 court-ordered interim plan, that you have to get
19 preclearance. And they define a court-ordered interim
20 plan as a plan that -- essentially there's pages and
21 volumes explaining it, but I boil it down to this: It
22 has to be a plan actually drawn by the court. A plan
23 that represents the judgment of the redistricting
24 authority is not considered a court-ordered plan. And
25 since the interim plan that we would be doing would be

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1 a plan that was drawn all by the board, even the fixes
2 to that, while the fixes may have been court ordered,
3 they would still reflect in their final response.
4 They didn't tell us how to draw them or do the fixes,
5 they just said: These two districts are not compact,
6 so fix them.
7 So my review of the case law is that we'll
8 have to get preclearance even on the interim plan.
9 However, since we are simply making fixes within
10 Fairbanks that have no implications on and do not
11 change any of the lines of the proclamation Alaska
12 Native district plans, I would suggest that
13 preclearance would be perfunctory. We may not get it
14 by May 19th or June 1st, but we would know that, in
15 fact, it's going to be precleared, the plan would have
16 been precleared before, and it would just be a matter
17 of, I think, a rubber stamp in that instance. That
18 would be very similar to what happened last time when
19 they moved forward with the plan, even though they
20 didn't have preclearance until June 16th or 17th.
21 So I would anticipate that we would need --
22 you know, if we haven't got a decision by shortly
23 before May 19th -- I don't know what day of the week
24 May 19th is, I don't have a calendar in front of me,
25 but --

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1 CHAIRMAN TORGERSON: Let me ask a couple of
2 questions, if I may, to clarify the timeline.
3 MR. WHITE: Sure.
4 CHAIRMAN TORGERSON: How long, is your
5 anticipation, the Supreme Court to rule on our
6 petition to adopt the proclamation plan?
7 MR. WHITE: I would think that they would
8 give the other party a chance to respond, or at least
9 provide input on it, but I think they would act on a
10 very short leash. I would anticipate that, and I
11 would hope for, that that will be done in a week to
12 ten days tops, maybe shorter. We will certainly tell
13 them -- they ruled very quickly after oral argument
14 before, you know, and they've already indicated to us
15 that we don't think you have the time to petition for
16 the interim plan, so that may be a fait accompli
17 already.
18 But I think that five to seven days, maybe
19 shorter, but it could be as much as ten, depending on
20 how long or if they in fact take or allow comment from
21 third parties or amicus.
22 CHAIRMAN TORGERSON: So by my calculations,
23 using June 1 and going backwards, and providing the
24 opportunity, which both parties requested, two weeks
25 for filing candidates, and the Division of Elections

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1 also represented a May 19th deadline, which is a
2 Saturday, which probably they didn't look at the
3 calendar, but my -- they wanted two weeks also. And
4 then if you take that and move backwards ten days,
5 that means May 5th we should petition the court for
6 adoption of the proclamation plan, May 5th is a
7 Saturday, so that makes it May 4th.
8 So by default, we are setting the timeline
9 for adopting the -- and which is fine. I'm just
10 saying that this is the timeline that we're working
11 with.
12 MR. WHITE: May 19th is a Saturday. So I
13 would say that if we have not gotten preclearance and
14 the court matter done by May 10th, since we will
15 already have in the can our motion to the court for
16 this and the plan already adopted, I would think that
17 May 10th may be a trigger date that would work.
18 CHAIRMAN TORGERSON: What precludes us from
19 prefiling with the justices the interim plan, with the
20 explanation that we want -- everything that you just
21 said. We're only making changes in Fairbanks, but if
22 we have to pull the trigger, due to our Supreme Court,
23 to adopt an interim plan, we would like you to
24 consider this for preclearance, along with our amended
25 proclamation plan?

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1 MR. WHITE: I don't know if there's anything
2 that prohibits that or not, but I will ask that
3 question when I talk to the DOJ guy as well, first of
4 all, you know, if we have to get preclearance. I
5 guess another potential option is just simply to go to
6 the court and say, look, I know we didn't appeal 1 and
7 2, because we just felt it was in the public interest
8 not to do that, it would be fixed; but if you change
9 these lines, then we have to get preclearance, so we
10 request that you just implement the interim plan in
11 total without any changes. That's one option that
12 could be done.
13 If they don't make any changes and they just
14 order the proclamation plan as the interim plan, then
15 we don't have to go back to the DOJ, because that
16 plan's already been precleared. Do you see what I'm
17 saying?
18 CHAIRMAN TORGERSON: Yes, I do. But that was
19 not in my thought process, because the court -- we
20 wanted to fix as many of the litigation issues that
21 were out there, whether we agreed with them or not,
22 with our amended plan. And the court also said:
23 Petition us with the fixed one too.
24 So what you're suggesting is we could
25 petition them and say, let's not fix 1 and 2. Yeah,

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1 that would be . . .
2 Anyway, I just think that's fine. In my
3 mind, May 10th was the trigger date for petitioning
4 the Supremes, giving the five days to make a decision,
5 so we would have one by the 15th, but if it's May 4th,
6 so be it. There's moving parts that this board
7 doesn't control.
8 So one other question a little bit off the
9 subject, but when you indicate push the trial court
10 for an expedited scheduling process, what does that
11 mean? I mean, are we going to call the judge? Are we
12 going to go get a cup of tea?
13 MR. WHITE: No. I would suggest that we will
14 make suggested timelines when we file our notice of
15 compliance, saying here's notice of compliance, we
16 know you've issued an order, here's what we suggest
17 the deadlines be for, you know, getting this matter
18 litigated.
19 CHAIRMAN TORGERSON: So it would be, I think,
20 my intent -- you certainly can comment -- that the
21 board would adopt the amended interim plan today, with
22 the Fairbanks fix as the Fairbanks, and then we would
23 come back together to adopt the petition, to take it
24 to the Supreme Court at a later time. Does that seem
25 reasonable? That way the board would be fully

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1 apprised of the process. It would be telephonically,
2 I would imagine. I don't think there's a reason to
3 get together.
4 MR. WHITE: I think that that's -- I don't
5 think I need to have the authority to file it now.
6 You certainly could do that, just give the lawyer the
7 power of attorney, if we don't have -- we're not
8 through with the trial court and have preclearance by
9 date X; or you can just simply say we're adopting this
10 plan. We know that we will be putting the appropriate
11 paperwork together to have it filed, and once the
12 board authorizes that, then the board can certainly
13 get together in a meeting telephonically and do that.
14 CHAIRMAN TORGERSON: Well, we can still --
15 there's still other options of moving the filing
16 deadline, petition to move the filing deadline back
17 and/or the primary election back. And what we would
18 be doing is taking that off the table if we did
19 something today. I understand what the Division of
20 Elections says about, you know, that military filings
21 have changed, because that was a big issue, I don't
22 know, the last presidential election, I think. But I
23 don't know what that means. I mean, did they define
24 that to you? Like they have to have two more weeks
25 than normal, or did they just say there's new military

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1 guidelines controlling, Mr. Bickford?
2 MR. BICKFORD: It was more to the latter.
3 CHAIRMAN TORGERSON: Yeah. Okay. So I'd
4 like to run that to ground and understand exactly what
5 that means.
6 MR. WHITE: Yeah. We will get somebody
7 researching that.
8 CHAIRMAN TORGERSON: And what I understand,
9 it didn't really preclude us petitioning for, but all
10 I'm saying is we're close with DOJ, not that they call
11 us and have little conversations with us, but if we
12 feel like we're close and get a Superior Court ruling
13 or trial court ruling, and all that looks like, boy,
14 it's only within a week or something, or maybe two
15 weeks, maybe the clearer option might be to let's end
16 the process and wait for the DOJ approval, which then
17 I think I would be in the camp of requesting an
18 extension to the filing deadline, and of course
19 keeping in mind it would still leave everybody their
20 timelines that they need.
21 MR. WHITE: Sure.
22 Mr. Bickford, I'm vaguely familiar with this
23 law -- I don't know it -- but I think the deadline for
24 that is based upon when the election is. So you don't
25 have to necessarily move the filing, you could

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1 actually ask them to move a primary date, like they
2 did in 1992, I believe.
3 MR. BICKFORD: Mike, I think you might be
4 right, and what would probably be helpful is for us to
5 arrange a call with you and the Division's attorneys
6 to talk about some of the legal aspects.
7 MR. WHITE: I think that's good.
8 MR. BICKFORD: The other thing I forgot to
9 mention earlier was that the Division of Elections did
10 say that the filing deadline could get moved back
11 maybe two weeks. Again, this is very vague. We need
12 to run this to the ground. But it was kind of a:
13 Well, we really can't do it, but maybe we could do it
14 in two weeks.
15 So I would suggest it would probably be
16 worthwhile to get some specifics so we really know
17 what we're dealing with.
18 CHAIRMAN TORGERSON: That was my point. I
19 think that by adopting or giving the authority to
20 adopt a petition to the Supremes now is -- oh, I don't
21 know a better way to say it, than giving up a little
22 early, without looking at the options.
23 MR. WHITE: It's premature, I think, at this
24 point in time. If you have the plan in place, I know
25 what the plan is, and we can draft the appropriate

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1 documents, and then the board has all of its options
2 open to it and can reconvene at the appropriate time
3 to make that decision.
4 CHAIRMAN TORGERSON: Okay. Questions of
5 Mr. White?
6 Let's start with on teleconference first.
7 Any questions of legal?
8 BOARD MEMBER BRODIE: Bob Brodie here. I
9 guess I was just trying to think that, you know, I
10 think our new plan is a good plan and it will probably
11 pass everywhere, just depending on what the plaintiffs
12 bring up. Can you clarify for me: If we petition to
13 have the interim, quote, corrected Fairbanks plan
14 adopted because we ran out of time, does that include
15 the adjustment to District 6 and all the adjusted
16 areas around Fairbanks, and then just the rural Alaska
17 would fall back to the original proclamation plan?
18 I'm kind of of the inclination that the new
19 plan we're voting on is a good one, and I would just
20 let it -- let the time run and let it -- if there's a
21 train wreck June 1 because these agencies can't do
22 their work, then let them scramble to make the
23 judgments for the filing deadline line or the primary
24 date.
25 MR. WHITE: Well, Mr. Brodie, I believe that

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1 the interim plan that is being proposed makes the same
2 Fairbanks fixes, does the amended proclamation plan.
3 The -- there's no doubt that you have to have a plan
4 in place at an appropriate time, or move deadlines. I
5 don't think it's in anybody's, and particularly the
6 public interest, to let matters just -- put this off
7 in other people's hands.
8 So I think we're moving along at the right
9 process, we're taking all the right steps at this
10 point in time. We do have a number of moving
11 different parts, and once we adopt the amended
12 proclamation plan and go back up through the state
13 court process and get into DOJ, I think things will
14 start to clear out a little bit, but, you know, some
15 options will fall off, and then we'll just have to
16 deal with things as they come up.
17 But I think the plan at this point in time,
18 as I've outlined in the process, is the way to go as
19 we move forward. And, you know, after we get into DOJ
20 and maybe after we meet with them, they can tell us
21 then, no way you're getting preclearance by May 10th;
22 or there's a shot at doing that. I mean, that might
23 help. But that's why I think giving them a few weeks
24 to look at our stuff -- they're already familiar with
25 Alaska -- our submission will, you know, incorporate

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1 at lot of the materials that we've already sent, and
2 we'll have to add the new materials and other things,
3 and they'll obviously want the shape files and things
4 like that.
5 I'm not sure exactly whether the DOJ
6 regulations have any sort of mandatory public comment
7 period, I don't remember seeing any, but I didn't look
8 specifically for that issue. But I know that there's
9 an expedited process, and if we went back to meet with
10 them --
11 CHAIRMAN TORGERSON: I think you wandered a
12 little bit from his fundamental question. We changed
13 District 6 --
14 MR. WHITE: We did.
15 CHAIRMAN TORGERSON: -- in the amended
16 proclamation plan, and it's our intent to adopt that
17 into the --
18 MR. WHITE: The interim plan.
19 CHAIRMAN TORGERSON: -- into the interim
20 plan. And will our changes to District 6 -- I don't
21 know how to ask this. Do we have the proper authority
22 to change 6, when the Supreme Court said only fix 1
23 and 2?
24 MR. WHITE: I believe that we do, because the
25 court understands and talked about in its order that,

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1 obviously, you know there's ripple effects and there
2 may be some mooted issues.
3 So I guess what you're saying is could we
4 just fix 1 and 2 without changing any of the other
5 districts? I don't know if --
6 CHAIRMAN TORGERSON: Well, that's not what
7 I'm saying. If, for no other purpose than on the
8 record, that it's our belief that we do have the
9 authority to a ripple effect, or other legal
10 challenges that came up, to fix this in a clear swoop,
11 along with fixing 1 and 2. Or not maybe "along with,"
12 that's not the proper way to say it; but as a
13 consequence of fixing 1 and 2.
14 MR. BICKFORD: Mr. Chairman, to Bob's
15 question and your question, the fix to Fairbanks that
16 we implemented, that we had Eric implement to the
17 interim plan, is identical to the fix for Fairbanks
18 that's in the amended proclamation plan. It does
19 alter District 6, in that it brings District 6 out of
20 the borough, but it doesn't alter District 6 anywhere
21 else.
22 CHAIRMAN TORGERSON: But that's not the
23 question, Taylor. I understand what we're doing
24 there. The question is, the Supreme Court said,
25 petition us, along with the fix to 1 and 2, which we

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1 didn't do; and we, by the ripple effect, or
2 consequences of fixing 1 and 2, moved some population
3 out of the borough in 6. And it's a pretty simple
4 question, and Michael, I think, answered it, that we
5 have the authority to do that.
6 MR. WHITE: I think we do. And if they
7 don't, they'll tell us that you can't do that to 6, 1,
8 and 2.
9 CHAIRMAN TORGERSON: Okay.
10 MR. WHITE: But I think that we do, based
11 upon the fact that, in order to fix 1 and 2, there's
12 going to be ripple effects, and the court is aware of
13 that.
14 CHAIRMAN TORGERSON: Well, I agree with that,
15 but we're building the record for the most
16 constitutional plan in the history of the state of
17 Alaska, and the world, and the universe.
18 Are there other questions of Michael?
19 BOARD MEMBER McCONNOCHIE: No. This is
20 PeggyAnn. I just ask that, because there's so many
21 moving pieces, Michael, just help to keep us apprised
22 on when different pieces fall different ways and what
23 the implication is to the rest of the schedule,
24 because at this point it is very unnerving, because I
25 can't put it down on the calendar and know exactly

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1 what's going to happen on any specific day. So as we
2 go along and find out where the pieces fall, just help
3 pick them up and let us know where we are.
4 MR. WHITE: We will. Taylor and I speak
5 every single day multiple times, and we will ensure
6 that the board is fully apprised and kept current on a
7 daily basis.
8 MR. BICKFORD: Mike, do you think there's any
9 option of asking the Supreme Court how long it would
10 take for them to rule on the interim petition?
11 CHAIRMAN TORGERSON: They won't answer.
12 MR. WHITE: Yeah, I don't think that they
13 would.
14 CHAIRMAN TORGERSON: I'd like to go have tea
15 with them someday and have a conversation.
16 MR. WHITE: I think what we can do is, if
17 we're going to pull that trigger, I would probably
18 call the clerk of court, Marilyn, and say: Marilyn,
19 we're going to do this, you know, this has got a
20 really tight time frame on it. We're hoping that the
21 Fifth Floor will move this as expeditiously as
22 possible, given the way that they moved on the
23 expedited appeal before and the timeline you put
24 everybody to file briefs. I think we understand the
25 necessary on-time issues, and would respond

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1 accordingly.
2 MR. BICKFORD: How do we look compared to ten
3 years ago? Are we ahead of schedule or behind
4 schedule?
5 MR. WHITE: They filed with the trial court,
6 I believe, on the 19th, so we're ahead of that there.
7 They didn't even adopt their actual amended
8 proclamation until the 25th. I think they -- I
9 haven't been able to quite tell, but it looks like
10 they just overlooked the fact that they didn't
11 actually do a proclamation. That was signed on or
12 that was done on the 25th, and they filed with DOJ, I
13 believe on the 25th or the 26th. So we would be ahead
14 of the schedule last time.
15 They filed on April 26th, then they got
16 DOJ -- asked for expedited consideration and got
17 preclearance, even though there was very few changes,
18 there were a couple of minor tweaks to their Native
19 districts. I think -- I'm pretty sure -- it was
20 June 15th or 16th that they actually got preclearance.
21 CHAIRMAN TORGERSON: Other questions?
22 BOARD MEMBER GREENE: Just a comment,
23 Mr. Chairman.
24 CHAIRMAN TORGERSON: Ms. Greene.
25 BOARD MEMBER GREENE: I think everybody is

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1 aware of the schedule, looking at the responses that
2 we got back after, you know, going to the Supreme
3 Court. And I think that's -- it just shows to me that
4 they are aware of the tight timeline that we have.
5 Going back to the comment, Mr. Chairman,
6 about our attorney, with regards to, or the discussion
7 about DOJ and asking for public comments, I believe
8 they are, based on -- I think that they will, because,
9 I mean, my thought is, based on what Lisa Handley, you
10 know, stated in her e-mail. When she, after
11 reviewing, or seeing, you know, that we're -- it's not
12 retrogressive with the Hickle plan that we submitted,
13 but -- and then the second correspondence that we got
14 back from her, stating that, you know, if we have
15 Native support with our plan, you know, she's feeling
16 that's what's going to help, once, you know, we have
17 agreement by DOJ.
18 CHAIRMAN TORGERSON: Sure.
19 BOARD MEMBER GREENE: So I'm thinking that,
20 you know, they're going to reach out to a Native
21 organization for leadership.
22 CHAIRMAN TORGERSON: Well, and, Madam Greene,
23 I agree with that. I think I'd ask Mr. White if he
24 would look at if there's an actual timeline for that
25 to happen, not if they did --

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1 BOARD MEMBER GREENE: Yeah.
2 CHAIRMAN TORGERSON: -- it's more than to --
3 and I don't know this, and apparently Mr. White just
4 answered that, that there didn't appear to be a
5 timeline. But we know they have 60 days, DOJ, and at
6 the end of that 60 days, the decision might be we need
7 another 60. You know, it just means that that's the
8 timeline that they have set to make a decision on the
9 rest of the process or have a nonobjection to our
10 plan.
11 But I mean, clearly, in my mind, they were
12 going to send out the same e-mail or letter or
13 whatever to the Native community, similar to our
14 preclearance before.
15 BOARD MEMBER GREENE: Yeah.
16 CHAIRMAN TORGERSON: And what I was trying to
17 do is, again, work on timeline. And I know it seems
18 frustrating, but that's what I do, to try to let
19 everybody know approximately when something might
20 happen. But that's the one that is really not clear.
21 It could be the whole 60 days, it could be 30; what
22 does expedite review mean? I don't have an answer,
23 and I think that's what Mr. While was commenting on.
24 BOARD MEMBER GREENE: Yeah.
25 CHAIRMAN TORGERSON: We want to have that

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1 comment. I mean, it's important. This board worked
2 doubly overhard to try to make sure we had these
3 effective Native districts and protect that, the
4 Native voting strength. So, hopefully, we've done it
5 in such a way that we get positive comments from the
6 Native community when it goes out.
7 Mr. White.
8 MR. WHITE: Marie, my comment was I didn't
9 know whether they had a mandatory time period where,
10 okay, you have to allow public comment for 60 days. I
11 don't think that is the case, because they can -- I
12 think it's just they'll take public comment at any
13 point in time. As part of the preclearance
14 submission, you have to give them a list like we did
15 last time, of Alaska Native comments. I'm assuming
16 that they will make the same type of context they did
17 before. So I feel comfortable that they will reach
18 out to the Native community; that's what they do.
19 Lisa is saying that she thinks that, given
20 what she knows of DOJ and looking at the amended
21 proclamation plan, that she's thinks they will take
22 closer to the 60 days than not, to review this plan.
23 CHAIRMAN TORGERSON: Thank you for your
24 comments.
25 BOARD MEMBER GREENE: Thank you.

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1 CHAIRMAN TORGERSON: All right. Are there
2 any other questions of Mr. White?
3 That'll move us to Item 6 on the agenda,
4 which is to adopt the findings. You were all sent out
5 the findings. There are several versions, but it's in
6 there?
7 MR. BICKFORD: There are, Mr. Chairman.
8 CHAIRMAN TORGERSON: I don't know what went
9 out, but I was reviewing an earlier version this
10 morning at six.
11 MR. BICKFORD: The board, Mr. Chairman, here
12 in person and both electronically, has the final
13 version with some of the proofreads, and the version
14 that's posted on the Web site is also that final
15 version.
16 CHAIRMAN TORGERSON: Okay.
17 So, Mr. White, without going word to word,
18 would you tell us what we have before us, and we'll go
19 from there.
20 MR. WHITE: Sure.
21 What I have done, Mr. Chair, is, on the
22 direction of the board, I have gone back through the
23 record and drafted written findings in support of the
24 board's amended proclamation plan. I believe that all
25 of these findings were made on the record. They might

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1 not have been made exactly as stated here, but they're
2 all supported by the record. And we thought it was,
3 given the newness of this whole Hickel process, that
4 it would be in the board's best interest to have these
5 written findings which outline exactly the process
6 that they undertook, and set forth the specific
7 findings that the Supreme Court recommended that the
8 board make.
9 And so if we just do a quick version,
10 basically I have gone through, and we have Findings 1
11 through 9 about adoption of the Hickel plan, how we
12 went through it, what we did in order to get there;
13 and then we have made findings that, you know, this
14 plan complies with the Alaska constitution; and then
15 we have the Hickle plan's compliance with the VRA; and
16 then we make explanations and findings regarding
17 review of that process; Lisa Handley's findings, the
18 issue of her report; and the board's finding that the
19 Hickle plan did not comply, could not meet the
20 requirements of the Voting Rights Act, because it was
21 one ability to elect house district and one ability to
22 elect the senate district short, and therefore then go
23 into the -- and those are set forth in Findings 10
24 through 15.
25 And then we next go into the adoption of the

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1 amended proclamation plan, going through the balance
2 of the document, going through what the board's
3 process was in terms of attempting to adopt a plan
4 that complied with VRA, while at the same time doing
5 the minimal amount of harm as reasonably necessary to
6 ensure compliance; and go through and talk about the
7 five plans that we received, the statewide plans that
8 we received from the various people, summarize what we
9 went over on the record regarding their compliance
10 with the state process, the Hickle process, the VRA,
11 and the state court findings.
12 And then we go through and made findings how
13 the board came to adopting its amended proclamation
14 plan and setting forth how the board determined that
15 this plan that it adopted was one that did the least
16 amount of harm to the Alaska constitution, and we make
17 those findings.
18 I also have in here, basically, since we were
19 operating on such a fairly short time frame, these
20 findings also incorporate the fixes that the board
21 made into the plan, so it talks about the Fairbanks
22 area fixes and what they were; we point out, in the
23 findings themselves, regarding what we did to
24 Fairbanks, the fact that, although the senate issue
25 has not been resolved, all the Supreme Court did was

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1 say the trial court used the wrong legal standard and
2 didn't get to the merits, and so while the board was
3 to required to put the city of Fairbanks back
4 together, and could have moved forward with that legal
5 issue if they wanted to, based on the board's
6 determination that they thought it was in the public
7 interest to avoid further litigation, they went ahead
8 and did that.
9 We talk about the Fairbanks fix. Although we
10 won at the trial court level regarding spitting its
11 population of Fairbanks to Wade, again, since the
12 Supreme Court hadn't ruled on that, the board
13 determined that it was it was in the public interest
14 to moot that issue. If you read the Supreme Court's
15 order, they anticipate that changes the board make may
16 moot some of these issues, so we make a finding
17 regarding the fix we get there.
18 And then we talk about how we came up to the
19 Native districts and developed those upland; that
20 complied with the Alaska constitution, and then how we
21 deviated from that, to the least means reasonably
22 necessary, in order to ensure compliance with the VRA.
23 And the board also makes a finding regarding
24 Southeast and why we believe that we did not need to
25 go back in and redraw any districts down there. I

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1 went back and again reviewed the trial court's orders,
2 both of them, and it is clear to me that the trial
3 court's order clearly says that he found House
4 District 32 to become relatively compact and met the
5 Alaska constitutional standard, and that it was not
6 based on any sort of Voting Right Act justification,
7 and so therefore we make a finding regarding why we
8 didn't go back in and take another look at that.
9 And then I put forward some stuff that would
10 normally go into a report. I anticipated, Taylor and
11 I were talking, that the board's draft findings would,
12 in effect, serve as its report accompanying the
13 amended proclamation plan. We made findings regarding
14 the adoption of the plan, what it does, its overall
15 deviations.
16 And then the last paragraph, 44, deals with
17 the truncation issues. That the board discussed on
18 the record on March 31st the information that Taylor
19 talked about; what's been verified. And Mr. Bickford
20 was correct, that after running the reports, that the
21 decision that the board made was correct and no
22 changes needed to be made, and therefore we put that
23 into the written findings, so that the board has now
24 made a specific written finding regarding truncation
25 and reassignment of senate terms.

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1 CHAIRMAN TORGERSON: Thank you.
2 Are there questions on the findings of
3 Mr. White?
4 MR. WHITE: Of the board.
5 CHAIRMAN TORGERSON: Of the board. From the
6 board to Mr. White. I'll get it right.
7 First on teleconference?
8 BOARD MEMEBER McCONNOCHIE: Good job,
9 Michael.
10 CHAIRMAN TORGERSON: Okay. I hear none.
11 BOARD MEMBER GREENE: None.
12 CHAIRMAN TORGERSON: Ms. Greene agrees there
13 are none. So I will entertain a motion to adopt the
14 findings as presented then.
15 BOARD MEMEBER McCONNOCHIE: I'll go ahead --
16 this is PeggyAnn -- and I'll make a motion to adopt
17 the findings as presented.
18 CHAIRMAN TORGERSON: Thank you.
19 BOARD MEMBER GREENE: I'll second the motion.
20 BOARD MEMBER HOLM: I'll second.
21 CHAIRMAN TORGERSON: Okay. It was seconded
22 by Mr. Holm.
23 And so this is before us. Is there a
24 discussion on the motion to adopt the findings that
25 are before us?

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1 BOARD MEMBER HOLM: Mr. Chairman.
2 CHAIRMAN TORGERSON: Yes, Mr. Holm.
3 BOARD MEMBER HOLM: Can we, since it was not
4 dated in time on this written findings report that we
5 have, can you give us a time that that was sent on --
6 for the record -- to us?
7 CHAIRMAN TORGERSON: Oh.
8 BOARD MEMBER HOLM: I have two, and I wrote
9 on mine it was No. 2 rather than No. 1, but -- of the
10 findings, but I don't have when that was sent written
11 on here. And I'd like to have it on the record that
12 that's when it was sent.
13 CHAIRMAN TORGERSON: Mr. Bickford?
14 I think it was sent this morning, so whatever
15 one it was dated.
16 BOARD MEMBER HOLM: It was, the final
17 findings were sent this morning, but if it could be on
18 the record as to when that was sent.
19 MR. BICKFORD: Thank you, Jim. This is
20 Taylor. We sent the findings originally yesterday,
21 and that was the first round. And then this morning
22 we had some proofread edits to it, and that was sent
23 prior to the start of the board meeting. I don't
24 remember the exact time. Sometime between 8 and 9
25 a.m., and the changes that were made were not

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1 substantive.
2 BOARD MEMBER HOLM: That's fine. I just want
3 to make sure that it's clear which one we're voting
4 on.
5 CHAIRMAN TORGERSON: Yes. Thank you,
6 Mr. Holm.
7 I know that --
8 MR. WHITE: Mr. Chairman, Mr. Taylor's
9 attachments to the board, sending the revised
10 findings, which, as Mr. Bickford indicated, is
11 primarily proofread, there were no substantive changes
12 made. My secretary went through and made sure we
13 dotted all the i's and crossed all the t's, that type
14 of thing. It was sent to 9:31 a.m. this morning to
15 all of the board members.
16 BOARD MEMBER HOLM: Thank you.
17 CHAIRMAN TORGERSON: You're welcome.
18 Other questions of board members?
19 Okay. We'll have a roll-call vote on the
20 adoption of the amended -- or of the findings.
21 MR. BICKFORD: John Torgerson?
22 CHAIRMAN TORGERSON: Yes.
23 MR. BICKFORD: Marie Greene?
24 BOARD MEMBER GREENE: Yes.
25 MR. BICKFORD: PeggyAnn McConnochie?

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1 BOARD MEMBER McCONNOCHIE: Yes.
2 MR. BICKFORD: Jim Holm?
3 BOARD MEMBER HOLM: Yes.
4 MR. BICKFORD: Bob Brodie?
5 BOARD MEMBER BRODIE: Yes.
6 CHAIRMAN TORGERSON: So by a vote of five yea
7 to zero nay, the board has adopted the written
8 findings in support of the Alaska Redistricting
9 Board's amended proclamation plan.
10 That next brings us to Item 7 on our agenda,
11 which is the adoption of the proclamation --
12 MR. WHITE: Mr. Chairman, are you going to
13 actually execute that document, or are we going to do
14 that at a different times?
15 CHAIRMAN TORGERSON: Pardon me?
16 MR. WHITE: The findings are actually signed
17 by you. Are --
18 CHAIRMAN TORGERSON: I'll sign it later on.
19 Do I need board approval to sign it?
20 MR. WHITE: No.
21 CHAIRMAN TORGERSON: Mr. White was just
22 questioning when the signing is, and we'll take care
23 of that after the board meeting.
24 So Item 7 is adopting the amended
25 proclamation plan and reports. So what we will do,

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1 I'll have Mr. Bickford run through what the reports
2 are. I think we are all familiar with the
3 proclamation itself, but I understand we do have Eric
4 Sandberg on line to talk about metes and bounds, if
5 anybody has questions, so we should have all the staff
6 available for board questions.
7 So, Mr. Taylor, if you would identify the
8 reports that are attached to the proclamation plan.
9 MR. BICKFORD: Thank you, Mr. Chairman.
10 The first thing I'd like to point you to is
11 the maps. Here in person you have packets. Those of
12 you board members on the phone, these were sent to
13 you, and for those listening on line, these are
14 available on the Web site.
15 These reflect the plan that was adopted in
16 concept on Saturday with the technical changes having
17 been made. I will tell you that there was a minor
18 adjustment that had to be made in the Mat-Su in order
19 to bring the deviations closer. That was not
20 something that substantively affected any of the
21 districts. The issue was that District 8, for
22 whatever reason, was at a negative 1.8, and we just
23 had to shift some blocks across all the districts.
24 That was something we did as staff, and there were no
25 substantive changes to the districts as a result.

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1 Eric, are you on line?
2 MR. SANDBERG: Yes.
3 MR. BICKFORD: Well, I think I'll ask you to
4 explain what you did, Eric, but let's wait until we
5 get to the metes and bounds.
6 So what's in front much you now are just maps
7 that reflect the new plan. Our goal is to have the
8 individual district maps done sometime early next
9 week. Again, I thank everyone for their patience. I
10 know that we've gotten some requests for individual
11 maps. I will tell you that we're doing this as fast
12 as we can. We're under the gun to get a lot of
13 reports and things put together, and we at least
14 wanted to get the regional maps done so each district
15 in the plan was laid out visually, and we'll have more
16 detailed maps of the individual districts available
17 early next week, potentially at the end of this week.
18 So that is the first item, are the maps, if anyone has
19 any questions about those.
20 The next item is the metes and bounds. We
21 all remember doing this this summer. The nice thing
22 was, since the majority of districts were not changed,
23 we were able to duplicate at lot of what -- or at
24 least work off of the version that we had from this
25 summer. Eric is here on the phone.

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1 Eric, I'm just going to ask you to just talk
2 about what you did in going through the metes and
3 bounds, and what changes, if any, were made, and if
4 you can also indicate if those changes had any
5 population impacts, or if they were strictly
6 unpopulated areas.
7 CHAIRMAN TORGERSON: And, Eric, I'll ask you,
8 since we're on teleconference, to identify yourself
9 for the record, so that we can correctly reflect that,
10 and also your relationship to the board.
11 MR. SANDBERG: Okay. This is Eric Sandberg,
12 the Board's GIS specialist.
13 CHAIRMAN TORGERSON: Thank you.
14 MR. SANDBERG: And in doing the metes and
15 bounds, as Taylor said, we had a lot of -- all of
16 Anchorage was the same, many of the other districts
17 were mostly the same, so we could use a lot of our
18 work from last June.
19 But for changes in districts for the metes
20 and bounds, there were no changes that were done that
21 involved any population changing between a district.
22 All changes were mostly keeping boundaries on one side
23 of a river or moving everything to a centerline of
24 Cook Inlet; or one change, I moved 36 down to the
25 boundary of Katmai National Park, because I couldn't

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1 figure out what the old boundary was, but that -- as I
2 said before, none of those changes involved any
3 population changing from one district to another.
4 CHAIRMAN TORGERSON: Thank you. Are there
5 questions of Eric on the metes and bounds?
6 All right. Hearing none, thank you, Eric.
7 You did another -- would you read this into the
8 record, Eric? No. I'm joking.
9 Our court report here just said thank you,
10 Eric.
11 I'm joking, of course. All right. Thank you
12 for that, Eric.
13 Mr. Bickford, go ahead and continue.
14 MR. BICKFORD: Thanks again, Mr. Chairman and
15 Eric. I appreciate you making those changes, to
16 essentially make the metes and bounds easier to follow
17 for the public. I believe that was the goal. I'm
18 happy to hear that no population had to be moved.
19 The next document we'll look at will be --
20 this is really in no particular order here, but let's
21 look at the population spreadsheet. Again, this is
22 something that the board here in person has in front
23 of it, the public here has in front of it. Board
24 members, you've been sent this document, and the
25 public has had this available to them on the Web site.

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1 And apparently I don't have a copy.
2 CHAIRMAN TORGERSON: Let me cover you there,
3 buddy.
4 MR. BICKFORD: Jim?
5 MR. ELLIS: Yeah.
6 MR. BICKFORD: Oh, we stapled them together.
7 Okay.
8 So what I'm talking about is the amended
9 proclamation district population analysis. This
10 document should look pretty familiar to all of us.
11 It's the same format as what we used this summer.
12 And so what we have here is a breakdown of
13 the total population of each house and senate
14 district, the total deviation from ideal that we find
15 in each house and senate district, and then we have
16 also the Alaska Native, both total population
17 percentage and voting age population percentage. So
18 this is a good thing for us to refer to for the
19 deviations in the plan, what the percentage of Native
20 voting age and total population are in the districts,
21 and this is something that will stay on our Web site
22 for the public to access, if they're looking for any
23 just basic demographic information about the plan.
24 CHAIRMAN TORGERSON: Okay. The next
25 document, please.

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1 MR. BICKFORD: Okay. The next document is
2 the -- here in front of us, of course, we have two
3 separate sheets. Those of you who are looking at it
4 electronically, we have what's called the amended
5 senate terms, and it includes both documents in one
6 PDF file.
7 The first portion of that, that will work for
8 us too, is what is called -- well, it doesn't really
9 have a title. It's just of the spreadsheet that shows
10 the amended proclamation senate districts and what
11 their relationships to the benchmark senate districts
12 is in terms of population. Eric Sandberg put this
13 together, and this created the baseline for us to
14 determine, to fill in the data for the next sheet,
15 which I'm going to refer you to, which is the amended
16 proclamation senate term sheet itself.
17 And this is the sheet that shows us -- it
18 lists out Senate Districts A through T. It explains
19 what percentage -- or what -- so for Senate District A
20 through T, it determines what was the previous senate
21 district, and that's based on a population percentage,
22 and then it shows the percentage of the same of that
23 district. And so this formulated the basis for the
24 truncation issue.
25 Like Michael has already pointed out, there

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1 were no substantive changes between the original
2 proclamation plan and this plan. The only difference
3 was, because we put the city of Fairbanks back
4 together, Senate District B is substantially the same
5 as it was in the benchmark, but because Senator
6 Paskvan was not a seat that was up for truncation, it
7 wasn't an issue we had to consider.
8 And so really this last spreadsheet that I'm
9 talking about, it just sets forth the senate terms,
10 the assignment of term length in the '12 election. I
11 believe Board Member McConnochie read those into the
12 record on Saturday, and this is just, again, something
13 for the board and the public to use as a reference
14 tool to determine, for each senate district, what's
15 their assignment of term length in '12, what was the
16 previous senate district, and what percentage of that
17 district is the same.
18 Again, the only district, under our analysis
19 that would not be up for election in '12, is Senate
20 District P in Juneau.
21 MR. WHITE: And so as it's explained in the
22 findings, Mr. Chairman -- this is Mr. White -- we used
23 the same methodology that the board had adopted last
24 time. We knew that Senate District P in the current
25 plan was the only plan that currently, of the ten who

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1 are up for election, did not need to be truncated.
2 And so using that, since it wasn't going to
3 be truncated, we knew that P didn't have to be up for
4 election this time, and so it would be given a
5 two-year term. In effect, he'll serve out his term.
6 And using P as a two-year term, then we went back and
7 did it alphabetically, to assign randomly the four and
8 the two, based upon the location of P. And that's
9 explained in the board's findings that we adopted
10 earlier.
11 CHAIRMAN TORGERSON: Are there questions on
12 any of the documents from the board?
13 BOARD MEMBER McCONNOCHIE: No. Good job.
14 MR. BICKFORD: And I would just point out
15 that we will have more documents put together over the
16 course of the next couple weeks. One of the, I think,
17 helpful documents we've had for the original plan was
18 a list of communities by district. That's something
19 that we'll have out in the next week or so. We get a
20 lot of questions about it from LIOs and so forth.
21 So there will be some more documents, but
22 these are the really critical ones that we also had
23 before us this summer.
24 CHAIRMAN TORGERSON: And not to confuse the
25 issue, the "more documents" have little to do or

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1 nothing to do with adopting the proclamation plan.
2 MR. BICKFORD: That's right.
3 CHAIRMAN TORGERSON: They're just public
4 requests. Thank you.
5 All right. So if there is no discussion on
6 this, I will, at this point, anyway, entertain a
7 motion to adopt the amended proclamation plan and
8 reports.
9 BOARD MEMBER GREENE: I'll move to board
10 adoption.
11 CHAIRMAN TORGERSON: Okay. Moved by Marie
12 Greene.
13 BOARD MEMBER BRODIE: Seconded.
14 MR. BICKFORD: We didn't talk about this, the
15 actual letter.
16 CHAIRMAN TORGERSON: That's a separate
17 motion. Well, wait a minute --
18 BOARD MEMEBER McCONNOCHIE: Second.
19 CHAIRMAN TORGERSON: I think Mr. Brodie
20 seconded it, if I heard that correctly.
21 BOARD MEMBER McCONNOCHIE: Okay.
22 CHAIRMAN TORGERSON: What Mr. Taylor just
23 pointed out, there actually is a proclamation of
24 redistricting that just spells out everything, and I
25 would guess that we could adopt that in the same

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1 motion, Mr. White, or do you want to do it separately?
2 MR. WHITE: I don't believe there's a
3 necessity for having a separate motion in effect. We
4 can clarify the proclamation of redistricting --
5 CHAIRMAN TORGERSON: Is adopting the plan
6 actually --
7 MR. WHITE: -- is adopting the plan. It goes
8 through and explains in brief what basically the
9 process that has happened since the last proclamation
10 plan. It talks about the court order following the
11 Hickle process, the meeting process, and then the
12 reading today here, where you adopted your findings
13 and then adopted the plan, and then Mr. Torgerson will
14 sign on behalf of the board.
15 CHAIRMAN TORGERSON: Okay. Just so we all
16 understand: The motion to adopt the redistricting
17 plan will actually be adopting the proclamation of
18 redistricting, it will be adopting the accompanying
19 reports, which is metes and bounds, the senate terms
20 and the truncation, and that would be what we're
21 covering at this point.
22 Is there any discussion from board members?
23 Okay. We will have a roll-call vote, please.
24 MR. BICKFORD: John Torgerson?
25 CHAIRMAN TORGERSON: Yes.

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1 MR. BICKFORD: Marie Greene?
2 BOARD MEMBER GREENE: Yes.
3 MR. BICKFORD: Bob Brodie?
4 BOARD MEMBER BRODIE: Yes.
5 MR. BICKFORD: Jim Holm?
6 BOARD MEMBER HOLM: Yes.
7 MR. BICKFORD: PeggyAnn McConnochie?
8 BOARD MEMEBER McCONNOCHIE: Yes.
9 CHAIRMAN TORGERSON: So by a vote of five yea
10 to zero nay, the board has adopted the amended
11 proclamation plan and accompanying reports.
12 That next brings us to Item 8 on the agenda,
13 which is to adopt a plan to be used as the interim
14 plan, if needed. As we discussed this earlier, as we
15 were talking about under the executive director report
16 and legal briefings, that what that would do is allow
17 the department of -- or the Division of Elections to
18 start with precincts boundaries and their work,
19 simultaneously with our adopted plan we just made;
20 they could also do the interim plan.
21 So if this was triggered and if we did have
22 to adopt an amended plan, there would be at least --
23 or they would have the precincts set, and they would
24 limit the amount of time required for them to
25 institute or put in place the work that they need to

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do.
So the interim plan, again, is the -- our proclamation plan with the Fairbanks fixes. We did e-mail out to you the -- so everyone could see, an overall map again, but also the Fairbanks boundaries of the districts, that would primarily leave all of rural the same, and so it would be the proclamation plan, which divides the Chain, and with the fixes to 1 and 2, and the proportionality fix in Fairbanks, and so forth.
So I will entertain a motion to adopt the interim plan as outlined.
BOARD MEMBER McCONNOCHIE: I move to adopt the interim plan as outlined, because I'm not going to try to repeat all of that.
CHAIRMAN TORGERSON: Well, thank you.
Okay. Is there a second?
BOARD MEMBER GREENE: I'll second it.
CHAIRMAN TORGERSON: Seconded by Board Member Greene.
Is there discussion?
BOARD MEMBER HOLM: Mr. Chairman?
CHAIRMAN TORGERSON: Yes, Mr. Holm.
BOARD MEMBER HOLM: With regards to the Fairbanks changes --

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CHAIRMAN TORGERSON: Yes.
BOARD MEMBER HOLM: -- is there -- the metes and bounds, are they written down anyplace yet?
CHAIRMAN TORGERSON: Yes. We just adopted them.
BOARD MEMBER HOLM: I know, but I don't have them as something that I can possibly look at.
CHAIRMAN TORGERSON: Oh. I . . .
BOARD MEMBER HOLM: Do you know where they sit in the stuff that was sent to me? I've got the map, I've got the senate districts and all that stuff, but I didn't find the --
CHAIRMAN TORGERSON: Your question is where is the metes and bounds? It would be -- did you not get the attachment? It probably blew your computer up with all the districts.
BOARD MEMBER HOLM: Oh, yeah, I got lots of stuff.
CHAIRMAN TORGERSON: Well, it does show House District 2, the metes and bounds, and House District 3, and so forth, on the first sheet.
BOARD MEMBER HOLM: Okay. I will see if I can find it. After the meeting, I will call Taylor if I need to.
CHAIRMAN TORGERSON: Okay.

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BOARD MEMBER HOLM: Okay. Thank you.
CHAIRMAN TORGERSON: You're welcome.
MR. WHITE: Mr. Chair?
CHAIRMAN TORGERSON: Yes.
MR. WHITE: If I understand this correctly -- Taylor, correct me if I'm wrong -- the interim plan for Fairbanks was what we discussed on the record when it was adopted for purposes of the amended proclamation plan, the districts are exactly the same.
MR. BICKFORD: Michael, that is correct.
MR. WHITE: And so if you looked at the metes and bounds descriptions -- and the numbering would be the same as well, wouldn't it?
MR. BICKFORD: Yeah. And I think Jim is just looking for the document.
Jim, it's called "District Descriptions." It was in the zip file we sent. And, like Michael said, it would be the same metes and bounds from the summer, just with the Fairbanks districts swapped out.
CHAIRMAN TORGERSON: Yeah. And I apologize, Mr. Holm, I was --
MR. BICKFORD: We'll put together a separate document if we need to.
CHAIRMAN TORGERSON: I probably wasn't clear, but what we're doing with the interim plan is

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identical to our amended plan, so the metes and bounds for the amended proclamation plan would be the metes and bounds for the interim plan.
MR. WHITE: In Fairbanks.
CHAIRMAN TORGERSON: In Fairbanks.
MR. WHITE: And then the metes and bounds for the proclamation plan would be already in the report --
CHAIRMAN TORGERSON: Yep, right.
MR. WHITE: -- for the rest of the districts.
MR. BICKFORD: And we would put that together if we needed to.
BOARD MEMBER HOLM: I just wanted to make that clear. Thank you.
CHAIRMAN TORGERSON: Yeah. And I'm sorry. I was -- I didn't understand the question, I guess.
All right. We moved and seconded to adopt the interim plan as presented. Is there a discussion on the motion?
Hearing none, then we'll have roll-call vote, please.
MR. BICKFORD: John Torgerson?
CHAIRMAN TORGERSON: Yes.
MR. BICKFORD: Marie Greene?
BOARD MEMBER GREENE: Yes.

MR. BICKFORD: PeggyAnn McConnochie?
BOARD MEMBER McCONNOCHIE: Yes.
MR. BICKFORD: Jim Holm?
BOARD MEMBER HOLM: Yes.
MR. BICKFORD: Bob Brodie?
BOARD MEMBER BRODIE: Yes.
CHAIRMAN TORGERSON: So by a five yea to zero nay, the board has adopted an interim plan, if needed, for our redistricting plan.
That brings us to the conclusion of our agenda. I don't think an executive session is necessary.
Mr. White?
MR. WHITE: Mr. Chair, I believe that a short executive session is necessary. There's been a couple of developments regarding the litigation matter that need to be discussed.
CHAIRMAN TORGERSON: Okay. We've got to have a motion, then, to go into executive session for purposes of discussing litigation issues.
BOARD MEMBER GREENE: I move, Mr. Chairman.
CHAIRMAN TORGERSON: Ms. Greene has moved. Is there a second?
BOARD MEMBER McCONNOCHIE: Second.
CHAIRMAN TORGERSON: Is there a discussion on

the motion?
Roll call, please.
MR. BICKFORD: John Torgerson?
CHAIRMAN TORGERSON: Yes.
MR. BICKFORD: Marie Greene?
BOARD MEMBER GREENE: Yes.
MR. BICKFORD: PeggyAnn McConnochie?
BOARD MEMEBER McCONNOCHIE: Yes.
MR. BICKFORD: Jim Holm?
BOARD MEMBER HOLM: Yes.
MR. BICKFORD: Bob Brodie?
BOARD MEMBER BRODIE: Yes.
CHAIRMAN TORGERSON: So by a five yea/zero nay, the board has approved going into executive session to discuss litigation issues. What we will do is disconnect from the bridge, and we will be calling the board members directly on the teleconference line, but we won't care -- I see Mr. White is --
MR. WHITE: We will not be calling directly. What we'll do, is we have a conference line set up, so we need to e-mail that to all the board members, and then everybody will call in.
CHAIRMAN TORGERSON: Okay. We will notify you of the number within the next minute, and then we will --

BOARD MEMBER McCONNOCHIE: Sounds good. Thank you.
CHAIRMAN TORGERSON: -- call the meeting back to order after the executive session.
So with that, the board stands in recess for executive session.
(Redistricting Board in Executive Session.)
CHAIRMAN TORGERSON: Let's call the meeting back to order.
The board met in executive session to discuss litigation issues, and at this point there's nothing to bring forward to the board, so we will adjourn the meeting. The time is 11:35, and we will stand adjourned.
(Proceedings adjourned at 11:35 p.m.)
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CERTIFICATE

I, LISA L. SHAFFER, Certified Shorthand Reporter, and Notary Public in and for the State of Alaska, do hereby certify that the witness in the foregoing proceedings was duly sworn; that the proceedings were then taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed by computer transcription; that the foregoing is a true record of the testimony and proceedings taken at that time; and that I am not a party to nor have I any interest in the outcome of the action herein contained.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 6th day of April, 2012.

LISA L. SHAFFER, CSR
My Commission Expires 9/26/15

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