To: The Alaska Redistricting Board
From: Dr. Lisa Handley
RE: Hickel Plan
Date: March 28, 2012

It is my expert opinion that the *Hickel Process* State Legislative Plan ("*Hickel* Plan") adopted by the Redistricting Board Board ("Board") in compliance with the March 14, 2011 Order of the Alaska Supreme Court is retrogressive and would therefore be denied preclearance by the US Department of Justice. My opinion is based on the racial bloc voting analysis I previously performed as set forth in my original report to the Board titled "A Voting Rights Analysis of the Proposed Alaska State Legislative Plans: Measuring the Degree of Racial Bloc Voting and Determining the Effectiveness of Proposed Minority Districts."[1]

The Benchmark Plan The Benchmark Plan from which the US Department of Justice will determine retrogression is the Proclamation Plan – the state legislative plan adopted by the Board in June 2011 and precleared by the US Department of Justice in August 2011.[2] Table 1, below, lists the Alaska Native population in each of the Benchmark districts with sufficient Alaska Native population to warrant protection under Section 5 of the federal Voting Rights Act.

Table 1: Benchmark Districts (Proclamation Plan) with Substantial Alaska Native Populations

House District	Percent Alaska Native Population	Percent Alaska Native Voting Age Population
36	78.26	71.45
37	56.18	46.63
38	53.38	46.36
39	72.50	67.09
40	71.15	62.22
R	48.63	43.75
S	54.78	46.85
T	71.82	65.05

1 Because the data used to perform my racial bloc voting analysis remains the same, there is no need to perform a new racial bloc voting analysis.

[2] Once a legislative plan has been precleared by the US Department of Justice it serves as the Benchmark Plan unless the plan is subsequently found to be unconstitutional by a Federal court. (**Federal Register**, Vol. 76, No. 27, Wednesday, February 9, 2011.)

The Proclamation Plan contains five effective (or "ability to elect") Alaska Native state house districts: districts 36, 37, 38, 39 and 40. These districts are all majority Native population districts (78.26%, 72.50%, 71.15%, 56.18% and 53.38%), although only three of these districts retain their majority Alaska Native status when voting age population ("VAP") statistics are considered.

The house districts paired to create the senate benchmark plan produce three effective senate districts: two majority Alaska Native senate districts – District T (71.82% Native) and District S (54.78% Native population)[3] – and Senate District R, which is 48.65% Native population and 43.75% Native VAP. Benchmark Senate District R is comparable in Native percentage to Senate District C in the plan in place for the 2002 – 2010 elections (District C was 46.01% Native population and 42.41% Native VAP) and it exceeds the target Native VAP percentage of 41.8% needed to elect a Native-preferred candidate.

Percent Alaska Native Needed to Elect a Native-Preferred Candidate Because voting is racially polarized in Alaska, districts that provide Alaska Natives with the ability to elect their candidates of choice must be retained. The percentage Alaska Native VAP needed to provide Alaska Natives with the ability to elect their preferred candidates can be calculated once voting patterns by race have been estimated.

Using the average turnout rates of Alaska Native and white voters, and the estimates that the Native-preferred candidate can expect approximately 71% of the Native votes (the average degree of minority "cohesion") and approximately 44% of the white votes (the average degree of white "crossover" vote), the percent Alaska Native VAP needed to elect the Native-preferred candidate is calculated to be 41.8%. Thus, on average, any district with an Alaska Native VAP greater than 41.8% should be able to elect an Alaska Native-preferred candidate to office.[4]

Although this percentage holds for much of the State, in two areas the percentage is different because voting patterns are different. In the area of the Aleutian Islands (House District 37 in the plan in place for the 2002-2010 elections), a lower minority concentration is

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[3]Although Proclamation District S is only 46.85% Native VAP, it is composed of two state house districts that are very likely to be effective and therefore this senate district is also likely to be effective. In addition, Proclamation District S exceeds the 41.8% Native VAP target discussed below.

[4]This percentage is lower than 50% Alaska Native VAP as a consequence of both (a) the higher turnout rate of Alaska Natives compared to whites and (b) the sizable amount of white crossover votes that Native-preferred candidates can usually expect.

needed.[5] In the Interior Villages area (the area encompassed by House District 6 in the plan in place for the 2002-2010 elections), however, a percentage higher than 41.8% Native VAP is needed.[6]

The *Hickel* Plan This plan (see Table 2, below) provides fewer effective Alaska Native state house and senate districts than the Benchmark Plan.

Table 1: Hickel Plan Districts with Substantial Alaska Native Populations

District	Location	Percent Alaska Native Population	Percent Alaska Native Voting Age Population
36	Aleutian Islands	47.47	40.21
37	Interior Villages	36.23	33.26
38	Bethel	86.92	82.65
39	Bering Strait	88.37	84.22
40	North Slope	71.15	62.77
R	Districts 35 and 36	34.02	29.74
S	Districts 37 and 38	61.64	55.83
T	Districts 39 and 40	79.74	72.80

There are three state house districts in the *Hickel* Plan that contain a large majority of Alaska Natives and a fourth district that, although it is not majority Alaska Native in composition, is likely to be effective because it is in the area of the Aleutian Islands. The fifth district – District 37 – is clearly not going to be effective, however. Not only is the district well below the target percentage of42.8% Alaska Native VAP for the State, it is in the area of the state that requires nearly 50% Alaska Native VAP to provide Alaska Native voters with the ability to elect candidates of their choice to office. This district is only 33.3% Native VAP, however.

The Hickel Senate Plan also provides one fewer effective districts that the Benchmark Plan. Although districts S and T are effective, District R is only 29.74% Native VAP and is therefore well below the target "effectiveness" percentage.

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[5]District 37 consistently elected minority-preferred candidates despite being less than 41.8% Native VAP. This is because most of the election contests in House District 37 were not polarized, hence Native-preferred candidates can expect higher than the statewide average of 44% white crossover in this area.

[6] In House District 6 voting was invariably polarized and the Native-preferred candidate consistently received a lower than the statewide average amount of white crossover vote.

Conclusion The *Hickel* Plan contains one less effective state house district and one less effective state senate district than the Benchmark Plan. It is therefore retrogressive – and because plans exist that are not retrogressive, is not unavoidably retrogressive. I believe that the *Hickel Plan* does not comply with Section 5 of the VRA and thus would solicit an objection by the US Department of Justice.

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