# IN THE SUPERIOR COURT FOR THE STATE OF ALASKA 1 FOURTH JUDICIAL DISRTICT AT FAIRBANKS 2 3 In Re 2011 Redistricting Cases Consolidated Case nos. 4 4FA-11-2209-CI 5 4FA-11-2213-CI 1JU-11-0782-CI 6 7 8 BRISTOL BAY NATIVE CORPORATION'S OBJECTIONS TO REDISTRICING BOARD'S NOTICE OF COMPLIANCE 9 10 Amicus Curiae Bristol Bay Native Corporation ("BBNC")<sup>1</sup> submits these 11 12 responses in objection to the Alaska redistricting Board's Notice of Compliance. 13 BBNC responds to the court's questions in the order posed and includes additional 14 bases for objection where appropriate. 15 I. Did the Board follow the Hickel process as directed by the Alaska 16 **Supreme Court?** 17 A. The Board Misinterpreted the *Hickel* Mandate 18 As an initial matter, BBNC does not believe that the Board correctly 19 20 interpreted the Supreme Court's directive regarding the so-called "Hickel process." 21 The Supreme Court was clearly interested in determining the whether splitting the 22 Aleutian Chain was in fact required by the Voting Rights Act (VRA), as the Board 23 claimed. The questions asked by the Court specifically indicated an interest in 24 25 26 1 Order Regarding Bristol Bay's Motion to Participate as Amicus, December 21, 2011. 27 1

determining whether the split was in fact the Board's only option. Moreover, the Supreme Court was concerned that – apparently based upon the advice of its expert Lisa Handley – the Board began by complying with the VRA (that is drawing the rural Native districts first), rather than beginning by focusing on the Alaska Constitutional requirements. Order ¶ 6. Starting from this point meant there was very little attention paid to Constitutional requirements. Based upon the statement in *Hickel v. Southeast Conference* that "the Board must first design a reapportionment plan based on the Alaska Constitution" and then test that against the VRA, the Supreme Court directed the Board to focus first on Alaska Constitutional requirements and then deviate where it was "the only means available to satisfy Voting Rights Act requirements." Order ¶ 7. The objective of this approach is clearly to determine whether disfavored solutions (like splitting the Aleutians) are in fact "the only means" of satisfying the VRA.

Instead of complying with the intent and spirit of the mandate, the Board took the directive literally. It purported to draw a "Hickel map" and then make adjustments to the districts based on VRA considerations. Not only did they themselves not to this (as described below) but also they then used this literal interpretation and against all third parties who submitted plans so as to summarily reject them (also as described below). The Supreme Court could not literally have meant that the Board was to draw just one map and adjust each individual district as necessary to comply with the VRA; such a task is impossible, as demonstrated by

the fact that the Board itself could not and did not do this. As all witnesses to this long process can attest, there are numerous ways to comply with the Alaska Constitution but very few ways to comply with the VRA. As a result, trying to comply with the VRA does not mean moving a few villages from one district to another; it usually means starting to build the map from a different point, such as starting from the Aleutians and moving North or starting from the North Slope and moving South. (See, e.g. Ex. B, 3/26 48:24-25, 49:24-50:7) The Supreme Court wants to know if the Board has chosen the plan that does the least violence to the Alaska Constitution. Order ¶7. The most logical way to do that is to examine all possible maps – those created by the Board and submitted by third parties – and determine which complies with the VRA and also has the fewest or most tolerable deviations from the Alaska Constitution. This way, the court can identify specifically where and why each deviation from the Constitution is and weigh the various plans accordingly.

Instead of weighing all the options, the Board took a literal approach and purported to "create" one map it called Hickel 01 in response to the Supreme Court's mandate. The first defect in this process is that the Board did not in fact create a new map but simply took the Proclamation Plan and "incorporate[d] any aspects of the current plan where no Voting Rights Act justifications existed." (Ex. B, 3/26, 40:20-22) In so doing it left intact District 40 because they claimed it was "not built on Voting Rights Act grounds" even though it was clearly identified

27

2

3

5

7

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

throughout this process as a Native district for purposes of meeting the VRA benchmark.<sup>2</sup> (Ex. B, 3/26, 41:25-42:5. Later keeping the North Slope Borough totally intact is described only as "traditional," Exc. B, 3/28, 29:7-10) Similarly, the Board left intact the population groupings of the urban Fairbanks districts that gave rise to this litigation in the first place. BBNC agrees with the objections of the Calista Corporation that given that the superior court had already determined District 38 was unconstitutional (December 23, 2011 order), it was incumbent upon the Board to at least consider other options that would maximize the constitutionality of those districts. (Calista Objections p. 2-4) It did not. Thus the Board failed with the very first step of the "Hickel process" by starting with a flawed map.

Second, although the Board reiterated numerous times that its process was to adjust the districts in the Hickel 01 plan, it did not in fact do that. It engaged in a *pro-forma* process focused more on lip service than on substance in that it focused on a purely Alaska Constitutional map that it *knew* did not comply with the VRA. (Ex. B, 3/27, 36: 15-20) Then it took the unnecessary step of having its expert review a map it already knew was noncompliant. After she confirmed what the Board already knew (Ex. B 3/28, 8:13-16), the Board did not proceed to adjust

<sup>2</sup> This means that the one district in which the one rural Board member, Green, resides, was left untouched and considered sacrosanct throughout the process. BBNC pointed this out to the Board and received no response. (Landreth Decl. ¶ 2 and Ex. 10) Plans submitted by Calista and others that altered this district were not considered.

Hickel 01 but threw it out and went back to a plan created in 2011 called the

"PAM-E" plan. (Ex. B, 3/28, 4:14-17, 22:7-13, 32:15-24, 33:10-14; Ex. B, 3/30,

27:14-16) This plan was of course formulated before the Board's remand and

according to the expert's now-discredited advice to begin creating a map based

upon VRA compliance first. The Board spent a great deal of time working from

the Pam-E map and for a short period was convinced it was the only alternative to

the Proclamation Plan. (Ex. B 3/28, 25:23-26:1 and 82:10-19). Thus not only did

the Board begin with a flawed map, but also it did not follow its own narrow and

literal interpretation of the process.

Despite its own failings with regard to its own process, the Board nonetheless threw out any maps submitted by third parties that did not start from Hickel 01. For example, the Board disregarded a map submitted by the RIGHTS coalition (discussed below) because it did not "start" from Hickel 01. (Ex. B, 3/29, 23:6-11) The RIGHTS coalition had instead argued that its map was Constitutional (or at least contained the fewest possible deviations from the Alaska Constitution) and complied with the VRA but because it did not use the *pro forma* process of starting from a map that everyone already knew was noncompliant, the Board threw it out. (Ex. B, 3/29, 23:17-22) The Board also disregarded the map submitted by AFFR for the same reason, even though AFFR's cover letter specifically stated it began with the Board's won Hickel 01 map. (Ex. B, 3/29, 56:20-25; *see also* McKinnon Decl. ¶ 11 and Exhibit 9) As BBNC argued at the

outset, the most reasonable interpretation of the *Hickel* mandate is to compare all options and settle upon a map that has the fewest deviations from the Alaska Constitution while also being VRA compliant. The Board did not do this but disregarded other options on the pretense of not following its interpretation of the *Hickel* process. This is the third way in which the Board failed this process.

# B. The Board Did Not Produce the Most Constitutional Plan

The goal of the *Hickel* process, that is looking first to Alaska Constitutional concerns, is to end up with the plan that deviates the least from the Alaska Constitution while also complying with the VRA. The Board knows this and mentioned it almost every day. (Ex. B, 3/26, 9:11-15, 14:19-22, 70:3-11; Ex. B, 3/27, 14:18-15:2; Ex. B, 3/29, 36:20-23 and 37:3-9; Ex. B, 3/30, 52:17-22) Because of its misinterpretation of the process, or its misuse of it, or both, the Board did not end up with the most Constitutional plan possible. At the very least, there is *considerable doubt* that the Board's plan in fact does "the least violence" to the Constitution.

There were plans submitted by three other groups – AFFR, the RIGHTS Coalition and the Calista Corporation – yet all were discarded by the Board and none were reviewed by the Board's expert. The process by which the Board discarded each is worth noting. No third party was permitted to make a presentation or respond to Board questions about its plan. Instead, each was reviewed solely by the Board's counsel who provided his own brief and subjective

analysis as to why each one was less Constitutional than the Board's chosen plan.

2 Below are three options and non-exhaustive bullet points illustrating the ways in

which each is compliant and more Constitutional than the Board's Amended

Proclamation Plan.

### 1. The AFFR Plan

Because BBNC is a member of AFFR and has submitted comments to the Board that it supported the AFFR plan above others, that plan will be reviewed first. (Landreth Decl. ¶ 2 and Exhibit 10) Counsel to the Board, assisted in part by Executive Director Mr. Bickford, identified numerous ways in which they felt the AFFR plan was not Constitutional. BBNC will respond to these concerns briefly here but ultimately the court – and not counsel to the Board – should be the one to determine Constitutionality.

Counsel alleges that the plan is retrogressive under the VRA. (Ex. B, 3/29, 57:13-24) This was correct on March 29 due to an error in weighting the populations, but a corrected version called AFFR 06 (and sometimes mistakenly referred to as AFFR 7<sup>th</sup> Adjusted) was in fact submitted to the Board before it adopted its own plan. The Board did not include the corrected plan in the record before this court. Copies of this plan are attached to the declaration of Mr. Joe McKinnon, filed here with. Mr. McKinnon also attests he submitted this corrected plan (including shape files) to the Board on April 4, 2011 – the day before the Board

- formally adopted its plan and proclamation. (McKinnon Decl. ¶ 11 and Exhibits 1-2 and 9)
- Counsel alleges that the Native VAP in District 35 is too low even though 4 it is at 45.31%. (Ex. B, 3/29, 58:17-24) Because this district contains 5 much of the old (current) District 6 which has the highest degree of racial 6 polarization, counsel alleges this District should instead be closer to 50% 8 Native. However, As even Dr. Handley recognized, the polarization is 9 not current throughout District 6, but is concentrated in six communities 10 along the highway (Deltana, Dot Lake, Tok, Chistochina, Copper Center, 12 Gakona and Kenny Lake) and AFFR explained in its cover letter that 13 since it had removed these communities from its District 35 then the 14 polarization would be less and the Native VAP required would be lower. 15 (McKinnon Decl. ¶ 11 and Exhibits 7 and 9). Moreover, the Board 16 17 simply asked for analysis on this issue, which was never done. (Ex. B, 18 3/29, 58:22-24)
  - AFFR's plan that removes the above six communities and places them in highway district 29 with which they are clearly more socio-economically integrated. (McKinnon Decl. ¶ 11 and Exhibit 1)
  - AFFR's District 35 is now far more compact and socio-economically integrated than the Board's horseshoe shaped District 39 which extends from Diomede to McCarthy. (McKinnon Decl. ¶ 9, 11 and Exhibits 1,3

2

3

7

11

19

20

21

22

23

24

25

and 7) Other corporations besides BBNC sent letters to the Board listing this as one of the reasons they supported AFFR's plan. (Landreth Decl. ¶ 3 and Exhibit 11)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1

2

3

AFFR's plan adds Eielson AFB to a rural district rather than Ester and Goldtream as the Board has done. Counsel for the Board rejected this. (Ex. B, 3/29, p. 58-59). However, as AFFR explained in their cover letter, military turnout is far lower than the turnout in Ester and Goldstream and therefore adding Eielson would have the impact of increasing Native voting strength in District 38. (McKinnon Decl ¶ 11 and Exhibit 9) Furthermore, since Eielson is closing in 3-4 years, that district will not lose its effectiveness over time as it might if it were attached to Ester and Goldstream. Id. The Board's own expert recognized the benefits of attaching Eielson to District 38 (see trial Log Notes, Day 2, 12:31:50, 12:42:16-26 and the testimony of Bickford), and even this court acknowledged in its findings that Dr. Handley "would not be concerned about adding military population to the rural district because it would not harm the effectiveness of the Native vote." (Order Re: 2011 Proclamation Plan, 2/3/12 at 95). Yet the Board has continually rejected this logical solution, presumably because, as this court has already found on page 95 of its 2/3/12 order, Board member Holm advocated "keeping as much military population in Republican

- areas of the FNSB districts, which he knew would have the effect of enhancing the civilian Republican vote."
- The Board alleges there are socio-economic integration problems with District 35 (mistakenly referring to it as 39). (Ex. B, 3/29, 62:12-24) AFFR had shifted four Inupiaq villages (Kobuk, Ambler, Shugnak and Kiana) and placed them in 35 for population reasons, but the Board seemed concerned about "mixing" Athabascans with Inupiaq, but this argument rings hollow given that it pales in comparison to the way the Amended Proclamation Plan created catch-all District 39 in which it clearly "mixed" Inupiaq with Athabascans. (McKinnon Decl. ¶ 5,9 and Exhibits 3 and 7)
- The Board alleges AFFR District 38 may not be socio-economically integrated, compact or contiguous. (Ex. B, 3/29, 63:2-14) However the Board's own District 37 has more serious problems in this regard (stretching from Mekoryuk to the tip of the Aleutians). Comparing AFFR's District 38 to the Board's District 37 (McKinnon Decl. ¶ 8 and Exhibit 6) shows just how nonsensical this allegation is. Moreover, their District 35 is even worse stretching from the Lake and Peninsula Borough, jumping to Kodiak, jumping again to pick up Nanwalek and Port Graham on the Kenai Peninsula (Ex. B, 3/30, 45:4-13) and then jumping again around another district (29) to continue through Prince

William Sound and Yakutat (Ex. A, p. 61).

AFFR's District 37 is also clearly more socio-economically integrated in that it keeps the Bristol Bay fishing communities together and importantly keeps the Native incumbent Rep. Edgmon, who lives in Dillingham, with the communities he has represented for years. The Board's Amended (McKinnon Decl. ¶ 8 and Exhibit 6) Proclamation Plan, on the other hand, cuts off Dillingham so as to place Rep. Edgmon in an inland district (36) and conversely attaches all the Bristol Bay fishing communities to Bethel; this bizarre configuration essentially flips the Yup'ik constituency of Rep. Herron with the fishing communities of Rep. Edgmon, seemingly placing each legislator in an unfamiliar district that will be very difficult for him to win. (McKinnon Decl. ¶ 6,8 and Exhibits 4 and 6). This deliberate targeting of Native legislators contravenes the mandates of the VRA that BBNC and other Amici Curiae brought to the attention of the Alaska Supreme Court.

The Board wondered whether AFFR's district 38 had a high enough Native VAP at 35% to make it effective, but it said it would "want further analysis" to be sure; it never sent it out for any such analysis. (Ex. B, 3/29, 60:19-62:1). The Board had also noted throughout its proceedings that there was in fact no "magic number" for Aleutians districts (Ex. B, 3/28, 13:9-17) and it was not sure if the non-polarized Aleutians District

had to have 35, 36 or 37% Native VAP to be effective. (Ex. B, 3/29, 1 25:5-9 and 52:5-8) Therefore discarding this on this basis seems out of 2 3 line with its own standards. 4 2. The RIGHTS Plan 5 BBNC is not affiliated with the RIGHTS coalition, but there are several ways 6 in which the RIGHTS plan seems to be as Constitutional or more so than the 7 8 Amended Proclamation Plan. This list is non-exhaustive and BBNC notes here only the most obvious: 10 The Board claims that District 39 is non-compact and not 11 12 socio-economically integrated (Ex. B, 3/29, 27:6-13) this 13 configuration is almost identical to District 39 in the Amended 14 Proclamation Plan. How it can be unconstitutional in the RIGHTS plan 15 but constitutional in the Board's plan is not clear (compare Ex. H p. 23 to 16 17 Ex. A p. 66) 18 The Board alleges that District 38 (which it mistakenly refers to as the 19 Bethel district even though it does not contain Bethel) is not 20 socio-economically integrated (Ex. B, 3/29, 28:13-15), yet its own plan 21 22 contains a very similar district in 36. (compare Ex. H p. 23 and Ex. A p. 23 62) 24 In a very odd exchange, the Board suggests that District 37 is not compact 25 (Ex. B, 3/29, 30:11-15), but again it is very similar to the Board's own

26

27

- District 37 (compare Ex. H p. 23 and Ex A p. 63)
- The Board raised compactness concerns over District 36 (Ex. B, 3/29, 31:6-10) but this district was apparently drawn to unite Yup'ik speaking coastal villages and thus was geared toward socio-economic integration.

  In any event, the Board knew this could be "argued either way." (Ex. B, 3/29, 31:16-18)
  - The Board is concerned that District 31 may not be socio-economically integrated (Ex. B, 3/29, 31:19-21 and 32:9-10) but the Board's own plan contains a District 36 that unites similar parts of the Kenai Peninsula and Prince William Sound. (compare Ex. H p. 23 and Ex. A p. 35)
    - The Board suggests Districts 10 and 5 are not compact but both seem to resemble districts we have now under the current benchmark, so it was not clear how this defeated the entire plan.

#### 3. The Calista Plans

Perhaps the most curious rejection of all the plans occurred with those submitted by the Calista Corporation. Throughout the remand process, and even after the Board adopted but had not finalized its Amended Proclamation Plan, Calista submitted several alternatives, all aimed at making only minor changes to the Board's own districts but making a significant impact on Constitutionality and VRA compliance at the same time. In other words, even if the Board was dead set on keeping the majority of their own plan, there was no reasonable basis upon which

to reject Calista's modifications. Quite simply, Calista's Plan 3 (also called the 4/10 settlement plan) raised the Native VAP from 45.72 % to 46.42% and, by pairing it with a closing military base instead of a burgeoning suburban area, made it more likely to remain an effective district over the long term. Calista Plan 3 is also clearly more Constitutional in that it reduced the population deviations in the urban Fairbanks districts from .6 to .4 and had only 2 districts that exceed +/- 5%. BBNC supports Calista's Objections in this regard. Yes despite the fact that Calista Plan 3 is more Constitutional and would have ended this litigation by removing the Plaintiffs from District 38, BBNC understands, upon information and belief, that the Board refused to even consider it. At the very least, we know it was never sent to Dr. Handley for analysis.

4. Summary of the Board's Rejection of Other Plans

Overall, the Board rejected: (1) the AFFR plans even though the Districts were often more compact or socio-economically integrated; (2) rejected the RIGHTS plan even though the districts bore a striking resemblance to the Amended Proclamation Plan; and (3) rejected Calista's plans even though they (and especially the 3<sup>rd</sup>) presented fewer (and lower) Constitutional deviations, more VRA compliant Native VAP and would have ended this litigation. At the very least, this raises serious concerns about whether the Board has in fact adopted the most Constitutional plan, (that is, the one that "does the least violence" to the Constitution) and there are also serious questions with respect to whether the

1	Board's District 38 is even VRA compliant given that they have never asked their								
2	expert to perform a reconstructed election analysis on this district to be sure. For								
3	all these reasons, the court should not accept the Amended Proclamation Plan as								
4	submitted.								
5	C. The Board Violated Due Process by Failing to Meaningfully Consider								
6	c. The board violated but I focess by I alling to Meaningfully Collsider								
7	Any Third Party Plans.								
8	BBNC would also like to bring to the court's attention the due process								
9	violations committed on remand from the Supreme Court. BBNC also raised de								
10	•								
11	process concerns in the initial post-trial briefing with regard to the fact that the								
12	Board's expert announced the benchmark very late in the process and even then was								
13	wrong, so that the public has little to no opportunity to present compliant plans. <sup>3</sup>								
14	That process, however, was a model of open government compared to the truncated								
<ul><li>15</li><li>16</li></ul>	and stilted process offered this time around.								
17	First, the Board's approach to public involvement was that since it was a								
18	public agency people could send emails at any time. (Ex. B, 3/28, 90:10-14 and								
19	public agency people could send chians at any time. (Ex. B, 5/20, 70.10-14 and								
20	93:24-5) Trying to have it both ways, the Board wished to appear as though it had								
21	a public process without actually providing the pubic any opportunity to participate.								
22	The Board made it clear that the process it intended to follow was to draw a "Hickel								
23									
24	the first process were reaffirmed by Board Member Greene who, on the first day of the								
25									

challenges we had when we first started, are we, with her availability?" (Ex. B, 3/26,

13:14-16).

plan," have its expert test that plan for VRA compliance, and then if it did not, to change that plan until it did have one that complied with the VRA. (Ex. B, 3/26, 14:12-22) In other words, a plan was only truly considered if the Board's expert reviewed it for VRA compliance. However, the Board never intended to have the expert review any third party plans:

Chairman Torgerson: ... But part of our reason for asking for a vacation of this was [the court] basically opened the entire process back up again, even to interested individuals, besides the parties and amicuses, anybody could submit another plan. We were to act, in my opinion, like a court, as to determine whether or not third-party plans are constitutional, which is something the board, at least in my opinion, does not want to get into. So we have had several inquiries from different groups as to whether or not we would accept third-party plans. And basically the response that was given was we're a public agency, so if you want to submit things, e-mail of plans or whatever, you're welcome to do that. But it wasn't my intent that the board would consider third-party plans.

(Ex. B, 3/26, 21:9-25) The message from the Board was therefore: you can send us whatever you want but we have no intention of considering it. As a result of this, no plans were submitted in the first part of the week. (Ex. B, 3/28, 89:20-21) Then, on day 3, the Board discussed the fact that it had received plans from the Calista Corporation and Board member Greene commented that she would like to review what had been sent in. (Ex. B, 3/28, 26:9-23 and 85:9-11) Upon hearing this, apparently AFFR and the RIGHTS Coalition hurriedly submitted their own plans with the hope that they would be considered. (Ex. B, 3/29, 18:22-25) The Chairman opposed "opening up" the process. (Ex. B, 3/28, 86:14-18, 88:5-10)

And although the Board did do a perfunctory and subjective analysis as to why each was unconstitutional (as described above), as it had promised the Board never sent any third-party plans to its expert. (Ex. B, 3/30, 55:20-23) This ensured that no third-party plans would be accepted, in whole or in part, regardless of their compliance with state and federal law.

Second, the Board allowed only one week of meetings so as to accommodate the absence of their counsel and then the vacation of their expert. On the first day, March 26, the Board noted that its counsel had been unavailable for a week (Ex. B, 3/26, 18:23-24), and then in response to questions about whether its expert would be as difficult to pin down as last time, Mr. Bickford responded: "[Lisa] is available through the 31<sup>st</sup>. Then she has a vacation planned." (Ex. B, 3/26, 13:18-19) Once again, the public found itself, and Alaska's entire redistricting process, hostage to the personal schedule of Dr. Handley. Presumably because of this, no plans or adjustments were considered after the 31<sup>st</sup>.4

Third, although the Board noticed meetings for the week of the 26<sup>th</sup>, it never notified the public what dates the public record opened or closed. It only announced the timeline for its actions on March 29<sup>th</sup>. (Ex. B, 3/29, 7:10-20) Moreover, it indicated during the meetings that it had or would notice meetings for

<sup>4</sup> Incidentally, the Board cannot use an excuse for this extremely short process the need to secure preclearance before the June 1 candidate filing deadline since it knew it was already too late to meet that deadline. (Ex. B, 3/28, 71:6-7) In addition, the Board knew it was

more than two weeks earlier in tis process than the Board was during the 2001 redistricting process, and yet that was ultimately resolved. (Ex. B, 3/28, 63:10-18 and 80-19-20)

the following week, April 2. (Ex. B, 3/31, 62:22-235) Therefore it was not clear to the public what the deadlines for comment were if any. Nevertheless, the Board did not include within the record filed with this court any correspondence received from the Native community nor even the final versions of the AFFR or Calista 3 plans. Perhaps it had a record closing date in mind of which the public was unaware.

# II. Were the Board's Deviations from the Alaska Constitution Justified by the Voting Rights Act?

Because the Board misinterpreted the *Hickel* process and did not arrive at the most Constitutional plan, it can hardly be said that its deviations were required by the VRA. In fact, as described in detail above under section I(B), it rejected three alternatives that were equally or even more Constitutional and thus its deviations are in fact not required. The question for the court at this point is: which plan does the least violence to the Alaska Constitution? The Board certainly did not identify all the deficiencies in its own plan, which is clear given that it rejected similar or better districts as unconstitutional as described above. To name but a few specific deficiencies, the Amended Proclamation Plan's District 39 is not compact nor socio-economically integrated; its Fairbanks districts have higher population deviations than necessary, as described in the Objections of the Calista Corporation; its District 38 may not be VRA compliant, and certainly has a lower Native VAP than is necessary; and its District 35 appears neither contiguous, compact nor

1	integrated. Thus it is hard to describe each of the Board's deviations as mandated								
2	by the VRA when in fact it does not appear to have chosen the most Constitutional								
3	plan available to it.								
4	III. Conclusion								
5	III. Conclusion								
6	Given these deficiencies, the court should consider whether: (1) the Board								
7	correctly interpreted the Hickel process; (2) it then employed it correctly when it								
8	started from a flawed map, then replaced that with PAM-E and then disregarded								
9	other plans for failure to follow it; (3) whether the Board improperly rejected more								
10									
11	Constitutional plans; (4) whether the Board's refusal to consider any third party								
12	plans and other scheduling constraints violated due process; and (5) given that they								
13	did not choose the most Constitutional plan, whether their deviations were in fact								
14	required by the VRA.								
15									
16									
17	Respectfully submitted this 16th day of April 2012 at Anchorage, Alaska.								
18									
19	By: s/nlandreth								
20	Natalie A. Landreth (#0405020)								
21	Heather Kendall-Miller (#9211084)								
22	NATIVE AMERICAN RIGHTS FUND 801 B Street, Suite 401								
23	Anchorage, Alaska 99501								
24	Phone: (907) 276-0680 Fax: (907) 276-2466								
25									
26									
27	19								
-	1/								

# **Certificate of Service**

1		
2		
3		that the on the 16th day of April 2012, a true and TOL BAY NATIVE CORPORATION'S
4	OBJECTIONS TO RED	ISTRICING BOARD'S NOTICE OF VITS OF NATALIE LANDRETH AND JOE
5	MCKINNON were sent by elect	
6		
7	Office of the Clerk, Fairbanks	4faclerk@courts.state.ak.us
8	Karen Erickson Kelly Krug	kerickson@courts.state.ak.us kkrug@courts.state.ak.us
9	Michael White	MWhite@PattonBoggs.com
10	Michael Walleri	walleri@gci.net
	Thomas Klinkner	tklinkner@bhb.com
11		
12		By: s/jbriggs
13		T d D:
14		Jonathan Briggs Legal Administrative Assistant
15		Legal / Killingstrative / Essistant
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		20

1	IN THE SUPERIOR COURT FOR THE STATE OF ALASKA FOURTH JUDICIAL DISRTICT AT FAIRBANKS							
·2								
3	)							
4	In Re 2011 Redistricting Cases )							
5	Superior Court No. 4FA-11-2209-CI							
6	<u>·</u> )							
7 8	DECLARATION OF NATALIE LANDRETH							
9								
10	STATE OF ALASKA ) ss.							
11	THIRD JUDICIAL DISTRICT )							
12	I, Natalie Landreth hereby state as follows:							
13	1. I have personal knowledge of and can and would testify to the facts set forth							
14 15	below.							
16	2. Attached as Exhibit 10 is an email sent by me to the Redistricting Board or							
17	March 30 expressing BBNC's preferences and requesting that third-party							
18	plans be sent to Dr. Handley for VRA analysis.							
19	3. Attached as Exhibit 11 is a letter sent by the Doyon Corporation to the Board							
20	5. Attached as Exhibit 11 is a fetter sent by the Doyon Corporation to the Board							
21	expressing its plan preferences and reasoning.							
22	DATED: April 16, 2012							
23								
24								
25	Natalie Landreth							
26								
27	DECLARATION OF NATALIE LANDRETH  In Re 2011 Redistricting Cases  Case No. 4FA-11-2009Cl Page 1 of 1							

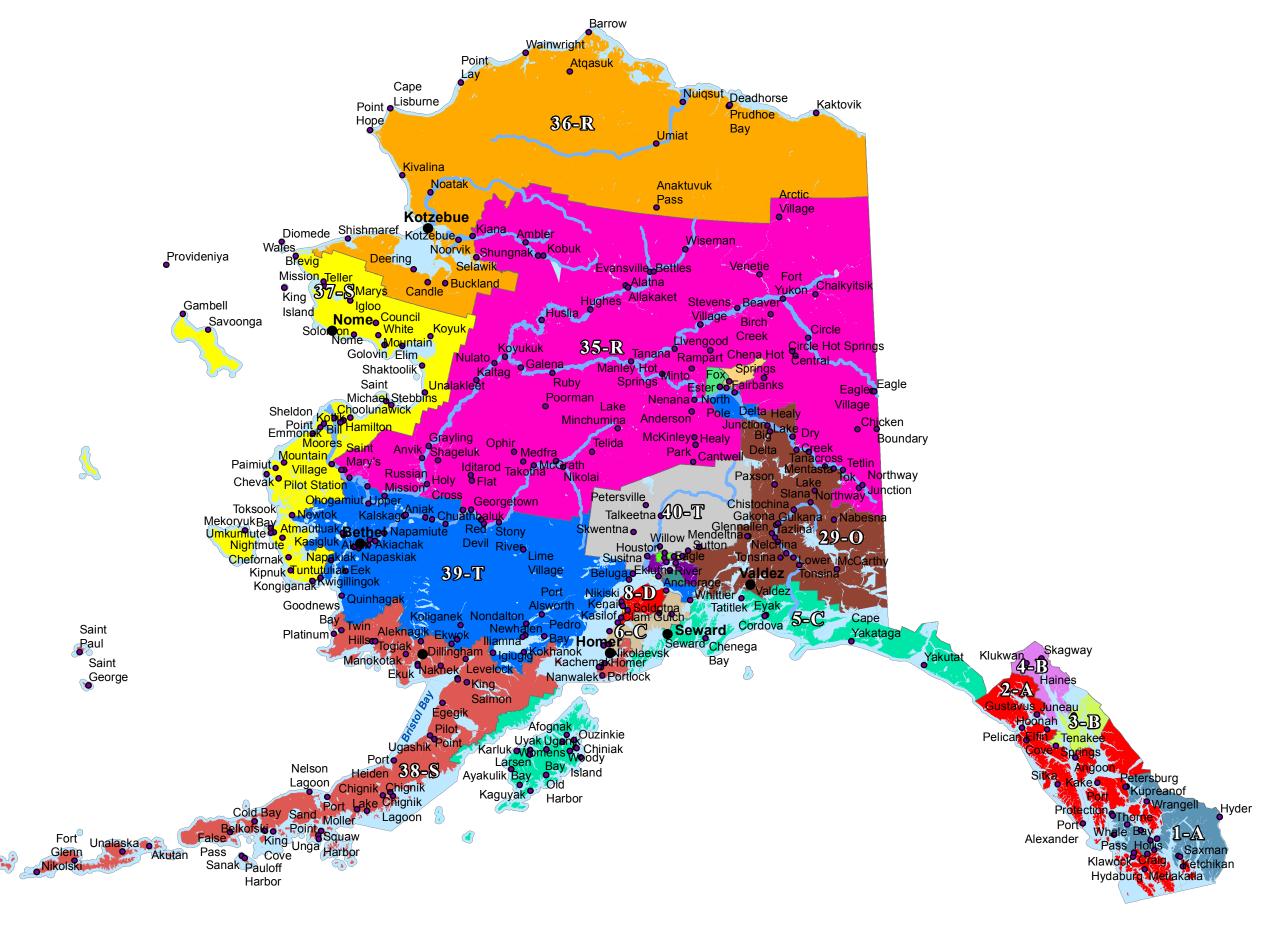
1	IN THE SUPERIOR COURT FOR THE STATE OF ALASKA FOURTH JUDICIAL DISRTICT AT FAIRBANKS
2	TOOKIII GODICERE DISKITCI III I IMADIEVES
3	)
4	In Re 2011 Redistricting Cases )
5	) Superior Court No. 4FA-11-2209-CI
6	)
7	
8	DECLARATION OF JOE MCKINNON
9	STATE OF ALASKA
10	) ss.
11	THIRD JUDICIAL DISTRICT )
12	I, Joe McKinnon, hereby declare under penalty of perjury as follows:
13	1. I have personal knowledge of and can and would testify to the facts set forth
14	below.
15	
16	2. I have worked with Alaskans for Fair Redistricting (AFFR) throughout this
17	redistricting cycle. My role, assisted by Doug Tosa, was largely to produce
18	maps and accompanying narratives for proposed redistricting plans that meet
19	the mandates of the Alaska Constitution and the Voting Rights Act.
20	
21	3. Attached as Exhibit 1 is a statewide map of AFFR's plan which was
22	submitted to the Board as AFFR 06. Some groups saw a map with a typo
23	and mistakenly refer to it as "AFFR 7 <sup>th</sup> Adjusted" but it is the same map as
24	AFFR 06.
25	

1	4.	Attached as Exhibit 2 is a chart showing the population and Native VAP and
2		other relevant statistics for each of the districts in the AFFR 06 plan. This
3		exhibit shows three effective Senate seats (R, S and T) and five effective
4		House seats (35-39).
5		
6	5.	Attached as Exhibit 3 is a comparison of three Interior districts: the Board's
7		Hickel Plan, its Amended Proclamation Plan and the AFFR 06 plan.
8	6.	Attached as Exhibit 4 is a detail of the Board's Amended Proclamation Plan
9		showing the split of Bristol Bay between Districts 36 and 37.
10		
11	7.	Attached as Exhibit 5 is a statewide comparison of the Board's Hickel Plan,
12		its Amended Proclamation Plan and the AFFR 06 plan.
13	8.	Attached as Exhibit 6 is a comparison of the Board's Aleutians District 37
14		and AFFR 06's Aleutians District 38.
15 16	9.	Attached as Exhibit 7 is a comparison of the Board's Interior District 39 and
17		AFFR 06's Interior District 35.
18	10	
19	10	. Attached as Exhibit 8 is a comparison of the Bristol Bay / Aleutians
20		Districts in the Board's Hickel Plan, its Amended Proclamation Plan and the
21		AFFR 06 plan.
22	11	. Attached as Exhibit 9 is a copy of the email and cover letter that I sent with
23		the AFFR 06 plan on April 4 2012. As referenced in that amail. I had
24		the AFFR 06 plan on April 4, 2012. As referenced in that email, I had
25		submitted an earlier AFFR plan called AFFR 05 on March 28th that had
26		
∠∪		

1	errors in it caused by a software malfunction in the version of the Autobound									
2	districting software used by AFFR. The error, not observable by AFFR in its									
3	version of the software, resulted in one Senate district falling below the									
4	correct VRA percentage. That plan was discussed by the Board on March 29,									
5	correct VKA percentage. That plan was discussed by the Board on March 29,									
6	2012 and appears in the Board record as Exhibit H. The error was corrected									
7	and a revised plan was submitted to the Board on April 4, 2012 as AFFR 06.									
8	The AFFR 06 plan changed very little in concept from the AFFR 05 plan									
9	except that it fixed the VRA problem by relocating some communities.									
10										
11	12.I have reviewed this document for accuracy and authorized the use of my									
12	electronic signature to attest to it.									
13										
14	s/jmckinnon									
15	S/JIIICKIIIIOII									
16	Joe McKinnon									
17										
18										
19										
20										
21										
22										
23										
24										
25										
26										

# AFFR 06

# **Statewide**



BBNC Exhibit 1

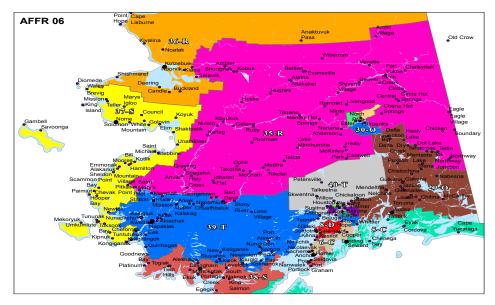
Adak Station Atka

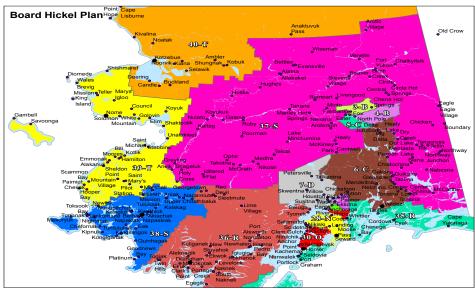
House	Pop	Ideal	Dev.	% Dev.	VA Pop	AkNat	% AkNat	Sen	Pop	% Dev.	% AkN
Dist.						VAP	VAP	Dist.			VAP
1	17956	17756	200	1.13%	13747	2248	16.35%				
2	17610	17756	-146	-0.82%	13358	4660	34.89%	Α	35566	0.15%	25.49%
3	17617	17756	-139	-0.78%	13871	2641	19.04%				
4	17819	17756	63	0.35%	13463	1732	12.86%	В	35436	-0.21%	16.00%
5	17383	17756	-373	-2.10%	12572	2217	17.63%				
6	17332	17756	-424	-2.39%	13933	1361	9.77%	С	34715	-2.24%	13.50%
7	17606	17756	-150	-0.84%	12773	1231	9.64%				
8	17529	17756	-227	-1.28%	13529	1193	8.82%	D	35135	-1.06%	9.22%
9	17950	17756	194	1.09%	13624	578	4.24%				
10	17877	17756	121	0.68%	13300	1339	10.07%	Ε	35827	0.89%	7.12%
11	17937	17756	181	1.02%	12987	1576	12.14%				
12	17963	17756	207	1.17%	13397	1722	12.85%	F	35900	1.09%	12.50%
13	17925	17756	169	0.95%	13146	899	6.84%				
14	17897	17756	141	0.79%	13119	1141	8.70%	G	35822	0.87%	7.77%
15	17819	17756	63	0.35%	12853	1332	10.36%				
16	17847	17756	91	0.51%	14124	1342	9.50%	Н	35666	0.43%	9.91%
17	17854	17756	98	0.55%	14161	2192	15.48%				
18	17861	17756	105	0.59%	14400	2196	15.25%	- 1	35715	0.57%	15.36%
19	17903	17756	147	0.83%	14115	1752	12.41%				
20	17932	17756	176	0.99%	13309	1881	14.13%	J	35835	0.91%	13.25%
21	17927	17756	171	0.96%	12059	2088	17.31%				
22	17915	17756	159	0.90%	11908	1441	12.10%	K	35842	0.93%	14.72%
23	17812	17756	56	0.32%	12712	761	5.99%				
24	17818	17756	62	0.35%	12750	696	5.46%	L	35630	0.33%	5.72%
25	18303	17756	547	3.08%	12851	1098	8.54%				
26	18276	17756	520	2.93%	12930	1129	8.73%	M	36579	3.00%	8.64%
27	18306	17756	550	3.10%	12883	1043	8.10%				
28	18279	17756	523	2.95%	12882	1123	8.72%	N	36585	3.02%	8.41%
29	18036	17756	280	1.58%	13356	1442	10.80%				
30	18331	17756	575	3.24%	12917	836	6.47%	0	36367	2.41%	8.67%
31	18281	17756	525	2.96%	14284	2325	16.28%				
32	18265	17756	509	2.87%	12750	1044	8.19%	Р	36546	2.91%	12.46%
33	18330	17756	574	3.23%	14302	1466	10.25%				
34	18308	17756	552	3.11%	14118	1094	7.75%	Q	36638	3.17%	9.01%
35	16763	17756	-993	-5.59%	11779	5044	42.82%				
36	16584	17756	-1172	-6.60%	11811	7376	62.45%	R	33347	-6.10%	52.65%
37	16788	17756	-968	-5.45%	10520	8843	84.06%				
38	16648	17756	-1108	-6.24%	13053	4511	34.56%	S	33436	-5.85%	56.65%
39	17041	17756	-715	-4.03%	10919	8706	79.73%				
40	16603	17756	-1153	-6.49%	12288	1054	8.58%	Т	33644	-5.26%	42.06%

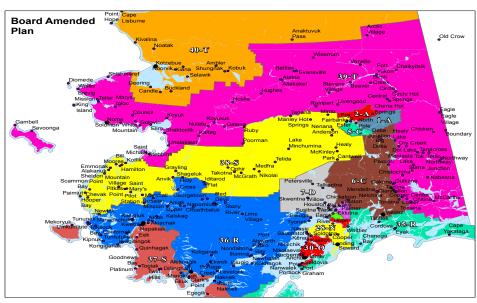
House Overall Deviation: 9.84%

Senate Overall Deviation: 9.27%

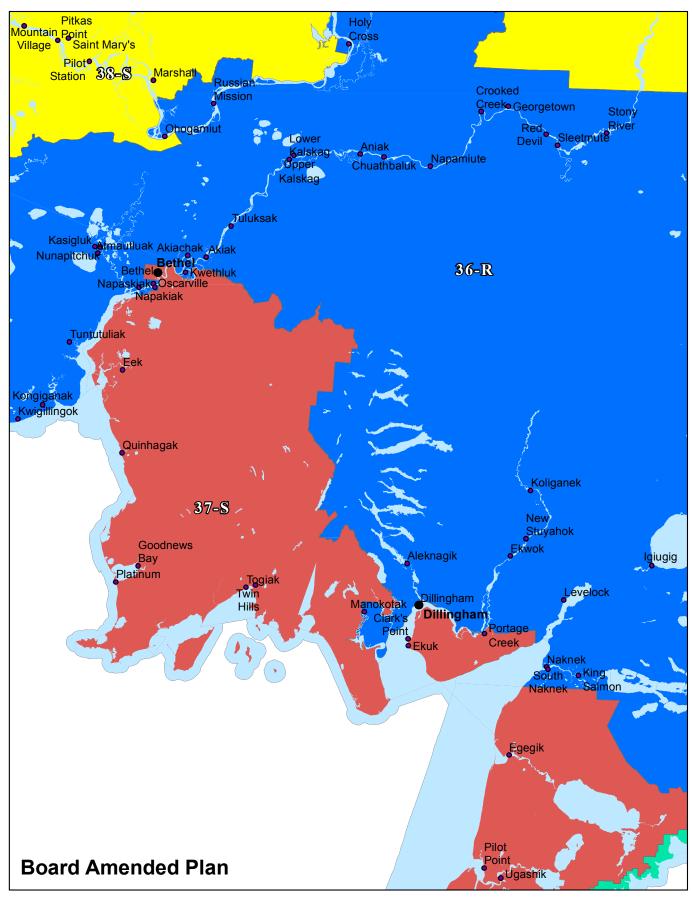
Comparison: Nome-Interior Districts AFFR 06-Hickel Plan-Board Amended Plan



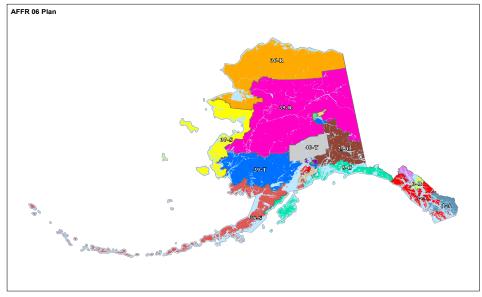


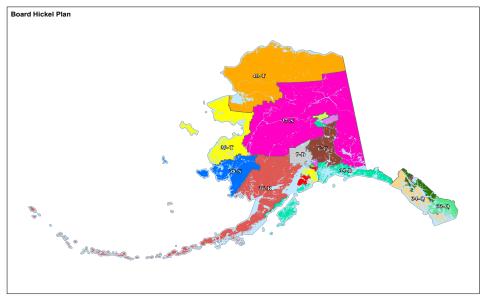


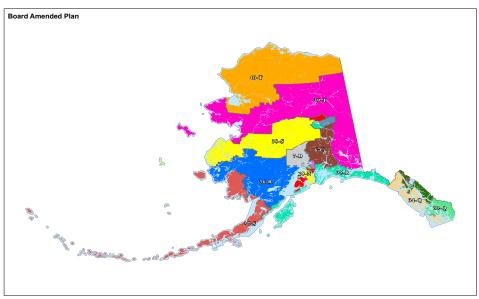
# Board Amended Plan: Dillingham Detail



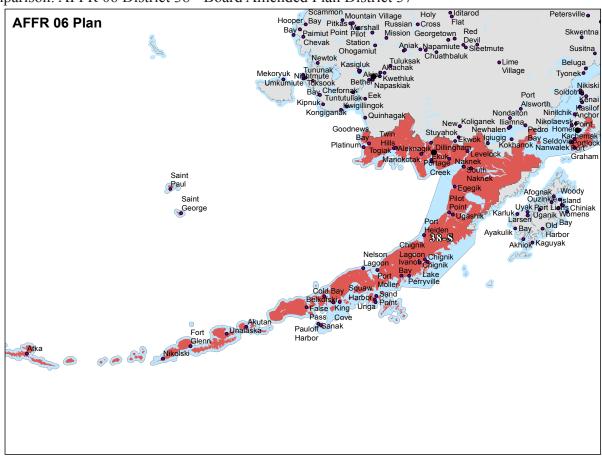
Statewide Comparison: AFFR 06 Plan - Board Hickel Plan - Board Amended Plan

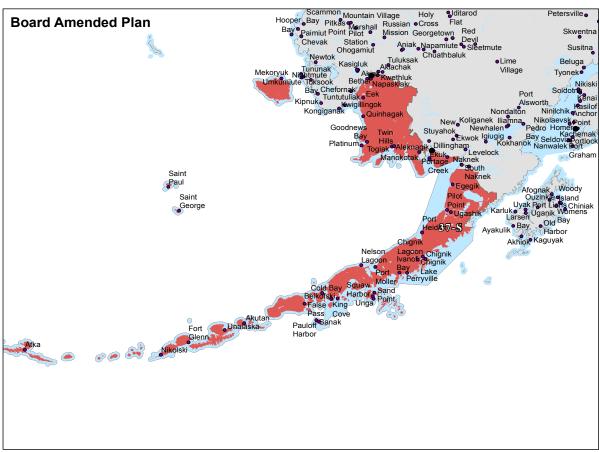




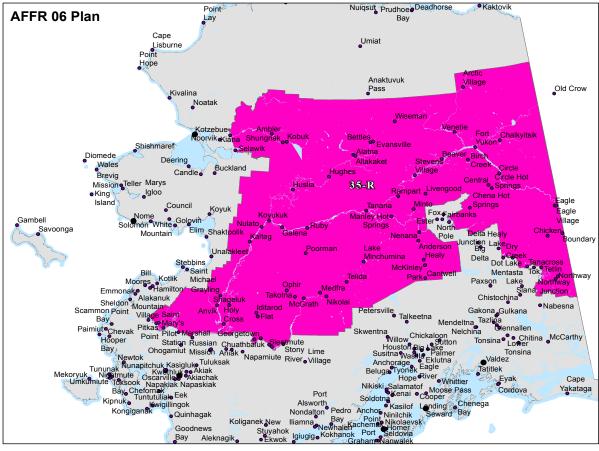


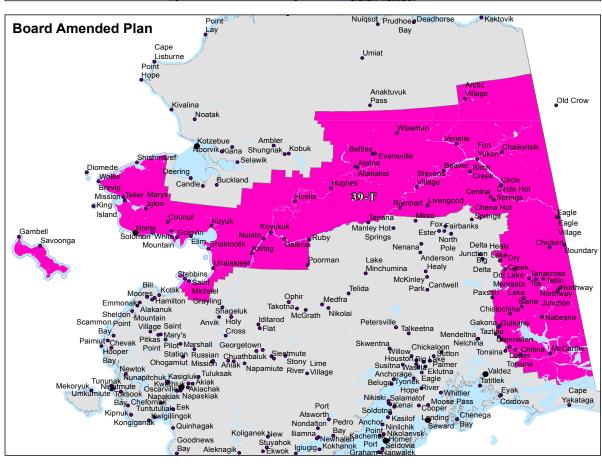
Comparison: AFFR 06 District 38 - Board Amended Plan District 37



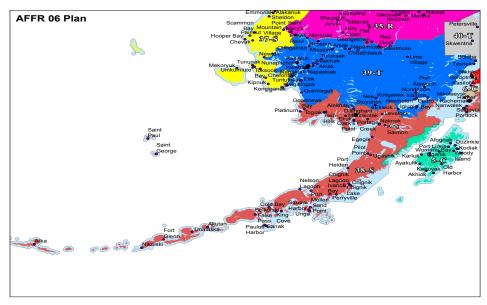


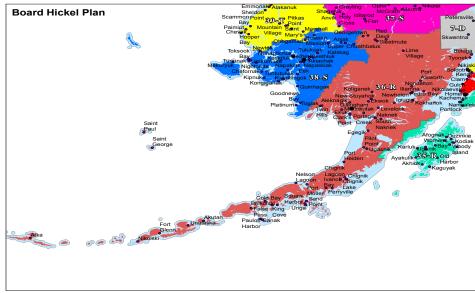
Comparison: AFFR 06 District 35 - Board Amended Plan District 39

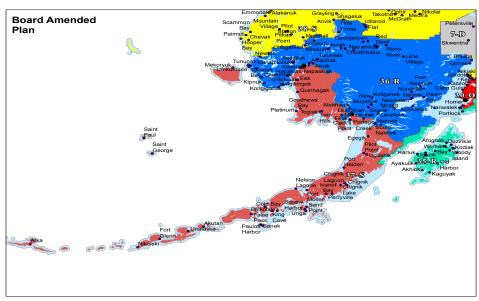




# Comparison: Bethel-Bristol Bay- Aleutians Districts AFFR 06-Hickel Plan-Board Amended Plan







# Jonathan Briggs

From:

Natalie Landreth

Sent:

Monday, April 16, 2012 2:18 PM

To:

Jonathan Briggs

Subject:

FW: AFFR 06

----- Forwarded message -----

From: Joe McKinnon < joemckinnon49@gmail.com>

Date: Wed, Apr 4, 2012 at 3:00 PM

Subject: AFFR 06

To: tbickford < tbickford@akredistricting.org >, info@akredistricting.org

# Taylor:

As you know, AFFR experienced problems with its Autobound software last week. The plan we submitted (AFFR 05) turned out not to comply with the Voting Rights Act even though our software indicated that it did. We have subsequently been able to correct the problem with our plan using other software. The shape file for the revised plan is attached along with a revised cover letter.

We realize that the Board has approved an amended proclamation plan that it intends to formally adopt tomorrow. We urge the Board to at least consider this plan since it adheres much more closely to state constitutional principles and the Board's own HIckel plan.

Thank you for your consideration.

Joe McKinnon Alaskans For Fair Redistricting Alaska Redistricting Board Members Taylor Bickford, Executive Director, Alaska Redistricting Board 411 West 4<sup>th</sup> Avenue Anchorage, Alaska 99501

Re: AFFR Plan 06

Dear Mr. Bickford and Members of the Board:

As you know, AFFR experienced problems with its Autobound redistricting software last week. We prepared a plan (AFFR 05) that our software showed satisfied the requirements of the Voting Rights Act and had a less than 10% overall deviation . We submitted the plan on March 28<sup>th.</sup> Early that evening, you called and informed me that our plan showed an overall deviation in excess of 12 percent. It was at that point we realized that our copy of the Autobound redistricting software had been corrupted and its output was not reliable.

The next day the technical support staff at Citygate GIS spent two hours trying to fix the program using remote access. Their efforts were unsuccessful. I explained the situation to Mr. Bickford at the Board meeting that day and he graciously offered to let me use to Board's software to make the minor corrections needed to bring the AFFR plan into compliance with an overall deviation of less than 10%. It wasn't until the following day when Mike White reviewed third-party submissions that we also discovered that our calculations on the Voting Rights Act districts were not correct. Although the software had led us to believe the plan had three Native effective senate districts, there were actually only two. As a result, the plan was retrogressive and was not considered by the Board.

We have subsequently been able to correct the problems with the plan using other software. The shape file for the revised plan (AFFR 06) is attached. We realize that the Board intends to formally adopt the plan it approved last Saturday, but we urge it to consider this AFFR revised plan before it does so. It follows the same principles as AFFR Plan 05. It also adheres much more closely to state constitutional principles than the Amended Proclamation Plan and would be more likely to withstand a constitutional challenge.

We believe that this plan satisfies Alaska constitutional requirements in all respects and is in effect its own Hickel plan. It is constitutional without reference to the VRA while at the same time satisfying the requirements of the VRA. Even if the Board concludes otherwise, AFFR 06 certainly deviates less from the Board's own Hickel plan than the Amended Proclamation Plan.

The AFFR 06 Plan creates five Alaska Native effective house districts and three effective senate districts. These districts satisfy the benchmark requirements set forth by Dr. Handley in her report to the Board.

The key to compliance was separating the heavily polarized existing District 6 into two districts and borrowing a concept first discussed by the Rights Coalition- pairing a Native effective house district with a rural Mat-Su district to form a senate district. We believe it was that approach that makes it possible to create five effective Alaska Native house districts and three senate districts while staying in compliance with the Alaska Constitution.

As Dr. Handley noted in her report to the board, District 6 is highly polarized and would require a higher than 49.7 percent Native VAP to be an effective district. Previously, the Board and interested parties, including AFFR, have created various contorted districts that attempt to push additional Alaska Natives into one version or another of that district. In its Proclamation Plan, the Board had to create a district running from Nome to Yakutat make the numbers work.

The polarization in District 6, however, is not constant throughout the entire district. As discussed by Dr. Handley, an analysis of voting patterns shows that polarized voting primarily occurs in those District 6 communities along the Alaska Highway from the Deltana precinct to Tok and down the Richardson Highway.<sup>1</sup> Removing them from a new district based on the current District 6 reduces the Alaska Native VAP necessary to make it effective. That was AFFR's approach in creating AFFR 06 District 35.

An additional benefit of splitting District 6 and placing the highway communities in AFFR 06 District 29 is that their placement is now more in compliance with Alaska constitutional principles. During the last few redistrictings, these highway communities have been pulled out of their socio-economic settings to supply population for an under-populated Bush district. The AFFR 06 Plan restores political cohesiveness to the region by placing them back in a highway district where they belong.

The population they represent had to be made up in AFFR 06 District 35 by bringing in additional rural villages, the Denali Borough, and some population from Fairbanks which is the hub community for most District 35 towns and villages and is headquarters for the Doyon Region which includes most of the district's communities. The decision on what part of Fairbanks to include in District 35 was driven by VRA considerations. We selected Eielson Air Force Base and some areas adjacent to the base.

Selecting Eielson is consistent with the purposes of the VRA. Outmigration from rural communities has been significant over the last ten years and is expected to continue in the next decade. AFFR's objective is to propose rural districts that will remain effective for the entire ten years covered by this redistricting. There are two reasons why including Eielson in the district promotes compliance with the VRA. First, Eielson has a lower voter turnout than other parts of the Fairbanks North Star Borough and will have less impact than comparable numbers elsewhere on District 35's status as an effective district.

More importantly, the Air Force has announced that it is moving Eielson's 21-plane squadron of F-16s to Anchorage. This will result in a substantial loss of population as personnel and their families move away. Concerns have also been voiced that this move may be a prelude to a complete base closure. This loss of population will ameliorate the expected population decline in rural areas and maintain the effectiveness of the district until the next census. No doubt a strong effort will be made to avoid a reduction in force at Eielson, but the Board should take into consideration the possibility or even the

-

<sup>&</sup>lt;sup>1</sup> The highway precincts entirely or almost entirely moved from District 6 into the new Highway-based District 29 are Deltana, Dot Lake, Tok, Chistochina, Copper Center, Gakona, and Kenny Lake. The Native VAP of those precincts is 17.5%. In the 2010 general election the Native-preferred house candidate received only 22.4% of the precinct vote indicating highly polarized voting. The Native VAP in the District 6 precincts that are in the proposed new interior District 35 is 77.3%. The Native-preferred candidate prevailed in those precincts by a 55-45 margin, substantially less than if polarized voting was occurring.

likelihood that it will occur. If a part of Fairbanks needs to be included in a rural district, from a VRA perspective Eielson seems to be the logical choice.

The AFFR 2012 Plan generally maintains the other existing Bush districts: Arctic Slope – NANA (District 36); Nome –Wade Hampton (District 37); Aleutians – Bristol Bay (District 38); and a Bethel-based district (District 39). Population declines, of course, required the stretching these districts somewhat but the core areas of the prior districts remain. In adjusting these districts, the main approach was to keep coastal communities with coastal communities and interior and river communities with similar areas.

The traditional rural senate pairings were changed to promote the creation of a third effective senate district. Bethel district 39 is paired with Mat-Su District 40 which encompasses more remote communities along the Parks and Glenn highways. The remaining four Mat-Su districts are paired into two senate seats.

The Southeast portion of the AFFR plan is identical to that submitted in a prior proposal. It produces a slightly higher Native VAP than the Proclamation Plan. It is also more compliant with the Alaska Constitution's socio-economic integration requirements because it pairs Juneau's two districts with other communities to which it has traditionally had closer ties.

The Kodiak- Cordova-Yakutat based District 5 is similar to that adopted in the Proclamation Plan.

The Fairbanks, Anchorage, and Kenai Peninsula districts are essentially similar to the districts proposed last year in AFFR's Second Adjusted Plan. Changes from that plan were made only to accommodate population shifts caused by the various other changes described above.

As we have testified to in earlier proceedings, it has been AFFR's policy to avoid unnecessarily pairing incumbent legislators. While it is easy to dismiss this as "incumbent protection," it is actually the protection of the geographic ties and communities of interest that develop in response to the drawing of district boundaries. Furthermore, a consistent implementation of this policy throughout a plan limits the possibility of partisan manipulations. To our knowledge there are only one house and one senate pairing of incumbents in the AFFR 2012 Plan and both occur in Southeast where population changes make them unavoidable.

Thank you for your consideration. We would be happy to answer any questions from Board members regarding the plan.

Sincerely,

Joe McKinnon Alaskans For Fair Redistricting

#### Natalie Landreth

From:

Natalie Landreth

Sent:

Friday, March 30, 2012 2:43 PM

To:

'jtorgerson@akredistricting.org'; 'rbrodie@akredistricting.org'; 'mgreene@akredistricting.org';

'jholm@akredistritcting.org'; 'pmcconnochie@akredistricting.org'

Cc:

'April Ferguson'

Subject:

BBNC comments to Redistricting Board

# Redistricting Board:

Ordinarily BBNC would send a more formal letter but, given the time constraints, we have decided to submit some interim comments by email. Please forgive the informality.

We appreciate the hard work the Board has undertaken this week and seeing all the various permutations and their respective drawbacks has made it clear what a difficult task you face. We also appreciate that you are mindful of the concerns we and many other Native organizations and corporations raised in our *amicus* brief before the Supreme Court. The Native incumbent issue is important to us because our chosen representatives, especially longstanding ones, have a achieved a level of seniority and expertise that renders them invaluable to the Native community. To lose them simply because of an avoidable pairing would be a disaster for the rural caucus. In any event, we wish to make only one comment relative to this issue and this is that the term "Native incumbent" is somewhat of a misnomer because in reality the protected category is "Native-preferred incumbent," meaning the incumbent does not have to be racially Alaska Native. Under this definition, which is found in a case called *Uno v. City of Holyoke*, representatives such as Bryce Edgmon and perhaps even Senator Gary Stevens qualify as "Native preferred candidates." Please keep this in mind.

With respect to the maps currently under consideration, the first comment we would like to raise is the strange trend of leaving the North Slope and Arctic boroughs entirely intact in favor of only splitting more southern regions like Calista and BBNC. The maps presented by the Board seem to view the northern region as sacrosanct and have not considered options that split those boroughs, while all others seem to be fair game. Calista submitted at least one map that seems to break up the northern regions and it does not seem to have been considered as an option.

Similarly, the issue of pairing Senator Hoffman has come up several times, but no other rural Senate pairings seem to be on the table. This seems very curious and has aroused speculation that Senator Hoffman may be the focus because of political considerations. We hope that this is not the case, but this is how it is being viewed by some spectators including BBNC.

Finally, we understand that there have been some software problems with AFFR's 6<sup>th</sup> Adjusted Plan, but we respectfully request that you closely examine the benchmark for that third effective Senate seat because we have done some hand calculations that indicate your conclusion that the third Senate seat is only 39% Native may not be correct (we came up with 43%). This plan, if

that third seat can be raised above 42.1%, presents a very attractive option since it does not require a Bethel-Anchorage pairing or possibly non-contiguous Senate pairings (we refer to 37 and 38 that jump over 36 in the 3/30 plan). If those numbers bear out, we believe a Bethel/northern Mat-Su pairing that excludes Wasilla would be a very attractive option and more likely Constitutional than the Board's two current options. To that end, we encourage you to keep the record open to allow consideration of the AFFR plan. Moreover both the AFFR and RIGHTS plans should be sent to Dr. Handley for VRA compliance evaluation.

We may make further comments. Thank you for your consideration.

On behalf of Bristol Bay Native Corporation, Natalie Landreth

Natalie Landreth Senior Staff Attorney, Native American Rights Fund 801 B Street, Suite 401 Anchorage, Alaska 99501 ph: (907) 276-0680

fax: (907) 276-2466

email: landreth@narf.org

Please consider the environment before printing this email. The information contained in this email may be confidential and/or legally privileged. It has been sent for the sole use of the intended recipient(s). If the reader of this message is not an intended recipient, you are hereby notified that any unauthorized review, use, disclosure, dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please reply to the sender and destroy all copies of the message. Thank you.



April 6, 2012

Alaska Redistricting Board of Directors 411 W. 4th Avenue, Suite 302 Anchorage, AK 99501

#### Dear Board Members:

This letter is an expression of concern regarding the current process being used by the Board to complete the redistricting process and to highlight our comments on two proposed plans. With regards to the Amended Proclamation Plan ("Amended Plan"), Doyon would like to share the following observations and comments:

- The Amended Plan pairs District 37 (representing parts of Bristol Bay, the Alaska Peninsula and the Aleutian Islands) with District 38 (an area covering Ester to the Bering Sea Coast, including about half of the Doyon region in Interior Alaska) for a Senate seat. Sandwiched between these two districts is District 36 (representing Bethel to South Central Alaska). In addition to the geographic and cultural disconnect between these House districts, the fact that the plan pairs two discontinuous districts in one Senate district is inconceivable.
- Furthermore, under the Amended Plan, our region is unnecessarily divided into two House districts and two Senate districts. Our villages and shareholders have preferred throughout this process to be represented by only one Senator and if possible, one Representative.
- Under the Amended Plan, the community of Ester is in District 38, and Eielson is in District 1 (which also includes North Pole and Fox). We suggest that Ester be included in District 1, and Eielson be included in District 38 because Eielson has a low voter turnout, and the Native voting power would be increased in that district.

Doyon prefers the Alaskans for Fair Redistricting 7th Adjusted plan over the Board's adopted Amended Proclamation Plan, because the Interior Region remains intact under this plan. Furthermore, under this plan, the Interior is not paired with the Aleutian chain which, geographically and culturally is far removed from the Interior. Policy controversies between the two regions regarding salmon catch limits and allocations between commercial and subsistence salmon highlight the dramatic cultural, economic and geographic differences between the two regions. These differences would make it difficult for any one person to fully represent the differing interests of the two regions.

Furthermore, we agree with the comments that Bristol Bay Native Corporation has made regarding the AFFR 7<sup>th</sup> Adjusted Plan that "the Interior districts are far more compact than in the Board's plan, and the coastal (as well as other districts) are far more socio-economically integrated." Bristol Bay Native Corporation also points out that "District 38 in the Board's plan is in fact an "effective" Native district given that it still pairs lower turnout Native villages with high turnout Fairbanks suburbs —

LEADER in All We Do

reconstructed election data analyses may further reveal this weakness. In addition, 38 has a very low Native VAP right now and it may become ineffective within a very short time."

Outside of our comments regarding these proposed plans, Doyon stresses our concerns regarding the planning process the Board has haphazardly implemented since the first adopted plan was thrown out. During this second period of planning, which we know must be expedited, the opportunities for public comment and participation have been unclear. We have been closely following the Board's activities throughout the planning process because of the impact the Board's decisions will have in our communities for the next ten years; and for that reason, we appreciate a clear process with multiple opportunities for public input.

Thank you for the work you are doing on behalf of all Alaskans. If you have any questions regarding this letter, please do not hesitate to contact me at (907) 459-2000.

Sincerely,

Aaron M. Schutt President and CEO Doyon, Limited

cc:

US Department of Justice
Tanana Chiefs Conference
Alaskans For Fair Redistricting
Ahma, Inc.
The Aleut Corporation
Arctic Slope Regional Corporation
Bering Straits Native Corporation
Bristol Bay Native Corporation
Calista Corporation
Chugach Alaska Corporation
Cook Inlet Region, Inc.
Koniag, Inc.
NANA Regional Corporation, Inc.
Sealaska Corporation