IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FOURTH JUDICIAL DISTRICT AT FAIRBANKS

In Re 2011 Redistricting Cases.	) **CONSOLIDATED CASE NO.:**) **4FA-11-2209-CI**) 4FA-11-2213 CI) 1JU-11-782 CI

ALASKA REDISTRICTING BOARD'S CONSOLIDATED REPLY TO OBJECTIONS TO NOTICE OF COMPLIANCE WITH ORDER OF REMAND AND REQUEST FOR ENTRY OF FINAL JUDGMENT

I. INTRODUCTION

Seven different entities, two parties and five *amicus* have lodged objections to the Alaska Redistricting Board's ("Board") Notice of Compliance With Order of Remand and Request for Entry of Final Judgment ("Notice") including: (1) the Riley Plaintiffs; (2) The Petersburg Plaintiffs; (3) the Fairbanks Northstar Borough ("FNSB"); (4) Bristol Bay Native Corporation; (5) Calista Corporation/ACVP ("Calista"); (6) the Aleutians East Borough, and (7) the RIGHTS Coalition.[1] The Board's responses to each of these objections are addressed in this consolidated Reply.[2] As established below, none of the lodged objections have merit. The Board's Amended Proclamation Plan

[1] The Alaska Democratic Party ("ADP") also filed request to participate as an *amicus* and submit a brief relating to the filing deadline for nominations to precinct election boards under AS 15.10.120. The ADP's brief raises no objections to the Board's Amended Plan of Proclamation and thus need not be addressed here. At the present time, the Board has no position on the ADP's request.

[2] The Board will address the objections raised by the parties as follows: First, because every brief raises an objection that the Board did not follow the *Hickel* process, the Board will address all of those arguments together. Second, the Board will provide a collective response to the various Voting Rights Act ("VRA") issues raised by a number of parties. Third, the Board will provide one response to the several objections that the Board's deviation from Alaska constitutional requirements were not necessitated by the VRA. Finally, the Board will address the remaining individual issues raised by each party. Every other objection by all objecting parties not specifically addressed herein is deemed denied by the Board.

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complies in all respects with the Alaska Supreme Court's Order of March 14, 2012 ("S. Ct. Order") as well as this Court's February 3, 2012, Memorandum Decision and Order Re: 2011 Proclamation Plan ("Superior Court Order") and is otherwise constitutional. Accordingly, this Court should reject the meritless objections and enter final judgment affirming the Amended Proclamation Plan.

II.
ARGUMENT

A. The Board Followed the *Hickel* Process

All of the parties, excluding the Petersburg Plaintiffs, object to the process the Board followed upon remand in drafting the Amended Proclamation Plan. Although each objecting party takes issue with slightly different aspects of the process, they all argue the Board did not comply with the Supreme Court Order. The BBNC argues the Board interpreted the Court's order too literally, while the Riley Plaintiffs argue the Board deviated from a clearly defined *Hickel* process. These objections merely highlight their flaw – the Order did not dictate a specific process, but rather set forth defined procedural steps for the Board to follow. These steps are as follows: (1) first design a plan focusing on compliance with the article VI, section 6 requirements of contiguity, compactness, and relative socioeconomic integration; (2) once such a plan is drawn, determine whether it complies with the VRA; and (3) to the extent it is noncompliant, make revisions that deviate from the Alaska Constitution when deviation

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is "the only means available to satisfy Voting Rights Act requirements."[3] This is exactly what the Board did, as clearly set forth on the record.

1. Board Failed to Redraw Every House District

All the objecting parties take issue with the Board's decision not to redraw all 40 House districts. The Riley Plaintiffs and the FNSB both argue the Supreme Court specifically ordered the Board redraw every House district.[4] This is simply incorrect. The Supreme Court ordered the Board to "first design a plan focusing on compliance with the Article VI, section 6 requirements of contiguity, compactness, and relative socioeconomic integration."[5] The Board thus created a *Hickel* template that contained the House districts from the Proclamation Plan the Board knew met these requirements.[6]

The *Hickel* template left Anchorage, Southeast, and the North Slope (Districts 12-27, 31-35, and 40) unchanged. The Board did not leave thirty-six districts unchanged as alleged by the objecting parties. This is evident by the fact the Board changed all five of the Fairbanks districts, and made adjustments to districts in both the Kenai Peninsula Borough and the Mat-Su Borough.[7]

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[3] S. Ct. Order at ¶ 7.

[4] *See* Riley Plaintiffs' Objections at 3; FNSB's Objections at 2-3.

[5] S. Ct. Order at ¶ 5.

[6] The Riley Plaintiffs and the Petersburg Plaintiffs argue House District 32 should have been redrawn because even though this Court found House District 32 was compact, it did so partly because it thought the VRA required an influence district in Southeast, which it later questioned. As the Defendant will show, this Court found House District 32 was constitutionally compact independent of the VRA, and only considered the impact of the influence district as an alternative theory in the event it were to find House District 32 was not compact under the constitution. Thus, House District 32 is constitutionally compact and did not need to be redrawn in order to comply with the Supreme Court Order.

[7] Notice of Compliance at 10-11 (hereinafter "Notice").

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The Board decided to use the districts in Anchorage, Southeast, and the North Slope as the starting point for a new plan based on the Supreme Court's mandate that the Board draw a plan whose districts complied with the Alaska Constitution without considerations to the VRA. No party ever challenged the constitutionality of the districts in the *Hickel* template, and any such challenge at this juncture is untimely.[8] Contrary to the objecting parties' allegations, these districts were also originally drawn without consideration to the VRA. The Board may have started with the Alaska Native districts first when it drew the Proclamation Plan, but the Board did not take the VRA into consideration when drawing the districts in Anchorage or the North Slope.

In fact, the Riley Plaintiffs specifically took issue with the fact that the Board adopted the plan submitted by the Mayor of Anchorage and the Anchorage City Clerk.[9] The proponents of the Anchorage plan made it clear they drew the Anchorage districts with only the constitutional requirements in mind and without regard to the VRA.[10] As for the North Slope, the configuration of House District 40 is the same as it was over the past 10 years. Any party would be hard pressed to argue it is now unconstitutional.

Southeast, on the other hand, did face challenges during this litigation. As the Riley Plaintiffs and the Petersburg Plaintiffs point out, Petersburg challenged the constitutionality of House District 32 based on compactness. This Court upheld the configuration of House District 32, finding the shape was "compact enough" under the

[8] *In re 2001 Redistricting Cases* ("*In Re 2001 II*"), 47 P.3d 1089, 1090 & n. 5, 1092 & n. 16.

[9] Trial Testimony of T. Bickford at 677:5-684:8.

[10] ARB753-ARB755.

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constitutional standard for compactness. This Court acknowledged the creation of an influence district for preclearance purposes in Southeast affected the configuration of all the Southeast districts.[11] But as explained in greater detail below, the Court ultimately upheld House District 32 as compact under the Alaska Constitution and not as justified by the VRA. And in any event, this Court did not disturb its findings on House District 32 or the legitimacy of creating an influence district in Southeast, nor did the Supreme Court make any findings that would even suggest the constitutionality of any districts in Southeast are questionable.

Thus, the districts in Anchorage, the North Slope, and Southeast already complied with the Supreme Court Order. The Board was under no obligation to redraw every House district, especially ones that already complied with the Court's Order. The parties' objections to the contrary put form over substance, and misinterpret the spirit of the Supreme Court Order.

2. Board Failed to Consider Other Urban Areas

The objecting parties almost unanimously object to the Board's decision to once again combine Ester and Goldstream with a rural Alaska Native district.[12] Some argue the Board failed to consider other options when combining urban and rural populations, while others argue the Board should have used different population combinations entirely. Every one of these objections is essentially another version of the "not in my

[11] *See* Order Denying Petersburg's Motion for Summary Judgment and Granting the Board's Cross Motion for Summary Judgment, p. 10.

[12] *See* Calista and AVCP Objections, pp. 3-12; Riley Plaintiffs' Objections, p. 8; FNSB's Objections, pp. 3, 4-5, 8; BBNC's Objections, p. 4.

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backyard" argument, which this court has already recognized and rejected.[13]

Contrary to many of the objecting parties' allegations, the Board did consider combining population from other urban areas with other rural areas as discussed on the record. Hickel 002, for example, combined urban population from the Mat-Su Borough (specifically Houston, Trapper Creek, Susitna, and Willow precincts) with the rural population of House District 36 (essentially Benchmark House District 6). However, the Board's legal counsel concluded this option did not comply with the state constitutional requirement of socio-economic integration because "unlike the FNSB, the Mat-Su is not a transportation or economic hub for rural Alaska and there are little cultural, social, or economic ties between the residents of the Mat-Su Borough in general, and western Mat-Su in particular, and the more rural villages that comprise the rest of the district."[14] The Mat-Su Borough also had no excess population that needed to be accommodated with enough population for 5.01 ideal districts, unlike the FNSB whose population equals 5.5 ideal districts.[15] The Board would also have to split the Mat-Su Borough three ways.[16]

Hickel 003 combined urban population from the western edge of the Municipality of Anchorage with rural population across Cook Inlet to House District 37,

[13] *See* Superior Court Order, p. 132.

[14] Exhibit F at 3. All references to exhibits refer to the exhibits attached to the Board's Notice or this Reply.

[15] *Id.*

[16] *Id.* at 3-4.

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which includes Bethel and other small rural villages.[17] The Board's legal counsel found several potential constitutional violations with this option, including socio-economic integration problems and compactness issues.[18] Hickel 004 takes urban population out of the northwest corner of the Kenai Peninsula Borough and combines it across Cook Inlet to House District 36 that runs across interior Alaska to the coast and includes Bethel and other small rural villages. The Board's legal counsel found substantial flaws with this option as well, including no socio-economic integration and problems with contiguity and compactness.[19] While all of these resulting districts violated at least one of the state constitutional requirements as explained in great detail on the record, a district that combined urban population from Fairbanks, and specifically Ester and Goldstream, had already been deemed reasonable by this Court.[20]

Both this Court and the Supreme Court found urban population had to be added to rural population due to the outmigration from the rural Alaska Native areas to the urban areas.[21] Both courts held it was not a matter of if, but a matter of where.[22] As explained above, the Board considered several combinations of urban and rural

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[17] *Id.* at 4.

[18] Id.

[19] *Id.* at 4-5.

[20] Superior Court Order at 132. Calista argues the trial court limited the Board's ability to take population from the Fairbanks area to only "if required by the necessity of compliance with the VRA and the choice is in harmony with the Alaska Constitution." [*See* Calista and AVCP's Objections, p. 4.] Such conclusion, however, ignores the trial court's specific findings throughout the order that the Board's choice to use urban population from Fairbanks was reasonable. [*See* Superior Court Order at 94, 111, 130, 131, 132.

[21] *Id.* at 129-130; S. Ct. Order at ¶ 14.

[22] Id.

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populations, none of which complied with the state constitutional requirements and the VRA.[23] The Board therefore chose the best option using its already recognized discretionary authority.

This Court previously found that Fairbanks has historical ties with the surrounding rural areas, and serves as a hub for rural Alaska.[24] For these reasons and a host of others, this Court held the Board was reasonable in its choice to take the excess population it needed from Fairbanks, and specifically Goldstream and Ester.[25] The Riley Plaintiffs did not challenge this conclusion. Thus, just as the Board chose to use House districts that already complied with the Supreme Court Order in its *Hickel* template, the Board also chose to combine urban and rural populations this Court had already found appropriate.

Calista and the BBNC argue the Board should have chosen their proposed preferred combination of urban and rural population, taking the needed urban population from the Eielson area instead of Ester/Goldstream. This is yet another version of the "not in my backyard" argument, and ignores the Board's discretionary authority. This Court has already found it is the Board's job, not the court's, to choose among alternative plans that are otherwise constitutional.[26] The fact that there are other

[23] *See* Exhibit F to Notice of Compliance.

[24] Superior Court Order at 130, n.224.

[25] *Id.* at 30-132.

[26] *Id.* at 46.

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areas of the state that could be used "does not make the Board's decision improper or unreasonable."[27]

The Board simply exercised this recognized authority to weigh all the options and ultimately chose Ester and Goldstream instead of Eielson for the needed population, a choice this Court has already ruled is appropriate.[28] Calista and BBNC's objection has already been addressed and rejected by this Court, and should stand.

3. Other Process Objections

a. "Maximum" Constitutional Compliance

The remaining alleged violations of the *Hickel* Process raised by the individual objecting parties are equally without validity, and to the extent raise new challenges, are untimely. For example, the Calista Corporation and the Aleutians East Borough both seem to suggest the Board was required to draw House districts that were "maximally constitutional."[29] This is not the standard, nor is it possible given the unique geographical and demographic makeup of Alaska. In fact, the Alaska Supreme Court has repeatedly "emphasized the need for flexibility so that all constitutional requirements may be satisfied as nearly as practicable."[30]

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[27] *Id.* at 131.

[28] *Id.* at 132.

[29] *See* Calista Objections at 2; AEB's Objections at 6.

[30] *In re 2001 Redistricting Cases*, 44 P.3d 141, 149 (Alaska 2002) (Carpeneti, J., dissenting) (*quoting Hickel v. Southeast Conference*, 846 P.2d 38, 50 (Alaska 1993) *quoting Egan v. Hammond*, 502 P.2d 856, 865-66) (Alaska 1972)). *See also Groh v. Egan*, 526 P.2d 863, 875 (Alaska 1974), *Kenai Pen. Borough v. State*, 743 P.2d 1352, 1359 (Alaska 1986).

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The AEB cites to paragraph 5 of the Supreme Court Order in support of its argument that the Board must "seek to maximize the Article VI, section 6 requirements," but no where in that paragraph, or anywhere in the decision for that matter, does the Court place such a heavy burden on the Board. In fact, paragraph 5 only requires the Board to "design a reapportionment plan based on the requirements of the Alaska Constitution."[31] The Board is therefore perplexed as to how Calista and AEB could both argue in favor of a mandate that does not exist.

As this Court has already found, the proper standard for constitutional compliance is relative. A "maximum standard" suggested by Calista and the AEB ignores the realities of redistricting in Alaska, and the long documented precedent requiring flexibility in compliance given Alaska's unique geography and population distribution. The House districts used in the *Hickel* template were constitutional under this standard, as explained above. The Board was under no obligation to redraw these House districts since they already complied with the Supreme Court Order, nor was the Board under any obligation to redraw these districts so as to "maximize" their compliance with the constitutional requirements. They met the constitutional requirements, which is all that is required.

b. Public Hearings

The Riley Plaintiffs, the AEB, the FNSB, the RIGHTS Coalition, and the BBNC all take issue with how the Board ran its public meetings during the redrawing

[31] S. Ct. Order at 3.

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process.[32] Specifically, they all claim the Board refused to hear any comments from third parties, or allow any third party who submitted new plans to defend their plan or answer any questions the Board may have had.[33] The Riley Plaintiffs and the AEB both claim the Board was required to follow the same public hearing process laid out in the Alaska Constitution that applies to public hearings prior to the adoption of the Proclamation Plan.[34] They all argue that even though the Board accepted draft plans from third parties, the Board did not meaningfully consider any of them, and the Board failed to notify the public of these plans or other comments.

All of the objecting parties' concerns are meritless. While the Board did not reopen the public hearing process, the Board was under no obligation to do so. The Alaska Constitution only requires the Board "hold public hearings on the proposed plan, or, if no single proposed plan is agreed on, on all plans proposed by the board."[35] The proposed plan is the plan that must be adopted within thirty days after the official reporting of the decennial census.[36] There is no constitutional mandate that the Board hold public hearings on remanded plans. There is no court mandate that the Board do so either.

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[32] AEB's Objections at 7-8; BBNC's Objections at 6-7; FNSB's Objections at 9; RIGHTS's Objection at 3, Riley Plaintiffs' Objections, at 7-8

[33] Id.

[34] AEB's Objections at 8; Riley Plaintiffs' Objections at 7-8.

[35] Alaska Const. art. VI, § 10(a).

[36] Id.

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The Supreme Court did not invalidate the Proclamation Plan, or any portion of it. The Court specifically held it could not decide whether any constitutional deficiencies in the plan were necessitated by the VRA until the Board provided a benchmark for the Court to use. It remanded the Proclamation Plan to the Board to create this benchmark using the *Hickel* process.[37] The Court did not mandate the Board reopen the public hearing process, or even consider input from the public during this process.

Without any court directives, it was wholly within the Board's discretion as to how it wished to carry out the order of remand. And while it did not reopen the public hearing process, it did consider any and all submitted third party proposals and public comments. The public was also permitted to talk with individual Board members as they drew the Amended Proclamation Plan. Each and every meeting was open to the public and properly noticed via email, Facebook and Twitter.[38] The Board accepted, reviewed, and analyzed every plan submitted by third party groups.[39] Copies of each and every third party plan and written public comments were posted on the Board's website.[40]

The Board instructed Board counsel and staff to analyze each third party plan for compliance with the *Hickel* Process, the Alaska Constitution, and the VRA.[41] On

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[37] S. Ct. Order at ¶¶ 7, 11.

[38] Exhibit A at 47.

[39] *Id.*; *see also* Exhibit B at 115-143 (Transcript of 3/29/12 Board Meeting).

[40] *Id.* at 7-8, ¶ 22.

[41] Id. at ¶ 6.

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March 29, 2012, Board counsel and staff reported their findings on the record.[42] Thus, the objecting parties' claims that the Board did not meaningfully consider third party plans or that the public was somehow "left in the dark" is patently false.

The real objection is that the Board did not adopt any of the third party plans. The RIGHTS Coalition and the BBNC both go to great lengths to rebut the Board's legal counsel and staff's analysis of the third party plans, especially those they submitted. The Board relied on the advice of its experts and staff that, of the alternative plans, none was viable. They either: (a) did not comply with the *Hickel* process; and/or (b) did not meet the requirements of the VRA; and/or (c) unnecessarily deviated from the requirements set forth in the Alaska Constitution.[43]

It is completely reasonable for the Board to rely upon the advice of its experts and staff. It is also within the Board's discretion to choose among alternative plans that are otherwise constitutional.[44] As explained in great detail on the record and in the Board's Written Findings, none of the alternative plans were otherwise constitutional.[45]

The RIGHTS Coalition and the BBNC's objections are nothing but veiled attempts to convince this Court to pick a plan it likes or impose a plan it prefers. But as this Court has already held, "this court's role is a limited one[;] [t]he court cannot pick a plan it likes, nor can it impose a plan it prefers. Rather, the court's role is to measure

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[42] *Id.* at 8, ¶ 24.

[43] Exhibit A at 7-10, ¶¶ 20-25. *See also* Exhibit H.

[44] *See* Superior Court Order at 46.

[45] Exhibit A, *passim*; Exhibit B, *passim*.

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against the constitutional standards; the choice among alternative plans that are otherwise constitution is for the Board, not the court."[46]

As the Board has established on the record, in its Written Findings, and in its Notice of Compliance, the Amended Proclamation Plan is constitutional and wholly complies with both the Supreme Court Order and this Court's Order. The mere fact that other plans exist and were submitted to the Board does not render the Board's decision improper or unreasonable, especially when the other plans are less constitutional than the Board's choice.

B. Objections to the Effectiveness of Alaska Native Districts in Amended Proclamation Plan Are Not Relevant

Several of the objecting parties argue the Amended Proclamation Plan is retrogressive and therefore does not comply with the Voting Rights Act. These arguments are not properly before this Court as it is the Department of Justice who must determine whether the Amended Proclamation Plan, or any plan for that matter, complies with Section 5 of the Voting Rights Act. It is not the job of this Court to analyze the effectiveness of Alaska Native districts, or essentially preclear the Board's plan. Thus, this Court should disregard these objections.

In any event, the Board's VRA expert, Dr. Handley, has already analyzed the effectiveness of the Alaska Native districts in the Amended Proclamation Plan and opined that the new plan meets the benchmark and is therefore not retrogressive.[47] The

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[46] Superior Court Order at 46.

[47] Exhibit B at 193-194 (Tr. at 13:23-14:6).

alternative plans relied upon by the objecting parties, on the other hand, either fail to meet the benchmark or cause more damage to the Alaska Constitution than the Amended Proclamation Plan, as explained in great detail on the record.[48]

C. The Board's Amended Proclamation Plan Deviates from the Alaska Constitution to the Least Degree Reasonably Necessary to Comply With The VRA

Some of the objecting parties argue the Amended Proclamation Plan does not comply with the *Hickel* Process or the Supreme Court Order because any deviations from the Alaska Constitution were not necessary to comply with the VRA.[49] Most take issue with House District 38 and allege it unnecessarily violates the constitutional requirement of socio-economic integration, while only the BBNC takes issue with House District 39 alleging it is unnecessarily not compact or socio-economically integrated.[50] For the reasons explained on the record, in the Written Findings, and in the Notice of Compliance, the minor deviations from the constitutional requirements in these two districts were in fact required for compliance with the VRA.

1. Specific Objections

Calista, for example, relies on its so-called "Settlement Plans" in arguing the deviation from socio-economic integration in House District 38 was not justified by the

[48] *See* Exhibit A at 7-8, ¶¶20-25, Exhibit B at 122-133 (Tr. at 22:18-66:4).

[49] *See* Calista's Objections at 9-15; Riley Plaintiffs' Objections at 16-19; FNSB's Objections at 6-8; BBNC's Objections at 18-19.

[50] Id.

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Voting Rights Act.[51] Calista appears to contend that because the Settlement Plans have slightly higher NVAP in their respective HD-38, that the Board's Amended Proclamation plan is somehow legal deficient. Calista's argument proves too much.

Clearly, the "VRA metrics" in the two settlement plans are insignificantly different from the Amended Proclamation Plan. The two plans raise the NVAP by less than three quarters of one percent.[52] The "4/4" plan increased the NVAP by a mere 0.61% from 45.72% to 46.33%. The NVAP in the "4/10" plan is raised only 0.71% from 45.72%. Neither of these increases is legally significant. The DOJ Guidelines expressly advise that it "does not relay on any predetermined or fixed demographic percentages at any point" in its assessment.[53] The "ability to elect either exists or it doesn't."[54] The Board's VRA expert advised the Board that all of the Alaska Native districts in its Amended Plan had the ability to elect and thus were effective. Since the Native districts in the Amended Proclamation Plan and the two settlement plans are "identical in all respects . . . except for the Fairbanks urban rural populatin pairing differences" Calista's argument regarding NVAP is nothing more than another version of the Riley Plaintiffs "not in my back yard argument."

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[51] Calista's Objection's at 9-15. These Plans were not made part of the Board record or attached to the Board's Notice as the Board considered the two plans to be settlement related and thus not admissible in this litigation pursuant to Alaska R. Evid. 408. Calista is not a party to this litigation even though it drafted and provided the Board with the referenced plans which formed the basis of the Riley Plaintiffs' settlement proposal. Under these circumstances, it is unclear to the Board whether Calista's disclosure and discussion of the plans is prohibited by Rule 408. However, since the bell has already been rung, the Board feels compelled to address the issues raised.

[52] Calista's Objections at 9-10.

[53] DOJ Guidelines at 7471. A copy of the guidelines can be found at Jt. Tr. Exhibit 49.

[54] *Id.*

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Calista also fails to mention that the only significant difference between its settlement plans and the Amended Proclamation Plan is it takes the needed urban population from Eielson instead of Ester and Goldstream. The Riley Plaintiffs seem to support one of Calista's settlement plans, Calista 3, and use the same arguments as Calista in alleging House District 38's minor deviation from the socio-economic integration requirement was unnecessary because there is another plan that "has stronger justification in the VRA."[55] Their objections are meritless for the same reasons Calista's objections are meritless.

Calista conveniently fails to explain how its House District 38 is more socio-economically integrated than House District 38 in the Proclamation Plan. The most obvious reason for this glaring deficiency is because it is not. While this Court has already recognized the historical, social, and economic ties between Fairbanks and the surrounding rural areas, as well as the fact that Fairbanks serves as a rural hub, in general Ester and Goldstream have more in common with the rural areas than Eielson. At trial, the Board submitted Exhibit H, which is an email from a planner with the Community Planning Department of the FNSB. In this email, the planner explains how Ester is zoned as "generally rural."[56] The Riley Plaintiffs also went to great lengths at

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[55] Riley Plaintiffs' Objections at pp. 18-19. The Riley Plaintiffs also seem to suggest there are other third party plans that do less harm to the Alaska Constitution and better comply with VRA than House District 38 in the Amended Proclamation Plan. Yet, they admit they "have not had time to review these other plans in detail..." The Board is confused how the Riley Plaintiffs can allege these plans "all appear to comply with the VRA and do less violence to the Alaska Constitution" when they admit they have not actually reviewed them.

[56] Trial Exhibit H.

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trial to explain the rural characteristics of Ester and Goldstream.[57] It would follow the residents of Ester and Goldstream have a better understanding of the quality of life in the rural Alaska villages. Whereas, the population of the Eielson area, which is mostly military, is most likely less familiar with rural life and therefore has less in common, both socially and economically, with the rural Alaska Native villages.

House District 38 in Calista's settlement plans is also less compact, wrapping around the Ester and Goldstream areas and under the City of Fairbanks to grab the Eielson population.[58] The compactness of House District 38 in the Proclamation Plan or the Amended Proclamation Plan, on the other hand, has never been challenged. Upon a visual review, it is noticeably more compact than Calista's House District 38 on the eastern edge where it simply continues into the Ester and Goldstream areas without having to snake around any communities and stretch east to Eielson.[59]

Regardless, as the Board has already explained, it is solely within the Board's discretion to choose where the urban population shall come from, and this Court has already found choosing Ester/Goldstream over Eielson is completely reasonable.[60] Calista either ignores or attempts to dismiss the many reasons why the Board chose Ester and Goldstream over Eielson, many of which pertain to concerns over compliance with the VRA. For one, Ester and Goldstream tend to overwhelmingly vote Democratic

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[57] *See generally* Superior Court Order pp. 112-113, n.170.

[58] *Compare* Calista's Objections, Exhibit A 1-2, Exhibit B 1-2 to Notice of Compliance, Exhibit A 21.

[59] Id.

[60] Superior Court Order at p. 132.

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while the military population in the Eielson area, as well as the other urban voters Calista puts in their House District 38, tend to vote Republican.[61] This is important because Alaska Natives also tend to vote overwhelmingly Democratic. Thus, by adding more Democrats, the Alaska Natives have a higher likelihood of electing their candidate of choice. By adding Republicans, even with a lower voter turnout, the Alaska Natives automatically have a less likelihood of electing their candidate of choice, thereby decreasing the effectiveness of that district. [62]

Calista and other objecting parties which favor of an Eielson/rural population pairing attempt to dismiss this obvious fact by relying on a comment Dr. Handley made while on cross-examination at trial. They claim Dr. Handley said she would have no concerns about adding military population to an Alaska Native effective district because of the lower voter turnout in these areas. However, if the parties were to read Dr. Handley's actual trial testimony, they would realize their reliance is wholly misplaced. Dr. Handley specifically stated, "I'm not concerned about the military. I'm concerned about Republicans."[63] Since Eielson and the other areas Calista places in its House District 38 vote for Republicans more often than not, Dr. Handley, and potentially the Department of Justice, would most assuredly take issue with this pairing.

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[61] ARB00013407-ARB00013408; ARB00004337; ARB00013358 at n.22.

[62] The 4/10/12 Settlement Plan takes 5,775 residents out of the FNSB. Eielson has a population of only 2,649. Thus, there are 3,126 FNSB non-Eielson residents from Republican areas of the FNSB in HD-38 in this plan.

[63] Trial Testimony of L. Handley 953:12-13 (emphasis added).

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The FNSB takes a slightly different tactic in alleging it was unnecessary for the Board to slightly deviate from the socio-economic integration requirement in House District 38. Instead of relying on a third party plan to discredit House District 38 in the Amended Proclamation Plan, the FNSB tries to argue the DOJ would not require such a configuration.[64] The FNSB claims the DOJ takes into consideration "whether plans require highly unusual features to link together widely separate minority concentrations in order to meet the benchmark."[65] The FNSB characterizes combining Ester and Goldstream with rural Alaska Native villages to create House District 38 as "the epitome of a plan that requires 'highly unusual features' to meet the Benchmark."[66]

What the FNSB obviously fails to understand is the Board added the population from Ester/Goldstream to rural Alaska Native villages in order to meet the one-person/one-vote principle. As both this Court and the Supreme Court recognized, outmigration over the past ten years left the rural Alaska Native districts severely under populated.[67] It was not a matter of if urban population needed to be added to rural, but a matter of where.[68] The Board chose Fairbanks as the best option for a multitude of reasons set forth on the record, and this Court found the Board's choice was

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[64] FNBS's Objections at pp. 6-8.

[65] *Id.* at 7.

[66] *Id.* at 8.

[67] Superior Court Order at 129-130; S. Ct. Order at ¶ 14.

[68] Id.

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reasonable.[69] The Board then chose Ester/Goldstream as the most appropriate areas because its voters would not decrease the ability of the Alaska Native voters in the rural areas to elect their candidate of choice.[70] So contrary to the allegations of the FNSB, the Board did not take unnecessarily drastic measures to avoid retrogression in creating House District 38. It did so to first meet the one-person, one-vote principle, which the DOJ, federal courts, and state courts all agree is the hallmark of redistricting.

The FNSB simply does not want any of the population from the FNSB added to a rural district.[71] They even go so far as to suggest the Board should have used the "more rural options" in the Anchorage area to pair with an under populated, rural Alaska Native district.[72] Their argument fails for the same reasons Calista's argument against Ester/Goldstream and in favor of Eielson fails – this Court has already found using population from Fairbanks is reasonable.

2. Necessary Deviations

In sum, the allegations that House District 38 in the Amended Proclamation Plan unnecessarily deviates from the socio-economic integration requirement are baseless. As the Board has already explained, it had to relax the socio-economic integration requirements of the Alaska Constitution in its configuration of House District 38 in

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[69] Superior Court Order at 130, n.224.

[70] *Id.* at 131-132.

[71] See id.

[72] *Id.* at 3-4.

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order to create the fifth effective House district required by the VRA.[73] This required the splitting of House District 39 in the *Hickel* Plan[74] and adding the southern portion of that district (the Wade-Hampton area) with its large concentration of NVAP and adding it to the southwest portion of *Hickel* House District 37, which includes the Denali Borough and the Ester/Goldstream area of the FNSB,[75] to create House District 38 an Alaska Native "ability to elect" district with 45.72% NVAP.[76] This configuration is very similar to House District 38 in the original Proclamation Plan with some minor population adjustments. In configuring House District 38, the Board departed from Alaska constitutional requirements to the least degree reasonably necessary in order to ensure compliance with the VRA.[77]

As for House District 39, the Board had to relax the compactness and socio-economic integration requirements of the Alaska Constitution in order to create the fifth effective House district required by the VRA.[78] The Board had to reconfigure House District 37 in the *Hickel* Plan and unpack the two districts with over 80% Alaska NVAP – House District 39 with 84.22% NVAP and House District 38 with 82.65% NVAP –

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[73] Exhibit A at 13, ¶ 39.b.

[74] *Id.* at ¶¶ 39.b, 19.a.

[75] This Court has previously held that the Board's choice of using excess population from the FNSB "was reasonable and could be used in a Native district," and that "the Board acted reasonably when it selected Fairbanks and specifically Ester/Goldstream as an area from which to take excess population." [Superior Court Order at 111 n.164, 132.] This ruling was left undisturbed by the Supreme Court's Order.

[76] *Compare* Notice of Compliance, Exhibit E at 6 to Notice of Compliance, Exhibit A at 18.

[77] Written Findings at ¶ 39.b.

[78] *Id.* at ¶ 39.a.

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and spread out the NVAP into other districts to meet the requirements of the VRA.[79] The resulting configuration of House District 39 was thus created by splitting House District 39 in the *Hickel* Plan and adding the northern portion of that district (including Nome and other traditional Alaska Native villages along the Bering Straights and Norton Sound) with its large concentration of NVAP, and adding it to a reconfigured *Hickel* House District 37 to create House District 39, an Alaska Native "ability to elect" district with 65.63% NVAP.[80] This configuration is very similar to House District 39 in the original Proclamation Plan with some minor population adjustments. In configuring House District 39, the Board departed from Alaska constitutional requirements to the least degree reasonably necessary in order to ensure compliance with the VRA.[81]

The parties' objections to the minor constitutional deviations in House District 38 and House District 39 have no merit. They are nothing but a veiled attempt to persuade this Court to reject the Amended Proclamation Plan and adopt their alternative plan(s). But as the record clearly shows, the Amended Proclamation Plan is superior to all the alternative plans relied upon by the objecting parties in both its constitutional compliance and VRA compliance for the reasons explained on the record, in the Board's Written Findings, and in the Notice of Compliance. It is the Board's job to

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[79] *Id.* at ¶ 19.a.

[80] *Compare* Exhibit E at 6 to Exhibit A at 18.

[81] Written Findings at ¶ 39.a. No legal challenges were made related to House District 39 in the Board's original Proclamation Plan. In fact, the Plaintiffs' maps produced for trial purposes contain a district nearly identical to House District 39. [*See* Pl. Ex. 14, Def. Ex. A.] Moreover, the RIGHTS Coalition Plan provided to the Board on March 28, 2012, contains a nearly identical district, which the RIGHTS Coalition claims actually complies in all respects with the Alaska Constitution. [Exhibit H at 27, 30; Notice of Compliance, Exhibit H at 27.]

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weigh the options and choose the one that best complies with the Supreme Court Order, the trial court's order, the Alaska Constitution, and the VRA. The Amended Proclamation Plan is such a plan.

D. None of the Remaining Objections Have Merit and Must be Rejected

A number of unique objections are raised by the parties and *amicus*. The one common denominator among these various objections is that they are all without merit and should be rejected by the court. Each of the individual objections is addressed in turn below.

1. The Riley Plaintiffs

Using their typical hyperbole, the Riley Plaintiffs raise various and sundry objections to the Board's Proclamation Plan. Review of these objections establishes that non have merit and all should be denied.

a. *The Riley Plaintiff's Objection 2 is Without Merit Because the Board Was Not Required to Hold Public Hearings*

The Riley Plaintiffs' claim that the Board was required to hold "public hearings" on its draft Amended Proclamation Plan is misplaced. By its own terms, Article VI, section 10 of the Alaska Constitution applies only to the initial redistricting process initiated by "the official reporting of the decennial census." There is no requirement that public hearings be held when a plan is remanded after being declared invalid by a court. In fact, other than the requirement stated Article VI, section 11 that "[u]pon a final decision that a plan is invalid, the matter shall be returned to the Board for correction and development of a new plan," the Alaska Constitution is silent regarding

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any procedural requirements on remand. The Riley Plaintiffs' attempt to boot-strap the public hearing requirements into the remand process has no legal basis.

The Riley Plaintiffs assertion that the Board permitted no public comment is contrary to the undisputed evidence in the record.[82] While no public testimony was taken, the Board considered all public comment and accepted, considered and reviewed every third party plan presented to it for compliance with the *Hickel* process, the VRA, and the Alaska Constitution.[83] The Board made specific findings on each of the plans, both on the record and in writing.[84] Nothing further is legally required.

b. *The Riley Plaintiffs' Objection 3 Has No Merit.*

The Riley Plaintiffs' objection that the Amended Proclamation Plan fails to correct prior violations of the Alaska Constitution and contains new violations has no basis in fact and is not supported by the record. Moreover, a number of the objections raised by the Riley Plaintiffs are untimely because they could have been raised against the original Proclamation Plan, but were not. Accordingly, they cannot be raised for the first time at this late date.[85] Each of the Riley Plaintiffs' specific objections is addressed below.

i. *HD-38*

The Riley Plaintiffs' objection to HD-38 appears to be that the Board's findings

[82] Exhibit A at 7-10, ¶¶22-25.

[83] *Id.* at ¶¶ 23-25.

[84] Id. Exhibit B at 122-133 (Tr. at 22:18-66:4).

[85] *In re 2001 Redistricting Cases* ("*In Re 2001 II*"), 47 P.3d 1089, 1090 & n. 5, 1092 & n. 16.

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"do not acknowledge that the new HD-38 violates the Alaska Constitution."[86] Actually, the Board made very detailed and exhaustive findings on this issue, which establish that "(1) it is impossible to retain strict adherence to the Alaska Constitution and meet the requirements of the VRA";[87] (2) as a result, departure from strict adherence to the socio-economic integration requirements in the configuration of HD-38 is required in order to ensure compliance with the VRA; and (3) the Board's departure from the SEI requirement was "to the least degree reasonably necessary in order to ensure compliance with the VRA."[88] The Board's findings are completely supported by the Board record.[89] The Riley Plaintiffs' objection to HD-38 is baseless and should be denied.

ii. ***Deviations in Fairbanks & Overall***

Taking the exact opposite position they did in their challenges to the original Proclamation Plan, the Riley Plaintiffs now object to the Board's decision to avoid splitting the excess population of the FNSB into two House districts, instead incorporating the remaining excess population (not added into HD-38) and spreading that population "out as evenly as practicable among the five [FNSB] House districts."[90] The Riley Plaintiffs appear to claim that this decision is a violation of the proportionality rights of the residents of the FNSB, based on the continued insistence

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[86] Riley's Objections at 8.

[87] Despite representations to the contrary, no third-party plan submitted to the Board was able to strictly comply with the Alaska Constitution and the VRA. [Exhibit B 122-133 (Tr. at 22:18-66:4); Exhibit H.]

[88] Exhibit A at 14-15, ¶¶ 39 and 39.b.

[89] See Exhibit B, *passim,* Exhibit F, Exhibit H.

[90] Exhibit A at 14, ¶ 37.b.

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that the FNSB residents are entitled to exactly 5.5 districts.[91] The Riley Plaintiffs' objection is without merit for several reasons.

First, as this court has found:

> The right to geographic equal protection does not, however, entitle members of a political subdivision to control a particular number of seats based upon their population, or proportional representation. There is simply no requirement of 'strict' proportionality."[92]

The Riley Plaintiffs continued instance to the contrary is without merit.

Second, as also previously recognized by this Court, "'the need to accommodate excess population would be a sufficient justification to depart from the anti-dilution rule.'"[93] Here, the Board needed to accommodate the remaining excess population of the FNSB in some manner. In an attempt to avoid further litigation, which the Board found to be in the public interest, it voluntarily split the excess population of the FNSB only once, (adding 5,756 FNSB residents into HD-38) and incorporated the remaining population within the five FNSB house districts.[94] This increased the average deviation within the FNSB by 1.64%.[95] The deviation range within the FNSB House districts is

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[91] Riley's Objections at 8-9.

[92] Superior Court Order at 107 (*citing In re 2001*, 44 P.3d at 141, 144-145, n.7, 146-147)(footnotes omitted).

[93] *Id.* at 108 (*quoting In re 2001* at 144 n.7.)

[94] Exhibit A at 13-14, ¶ 37. In doing so, the Board followed the suggestions of the Alaska Supreme Court that one way to deal with excess population in the Anchorage Bowl under the 2001 plan was to spread that population among the remaining districts, increasing the average deviation by 2%. *In re 2001*, 44 P.3d at 145 n.7.

[95] The average deviation in the five FNSB House districts wholly within the FNSB in Proclamation Plan was 1.79%. [BR at 6034.] The average deviation for these same districts in the Amended Proclamation Plan is 3.43%. [Exhibit A at 68.]

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still only 0.6%.[96] Both of these increases are well within constitutional tolerance.[97] The Riley Plaintiffs "damned if you do-damned if you don't" objection is without merit.

Third, the Riley Plaintiffs' objection to the FNSB deviations is disingenuous. As noted by Calista, the Riley Plaintiffs represented to it that they supported the so-called "4/10 Settlement Plan."[98] That plan has an average deviation range in districts wholly within the FNSB of 3.41%.[99] If HD-38 is added to the mix, the range becomes is 8.66%.[100] HD-38 in that plan also takes excess population from the FNSB only from a different area than Ester/Goldstream.[101] In other words, the Riley Plaintiffs' real objection to the FNSB deviations is not based on the constitution or concerns over vote dilution, but rather their "not-in-my backyard" concerns.

The Riley Plaintiffs objection to the 9.01% overall statewide deviation range in the Amended Proclamation Plan, an increase of 1.4% over the original Proclamation Plan, is also not well taken. While not express, the Riley Plaintiffs seem to infer that the Amended Plan's overall range is objectionable. Clearly, it is not.

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[96] Exhibit A at 14, ¶ 37.b; 68.

[97] In its Superior Court Order, this Court advised the Board that it found that "the Board's interpretation of as nearly as practicable" to be somewhat strict" and thus while the Board should strive to "keep deviations low . . . that does not mean deviations cannot be raised if there are justifications." [Superior Court Order at 109 n.163.] The Board heeded this advise in drafting its Amended Proclamation Plan.

[98] The Riley Plaintiffs admit in their Objections that "they are familiar" with this plan, which they call the "Calista 3 Plan."

[99] Calista's Objections at 6, Exhibit B at 3. This average in the Amended Proclamation Plan is 3.43%, a *de minimus* difference. [Exhibit A at 68.]

[100] *Id.* This same deviation range in the Amended Proclamation Plan is 8.78% or a mere 0.12% difference.

[101] *Id.* Exhibit B at 1-2.

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The Alaska Supreme Court "has long held that population deviations under 10% are 'minor deviations' that do not require further justification: they are presumptively constitutional."[102] For example, the 2001 Amended Final Plan approved by our Supreme Court had a statewide deviation range of 9.96%.[103] Despite the increase, the 9.01% statewide deviation range in the Amended Proclamation Plan is still the lowest deviation range in state history.

The Riley Plaintiffs assertion that the deviation range "among Fairbanks Districts is 8.78%" is a red-herring. In order to create this larger number the Riley Plaintiffs count HD-38 as a "Fairbanks District" even though less than 1/3 of its population comes from Fairbanks.[104] The proper comparison for purposes of deviation range is the five

[102] *In re 2001*, 44 P.3d at 150 (Carpeneti, J. dissenting)(*quoting Hickel v. Southeast Conference*, 846 P.2d 38, 48 (Alaska 1993)(footnote omitted). *See also Groh v. Egan*, 526 P.2d 863, 877 (Alaska 1974).

[103] *In Re 2001 II*, 47 P.3d at 1090. By comparison, the "AFFR 2012 Redistricting Plan" has a statewide deviation of 9.84%. [Exhibit H at 11.] The statewide deviation for the "RIGHTS Coalition 3/2012" plan is 9.49. [*Id.* at 29.] All three of the Calista plans also had higher statewide deviations at 9.31% for the "Calista 3/29 Vers. 1" and "Calista VRA Mod. Hickel 001" and 9.56% for "Calista 3/29 Vers. 2." [Exhibit H at 31, 33 & 35.] Even the so-called "Settlement Plans" referenced by Calista in its Objection have higher (9.11% statewide deviation for the "4/4 Settlement Plan") or virtually the same (9.04% statewide deviation for the "4/10 Settlement Plan)." [See Calista's Objections at 7 & Exhibit A at 3, Exhibit B at 3.]

[104] Exhibit A at 14, ¶ 37.b; 30, 68.

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urban districts wholly within the FNSB boundaries.[105] As noted, the deviation range among those districts is 0.60%.[106]

In short, none of the Riley Plaintiffs' deviation/proportionality objections are based on fact or supported by law. Accordingly, they must be rejected.

iii. *HD-37*

As with its other objections, the Riley Plaintiffs' objections to HD-37 fail.

First, their claim that HD-37 is not compact because it "still contains the 900+ mile expanse across the Bering Sea to link Mekoryuk with Adak" is simply wrong. HD-37, which reunites the Aleutian chain, runs via land up the peninsula to Bethel.[107] While Nunivak Island is included in the district, it is joined with the Bethel Census area of which it has historically been a part and is geographically connected by land down the chain to its southern terminus.[108] Additionally, Nunivak Island is just that – an island. It has to go somewhere and will always make that connection over water.

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[105] Simply because some population from Fairbanks is included in HD-38 does not mean it should be counted as a FNSB district for purposes of deviation range. It is undisputed that in order to comply with constitutional equal population requirements substantial urban population from some area of the state had to be added to at least one rural district. As this court has expressly found, it "was not a matter of whether excess population needed to be added to rural Native districts but only a matter of where to access this excess urban population." [Superior Court Order at 129.] Because the Board reasonably solved the rural population shortfall by access population from the FNSB necessarily means that the deviation range in the FNSB is going to be effected due to the standard practice of under populating rural Alaska Native districts. The same result would occur in deviation ranges in any urban areas if its urban population was added to a rural district.

[106] Exhibit A at 14, ¶ 37.b; 68. The comparable ranges in the MOA is 2.46%. In Mat-Su, it is 0.62%. [*Id.* at 68.]

[107] Exhibit A at 18, 62, 63, 84. Nunivak Island is included with Bethel in HD-38 in the 2002 Amended Final Plan.

[108] HD-37 contains a large portion of the Bethel Census Area villages (i.e. Bethel, Eek, Quinhagak, Goodnews Bay, and Platinum.) [*Id.*]

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The compactness of the district itself meets the constitutional "relative compactness" standard. Alaska geographical anomalies make it impossible to draw a House district for the Aleutian chain that does not include a vast expanse of open water between the district's southern and northern tips. Indeed, other plans submitted to the Board, both pre- and post-remand, contain relatively similar shaped districts for the Aleutians.[109] The major difference between HD-37 in the Amended Plan and the Proclamation Plan[110] is that there is contiguity via land except for a few short miles across Kvichak Bay, explained in further detail below.

A visual test of the compactness of HD-37 must take into consideration the strange and linear geography of the area that creates the district. HD-37 contains the world's longest archipelago that stretches more than 1,000 miles. It is simply impossible to create a perfect, circular district around this geographical anomaly. The Alaska Supreme Court has relaxed the compactness standard to accommodate these types of areas. Under the geographic and demographic realities, HD-37 is compact enough to meet the compactness standard of the Alaska Constitution.[111]

The Riley Plaintiffs' contiguity objection fairs no better. As the Riley Plaintiffs admit, the Alaska Supreme Court has made it clear that it would be impossible to redistrict Alaska unless contiguity allowed for some amount of open water. Thus,

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[109] *See* Pl. Trial Ex. 14; Jt. Trial Ex. 12-24, 26-30, 33-35; Def. Trial Exhibit E; Exhibit H at 10, 30, 32, 34 & 36.

[110] The differences between HD-37 in the original and the Amended Proclamation Plan are detailed in Section III.A.4 at 8-9 of the Board's Notice.

[111] *E.g. Carpenter v. Hammond*, 667 P.2d 1204, 1218 (Alaska 1983)(Matthews, J., concurring).

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"[a]bsolute contiguity of land masses is impossible in Alaska, considering her numerous archipelagos[;] [a]ccordingly, a contiguous district may contain some amount of open sea."[112] While the "open sea" contiguity rule is not without limitations, for "[i]f it were, then any part of coastal Alaska could be considered contiguous with any other part of the Pacific Rim,"[113] the configuration of HD-37 does not go beyond acceptable limits for several reasons.

First, Nunivak Island is just that – an island. It has to go somewhere and will always make that connection over water. The fact that Nunivak Island is geographically closer to HD-36 than HD-37 is legally irrelevant.

Second, the Riley Plaintiffs' claim that another contiguity violation exists in the fact that "the Bristol Bay Borough (within HD 36) divides the North portion of HD 37 from the Alaska Peninsula in HD 37"[114] fails to take into consideration the unique geography of Alaska's west coast. While the district does include a small amount of open water in a contiguous district by passing over Kvichak Bay to connect the village of Egegik with the villages of Clark's Point and Portage Creek, this small amount of open water is *de minimus* and due to the unique geography of southwest Alaska's coastal region. For example, HD-37 in the Benchmark Plan (i.e. the 2002 Amended Final Plan), approved by the Alaska Supreme Court, is also contiguous by water across

[112] *Hickel*, 846 P.2d at 45.

[113] Id.

[114] Riley's Objections at 11.

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Kvichak Bay.[115] Moreover, the general acceptability of the necessity of configuration of an Aleutian chain district with contiguity across small amounts of open water is shown by the fact that other third party plans continue similarly configured districts with contiguity across open.[116] In fact, the RIGHTS Coalition "3/2012 Plan" has three separate areas where it is contiguous across "open sea."[117]

The Riley Plaintiffs' various arguments regarding the socioeconomic integration of HD-37 are also baseless. First, it is impossible to draw a plan for rural Alaska that does not split ANCSA boundaries. The Board made considerable efforts to minimize these splits but were not able to avoid them in every case. Not a single plan, pre- or post-remand, has a plan that does not split ANCSA boundaries.[118]

Second, there is absolutely nothing the record that supports the Riley Plaintiffs' claim that HD-37 is "a mishmash of socioeconomic interests and relationships that make no particular sense." Rather, HD-37 consists of territory that is "as nearly as practicable" a relatively integrated socio-economic areas required by Article VI, section 6 of the Alaska Constitution.

HD-37 is made up of primarily small, rural towns and villages who share common economic and social interests. In fact, every community in HD-37 is part of

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[115] Exhibit I at 1. *Compare* Exhibit I at 2. Exhibit I consists of detailed maps of the Bristol Bay area in the Benchmark Plan, the Amended Proclamation Plan, and the RIGHTS Coalition 3/2012 Plan.

[116] *See* Pl. Trial Ex. 14; Exhibit I at 30; Exhibit I at 3-5. It is also worth noting that Calista 4/10 Settlement Plan approved by the Riley Plaintiffs contains the exact same configuration of HD-37.

[117] Exhibit I at 3-5.

[118] *See* Pl. Trial Ex. 14; Jt. Trial Ex. 12-24, 26-30, 33-35; Def. Trial Ex. E; Exhibit H at 10, 30, 32, 34 & 36.

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the Southwest Economic Region as identified by the State of Alaska.[119] Its communities are all off the road system, accessible only by plane or boat. The vast majority of the communities rely on barge service in the summer months for fuel deliveries and other supplies. Snow machines are the primary means of travel during the winter. The regions smaller communities have a combination cash and subsistence economy, with day-to-day subsistence activities playing an important economic role. Other commonalities include that most employment is with government services, school districts, and Alaska Native corporations. Trapping, basket weaving, skin sewing, and ivory carving also provide income. The region is also a traditional mixing zone for Alaska Natives of Eskimo, Aleut and Athabaskan descent, who make up more than 50% of the districts population. Although there are three distinct Native cultures within the area, the groups have many similar shared traditions and cultural values as well the shared economic and transportation challenges of their remote locations.

In short, the record in this case establishes that HD-37 is "as nearly as practicable a relatively integrated socio-economic area" and the Riley Plaintiffs objections to the contrary must be denied.

iv. *HD-35*

The difference between the configuration of HD-35 in the Original Proclamation

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[119] Def. Trial Ex. H.

Plan and HD-35 in the Amended Proclamation Plan is minimal.[120] The districts are fundamentally the same. As such, the Riley Plaintiffs' contiguity, compactness and socio-economic integration relating to HD-35 must be rejected as untimely because they "could have been raised against the original Proclamation Plan but were not; and thus they cannot be raised for the first time at this late date."[121]

In the second appeal from the 2001 redistricting litigation, one of the original parties raised deviation and compactness issues that existed in the original Proclamation Plan.[122] In rejecting the challenges as untimely, the *In re 2001 II* Court held that the relevant deadline for such objections was the original 30 day deadline set forth in Article VI, section 11 of the Alaska constitution.[123] Since the claims at issue were not raised until after the 2001 board promulgated its Final Amend Plan the following year, the challenges "were not timely."[124]

Here, the Riley Plaintiffs' objections to the configuration of HD-35 are exactly the type of challenges rejected by the *In Re 2001 II* court as untimely. The Riley Plaintiffs could have raised their objections against HD-35 in the original Proclamation

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[120] The only difference between HD-35 in the two plans is that the Kenai Peninsula Borough ("KPB") communities of Seldovia and Seldovia Village were removed from HD-35 in the Amended Proclamation Plan and reunited with a KPB district as they were in the Benchmark plan to reduce the number of in the KPB. [*See* Notice at Section III.A.6 at pp. 8-9.] The change had no impact on the compactness, contiguity or socioeconomic integration make up of HD-35.

[121] *In Re 2001 II*, 47 P.3d at 1090.

[122] *Id.* at 1090, 1092.

[123] *Id.* at 1090 n.5.

[124] *Id.* at 1092.

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plan, but did not. Accordingly, "they cannot be raised for the first time at this late date." [125]

The Riley Plaintiffs' contention that the Board submerged certain Alaska Native communities into non-Native dominated districts, rather than placing them in VRA districts, as "a contrivance intended to create an unnecessary and illusionary justification to put urban population (as in the FNSB) into a rural area for VRA purposes" is absurd.

First of all, as discussed above, the record is clear that Seldovia and Seldovia Village were removed from HD-35 in order to reunite those communities into the KPB to reduce the number of splits in the KPB.

Second, even if every one of the other Native communities identified by the Riley Plaintiffs (Akhiok, Aleneva, Chenega, Chiniak, Larsen Bay, Old Harbor, Ouzinke, Port Lions, and Taitlek) were all included in an Alaska Native district, their combined population of 818 would not be sufficient to alleviate the need to "put urban population into a rural area." Additionally, adding those communities to a rural Alaska Native district would require unnecessary violations of the Alaska Constitution. For example, the communities of Akhiok, Aleneva, Chiniak, Larsen Bay, Old Harbor, Ouzinke, and Port Lions are all isolated on the mainland of Kodiak Island. Removing them and placing them in a district other than HD-35, as the Riley Plaintiffs suggest, would cause contiguity, compactness, and socioeconomic integration violations.

[125] *Id.* at 1090.

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The Riley Plaintiffs' objections to HD-35 are untimely as well as without merit.

v. *"Multiple Splits"*

The Riley Plaintiffs admit that its "multiple splits" objection regarding the Mat-Su and Kenai Peninsula Borough is based on "previously unchallenged problems from the invalidated plan."[126] This objection, like their objection to HD-35, must be rejected as untimely because it "could have been raised against the original Proclamation Plan" but was not and thus "cannot be raised for the first time at this late date."[127] In other words, the Riley Plaintiffs' "multiple splits" challenge is exactly the type of claim rejected by the *In Re 2001 II* court as untimely. It must be rejected here for the same reason.

vi. *Truncation*

The Riley Plaintiffs truncation objection exhibits a fundamental misunderstanding of what constitutes truncation. Contrary to their assertion, the term of the incumbent Senator in SD-B in the Amended Proclamation Plan (SD-E in the 2002 Plan) was not truncated because that senate seat was scheduled for election in 2012. Truncation affects only those mid-term Senate districts which have been substantially changed by redistricting.

Article II, section 3 of the Alaska Constitution requires half the senators stand for election every two years. In 2012, the 10 mid-term senate seats not scheduled for

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[126] Riley Objections at 13.

[127] *In Re 2001 II*, 47 P.3d at 1090.

election in 2012 (under the old system of identification) are Senate districts B, D, F, H, J, L, N, P, R and S.[128] It was these seats that were analyzed by the Board for potential truncation.[129] Based on this analysis, the Board determined that the one mid-term senator whose senate seat was not substantially changed and therefore need not be truncated was SD-B (under the old system of identification), SD-P in the Amended Proclamation Plan.[130]

After determining truncation, the Board was required to assign term lengths to the 19 Senate districts up for election in 2012. Because of the alternating election requirements of Article II, section 3, half of the Senate seats were required to be assigned two year terms and half four year terms. Because no election is required in SD-P in 2012, it is up for election in 2014 in the normal course. Accordingly, SD-P was required to be designated as two-year seat in the pattern of alternating two and four year seats, otherwise the term of that seat would be improperly extended to six years. Senate term lengths were then randomly assigned to the remaining districts in alphabetical order based on the location of SD-P within the framework of the twenty seats.[131] This is

[128] Exhibit A at 17, ¶ 44.a.

[129] *Id.* & pp. 95-96.

[130] *Id.*

[131] Exhibit A at 17 ¶ 44, 95-96. In other words, if the 20 senate seats are numbered, SD-P is the 16th seat, an odd number, and must be assigned a two year term. As a result, all "even" numbered Senate seats (SD-B, D, F, H, J, L, N, P, R & S) were assigned two year terms and all "odd" numbered Senate seats (A, C, E, G, I, K, M, O, Q & T) were assigned four year terms.

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the exact same process used by the Board in regard to the original Proclamation Plan, without objection.[132]

The Riley Plaintiffs' contention that the Amended Proclamation Plan "truncates three (3) Senate districts that are over 75% of the population of the previous Senate District: *i.e.*, SD-B, SD-L and SD-T"[133] confuses term assignment with truncation. None of the terms of the incumbents in the identified Senate districts were truncated as they were all up for election in 2012.[134] The fact that they were assigned two year terms was based on the process outlined above. Since each of those Senate districts is an "even" number, they were randomly assigned two year terms. The assignment of Senate terms, contrary to the Riley Plaintiffs' assertions, is not a "truncation" and had nothing to do with any intent to discriminate against Fairbanks or to somehow affect the bi-partisan coalition. The Riley Plaintiffs' arguments in that regard are nothing more than the pure conjecture of counsel without any basis in fact or support in the record.[135] The Riley Plaintiffs' truncation objection is without merit and must be denied.

c. *The "Other Issues" Raised by the Riley Plaintiffs*

i. ***No Hearing Is Necessary***

Resolution of the issues raised by the objections does not require a hearing or

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[132] *See* BR at 6023-24, 6031-32.

[133] Riley's Objections at 15. Under the old system of identification SD-B was SD-E, SD-L was SD-O and SD-T was SD-T.

[134] A fact the Riley Plaintiffs clearly recognize in their objections. [Riley Objections at 15 ("All of these districts would be up for election in 2012 ....")]

[135] The Riley Plaintiffs claim that the Board does not have the power to truncate Senate terms is also meritless.

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further discovery. The record is clear as to what the Board did and the reasons for its actions. The Board made finding on the records as well as exhaustive written findings supporting its decisions.[136] The Board submitted nearly XX% of the Board Record with its Notice, and will lodging its Supplemental Board Record with the Court within the next few days. Every bit of information necessary to review, analyze, and rule on the objections is already before the Court. Further discovery and a hearing would do nothing more than cause unnecessary delay. The Riley Plaintiffs' request for a hearing and additional discovery must be denied.

ii. *The So-Called Babcock Process*

Until the Riley Plaintiffs attached the Tuckerman Babcock article to its Objections neither the Board, its staff, nor counsel had never seen the obscure article, let alone "utilized it," as suggested by the Riley Plaintiffs. The process followed by the Board is reported in detail in the Board record on its Written Findings. The Riley Plaintiffs continually attempt to impute improper motives to the Board without even the slightest bit of evidence grows weary and is not worthy of serious consideration by this Court.

iii. *Appointment of Masters and Alternative Resolutions*

Likewise, misplaced is the Riley Plaintiffs' suggestion that there is a need to appoint a master in this case. Such a suggestion presumes there are valid objections to the Board's Amended Plan that require a remand. The Board contends there is not.

[136] See Exhibit A at 3-17, Exhibit B.

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Even if a remand is required, the Alaska Supreme Court has made clear that it stands ready to approve the original Proclamation Plan, with the fixes made to the compactness problems with HD-1 and HD-2, as an interim plan for the 2012 elections.[137] In order to be ready for this possibility, the Board has already adopted an "interim plan" for submission to the Supreme Court if necessary.[138]

2. *The FNSB*

a. *The Amended Plan did not Dilute the Effectiveness of FNSB Voters*

The FNSB's vote dilution/proportionality objection[139] is essentially the same proportionality objection raised by the Riley Plaintiffs. It is meritless and must be denied for the same reasons discussed by the Board in Section D.1.b.ii above, which is hereby incorporated by reference as though fully set forth herein.

Additionally, the FNSB's assertion that it violates the anti-dilution rule for the Board to spread the remaining excess population not placed into HD-38 evenly throughout the five FNSB districts because this "still does not place the excess population into a single district" is the conclusion that is "patently wrong." The FNSB fails to say just how keeping residents of the FNSB in FNSB districts that are within constitutional equal population tolerance violates the anti-dilution rule. As previously

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[137] S. Ct. Order at ¶ 12.

[138] Exhibit B at 234-235 (Tr. at 54:2-58:9). The Board intends to submit the Interim Plan for preclearance to the DOJ simultaneously or as soon as possible after its submission of the Amended Proclamation Plan so that there would be no delay in allowing its implementation in the event circumstances dictate.

[139] FNSB's Objections at 4-6.

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noted, this solution to accommodating excess population has been expressly approved by the Alaska Supreme Court.[140]

Likewise, the language from *Hickel* quoted by the FNSB provides no support for their argument. That language relates to situations where residents of a governmental entity are divided among districts outside the geographic boundaries of the governmental entity.[141] Such is not the case here.

In short, the FNSB anti-dilution objection has no basis in law or fact and therefore must be denied.

b. ***The FNSB Claim of "Other Errors" Are Without Merit***

Most of the FNSB's claims that the Board committed several "other errors" in the adoption of its Amended Proclamation Plan are addressed above in Sections I & II. None of the remaining objections are valid.

First, the FNSB assertion that there "are other plans that do less violence to the Alaska Constitution than the Amended Proclamation Plan" is simply wrong. As After legal review[142] of the plans submitted by third-parties, the Board determined that of "all the plans considered by the Board, including the five third party plans . . . the Amended

[140] *In re 2001* at 144 n.7. *See also* Superior Court Order at 108.

[141] The quote relied upon by the FNSB comes from the *Hickel* Court's analysis of election districts in the Mat-Su Borough which were "divided among five house districts" of which only one was "wholly composed of land within the Mat-Su Borough." 846 P.2d at 52.

[142] Exhibit A at 8-10, ¶¶ 23-25.

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Proclamation Plan does the least amount of harm to the Alaska Constitution."[143] The Board's conclusion is amply supported by the record.[144]

Second, the FNSB objection that Dr. Handley used the wrong Benchmark for purposes of analyzing the Board's *Hickel* Plan is both mistaken and irrelevant As explained by Dr. Handley on the record on March 28, 2012, because the standard is unclear where a plan is thrown out by a State court rather than a federal court,[145] her report references the Proclamation Plan as the Benchmark for purposes of her *Hickel* plan analysis.[146] However, Dr. Handley made clear:

> Because I had time constraints and because it was unclear, what I chose to do in this memo was compare it to the Proclamation Plan, **because actually anything that was not retrogressive with regard to the Proclamation Plan would also not be retrogressive with regard to the current [2002] plan**. . . . **I am certain that because it's [the *Hickel* Plan] retrogressive with regard to the Proclamation Plan, that it would also be retrogressive with regard to the Benchmark Plan . . . the current plan** should [that] be the Benchmark.[147]

The FNSB objection is pure form over substance and should be rejected.

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[143] *Id.* at 15, ¶ 40.

[144] Exhibit A, passim; Exhibit B, passim; Exhibit H.

[145] As noted by Dr. Handley in her 3/28/12 report the DOJ guidelines state that once "a legislative plan has been precleared by the US Department 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.)" [Exhibit G at 1 n.2 (emphasis added).] Moreover, when the 2002 Board submitted its Amended Final Plan to DOJ for preclearance it compared that plan with both its original Proclamation Plan as well as the original Benchmark.

[146] Exhibit B at 82, Tr. 40:10-41:16.

[147] *Id.* at 40:23-41:10. (emphasis added).

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Finally, the FNSB complaint that no "serious analysis of the Amended Plan" is possible without Dr. Handley's report is another red herring. While Dr. Handley's report might be relevant regarding DOJ objections, it is neither critical nor even necessary for purpose of this State court proceeding. The Board record is clear, and its findings are exhaustive and detailed. There is no doubt what the Board did and the reasons behind its actions. The FNSB objection is make weight and must be rejected.

3. The Aleutians East Borough

The AEB raises the exact same contiguity, compactness, and SEI objections to HD-37 as the Riley Plaintiffs.[148] The AEB's objections are without merit and therefore should be denied for the same reasons discussed by the Board in Section D.1.b.iii above, hereby incorporated by reference as though fully set forth herein.[149] Moreover, it is important to recognize that the Aleutians and the City of Bethel have been combined in a Senate district for the past twenty years, (SD-S under the 2002 Mended Final Plan of Redistricting). The interactions and connections generated by this political connection is further evidence of the SEI of the district.

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[148] AEB's Objections at 8-11.

[149] The AEB's SEI objection to pairing the Aleutian Islands in the same House district as the City of Bethel is also untimely. HD-37 in the Proclamation Plan combined the City of Bethel with portions of the Aleutian Islands without objection by the AEB. As such, this objection, like their objection to HD-35, must be rejected as untimely because it "could have been raised against the original Proclamation Plan" but was not, and thus "cannot be raised for the first time at this late date." *In Re 2001 II*, 47 P.3d at 1090.

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4. *The Petersburg Plaintiffs*[150]

a. ***The Trial Court Correctly Concluded House District 32 Is Compact Under the Alaska Constitution***

The Petersburg Plaintiffs erroneously argue this Court wholly relied on the Board's creation of an influence district in Southeast under the VRA in finding House District 32 of the Proclamation Plan was "compact enough." The Plaintiffs are simply wrong, and ignore the extensive literary metaphor used by this Court to explain the configuration of House District 32 which is "caused by Alaska's unique geography, particularly the shape and placement of the islands."[151] The Board offered the VRA defense only as an alternative justification in the event this Court found House District 32 was not constitutionally compact. But as explained below, this Court did in fact find House District 32 was compact under the Alaska Constitution and any reference to the VRA is but acknowledgement of the Board's alternative theory.

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[150] The Petersburg Plaintiffs claim their renewed objection to the compactness of House District 32 is not barred by *res judicata* or claim preclusion because the Amended Proclamation Plan constitutes a "new transaction," separate and distinct from the Proclamation Plan. [Petersburg at 4-5.] While the Board disagrees with the Plaintiffs' assertions, the Board is mindful that this Court specifically invited the Petersburg Plaintiffs the opportunity to object to the Amended Proclamation Plan. [*See* Order Regarding the Board's Notice of Compliance and Adoption of a New Plan, p. 1 n.2.] The Board thinks it important to note, however, collateral estoppel bars this Court from issuing a different decision since the Petersburg Plaintiffs' are making the exact same legal argument based on the exact same facts in challenging the compactness of House District 32. *See Morris v. Horn*, 219 P.3d 198, 208 (Alaska 2009) (under the doctrine of collateral estoppel, "an issue of fact which is actually litigated in a former action may, under certain circumstances, be regarded as conclusive in a subsequent case); *Beegan v. State*, 195 P.3d 134, 138 (Alaska 2008) (collateral estoppel precludes a party from relitigating an issue if that issue is "identical to [one] decided in the first action).

[151] *See* Order Denying Petersburg's Motion for Summary Judgment and Granting the Board's Cross Motion for Summary Judgment at 14. ("Petersburg Order).

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In their Motion for Summary Judgment, the Petersburg Plaintiffs argued House District 32 was not compact because an alternative redistricting plan for Southeast achieved "greater compactness."[152] They attempted to support their argument with mathematical tests of compactness, which the Board argued were ill-suited for Alaska. In essence, the Plaintiffs urged this Court in its summary judgment motion, and again in its objection to the Amended Proclamation Plan, to adopt a "most compact" standard of constitutional compliance.

This Court rightly rejected the Petersburg Plaintiffs' proposition that the standard is "most compact" the first time. This Court instead correctly concluded, as the Board argued, that the correct legal standard for compactness under the Alaska Constitution is "relative" compactness. This Court recognized "while it is appropriate to compare the Board's districts to proposed and possible districts when determining compactness, the most compact district does not automatically trump another relatively compact district."[153]

Using this standard, this Court rejected the Petersburg Plaintiffs' arguments that House District 32 contained "odd appendages that reach across bodies of water to incorporate the communities of Gustavus and Tenakee Springs."[154] The compactness inquiry under the Alaska Constitution looks to the shape of a district.[155] Odd

[152] *See* Petersburg's Memorandum in Support of Partial Summary Judgment on Compactness, pg. 1, 4-7.

[153] Petersburg Order at 9.

[154] *Id.* at 12.

[155] *Id.* at 7; *see also Hickel,* 846 P.2d at 38, 45-46.

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appendages or corridors of land may raise concerns as to the constitutional compactness of a district.[156] They have nothing to do with VRA considerations. This Court found there were no offensive appendages or corridors of land, and the Board's inclusion of Gustavus and Tenakee Springs for equal population purposes was a valid justification for the shape of the district. Thus, the shape of House District 32 was "compact enough" to satisfy the requirements of the Alaska Constitution.[157] The Plaintiffs did not appeal the trial court's conclusion.

The trial court did not, as the Petersburg Plaintiffs suggest, find House District 32 compact because its configuration was justified by the need for an influence district in Southeast. While the trial court addressed the Board's alternative theory, and found it had merit, the trial court ultimately concluded House District 32 was compact under traditional constitutional standards. The Petersburg Plaintiffs' renewed objection is but a feeble attempt to revive an issue properly decided which they chose not to appeal. Nothing has changed since this court issued its opinion on the matter other than a question as to whether an influence district is actually necessary for preclearance purposes. Since the trial court did not wholly rely on the VRA excuse in finding House District 32 compact, and instead based its findings on independent justifications such as shape, this newly raised uncertainty does not change the fact that House District 32 was properly found compact and therefore constitutional under the Alaska Constitution. As

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[156] Id.

[157] *Id.* at 14.

a result, the Board was under no obligation to alter House District 32 under the Supreme Court Order.

b. *The Need for an Influence District in Southeast Has Not Been Summarily Denied*

Even though the trial court found House District 32 was compact based on its shape, the trial court did acknowledge the configuration of House District 34, an Alaska Native influence district, had an impact on the other districts in Southeast.[158] The Petersburg Plaintiffs had suggested an influence district may not be necessary in Southeast, but this Court ultimately found overwhelming evidence to the contrary.[159] It was not until this Court's Superior Court that this Court suggested there may be some merit to the Plaintiffs' suggestion.[160]

These concerns did not, as the Petersburg Plaintiffs now argue, "[eliminate]...this unnecessary constraint."[161] In fact, this Court specifically chose "not to disturb [its] ruling" given the ambiguous evidence.[162] Additionally, Dr. Handley did not testify that her advice to create an influence district in Southeast "was incorrect." Rather, she testified the 2006 amendments to the VRA changed the definition of influence, focusing on "do the minorities have the ability to elect, as opposed to some

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[158] *Id.* at 10.

[159] *Id.* at 10 n.25.

[160] Superior Court Order at 77 n.106.

[161] Petersburg's Objections at 1.

[162] Superior Court Order at 77 n.106.

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less, or maybe...more nebulous, influence over the election."[163] She clarified she knew for a fact the 2006 amendments did not do away with influence districts that are around 30 percent minority but consistently elect the minority-preferred candidate.[164] This Court further noted Dr. Handley testified that the 2006 Amendments and February 2011 DOJ regulations do not preclude the use of an influence district either.[165] The Petersburg Plaintiffs' attempt to characterize this Court's doubt as some outright denial is disingenuous, not to mention independent of this Court's compactness finding regarding House District 32.

Regardless of whether an influence district in Southeast is necessary for meeting the benchmark, the Board must still present the strongest plan possible to the DOJ. Since it is possible to create a district with significant Alaska Native population in Southeast, the DOJ may consider the dissolution of such a district discriminatory nonetheless. The Board must also take into consideration the plan's effect on Alaska Native-preferred candidates, and should avoid pairing them with a non-Alaska Native candidate. This court has recognized the importance of avoiding such pairings, and the role it plays in preclearance.[166] As the Board has argued throughout this litigation, and the Board Record proves, the Alaska Native community consistently urged the Board not to pair Alaska Native-preferred candidates. Even during the remand process,

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[163] Trial Testimony of L. Handley 839:23-840:14.

[164] Id.

[165] Superior Court Order at 104-105.

[166] Order Denying Petersburg's Motion for Summary Judgment and Granting the Board's Cross Motion for Summary Judgment, p. 10-12; Superior Court Order at 124, n.200.

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several parties, including the BBNC, urged the Board to continue to protect the Alaska Native-preferred candidates.[167]

As part of its alternative theory, the Board also argued this important concern did influence the configuration of House District 32. The Board offered House District 32 may be alternatively justified by the need to avoid pairing Representative Bill Thomas, an Alaska Native-preferred candidate, and Representative Cathy Munoz, a non-Alaska Native.[168] This Court specifically found "the Board's choice to not pair Representative Thomas with a non-Alaskan Native Incumbent was justified."[169] None of the litigation that has transpired since changes this conclusion. The DOJ still considers how the plan treats Alaska Native incumbents, and the Alaska Native community still considers this an important issue.

The Petersburg Plaintiffs' objection is in essence a second bite at the apple. While this Court may have raised some doubt as to the Board's original VRA alternative justification, this Court independently found House District 32 was constitutionally compact under the traditional standards of compliance. The Board's VRA justification for the configuration of House District 32 was simply an alternative theory in the event this Court found House District 32 was not constitutionally compact. Any disruption to the legitimacy of this alternative justification, which the Board points

[167] *See* Exhibit 10 to BBNC's Objections.

[168] *See* Petersburg's Order at 10-12; *see also* ARB's Cross-Motion for Summary Judgment on Petersburg Plaintiffs' Compactness Claim at 34-38.

[169] *Id.* at 12.

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out is unproven, does not change the fact that House District 32 is constitutionally compact. The Supreme Court did not find it necessary to take up this issue *sua sponte*, and this Court chose not to disturb its ruling. This Court should not do so now.

IV.
CONCLUSION

The Board's Amended Proclamation Plan complies with the requirements of both this court's and the Supreme Court Orders in all respects. None of the objections raised by any of the parties have merit. Accordingly, the Board requests this court issue a final judgment approving the Final Proclamation Plan adopted by the Board on April 5, 2012.

DATED at Anchorage, Alaska this 18th day of April 2012.

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of April 2012, a true and correct copy of the foregoing document was served on the following via:

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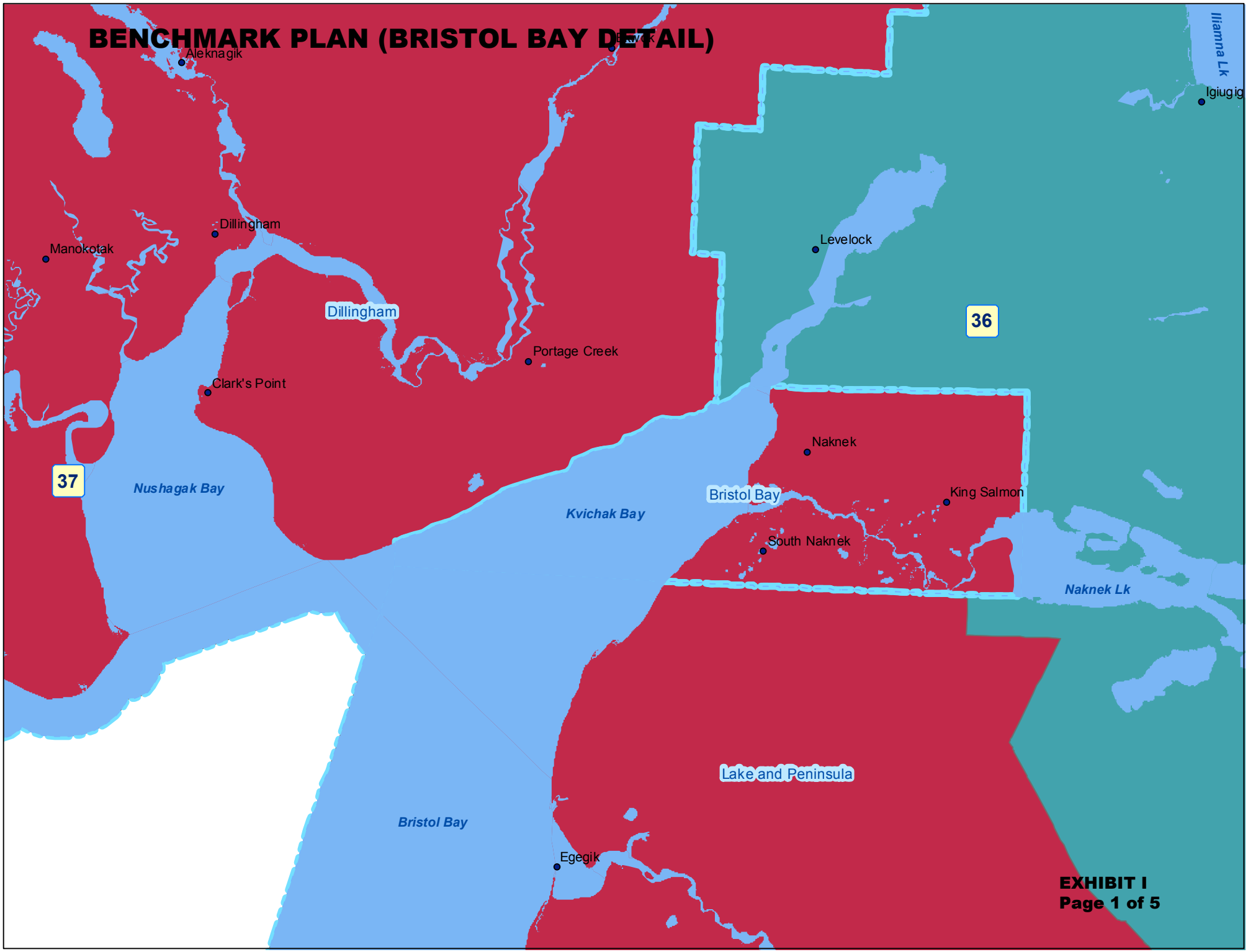
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Kvichak Bay
Naknek
Bristol Bay
King Salmon
South Naknek
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Iliamna Lk
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Lake and Peninsula
Bristol Bay
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EXHIBIT I
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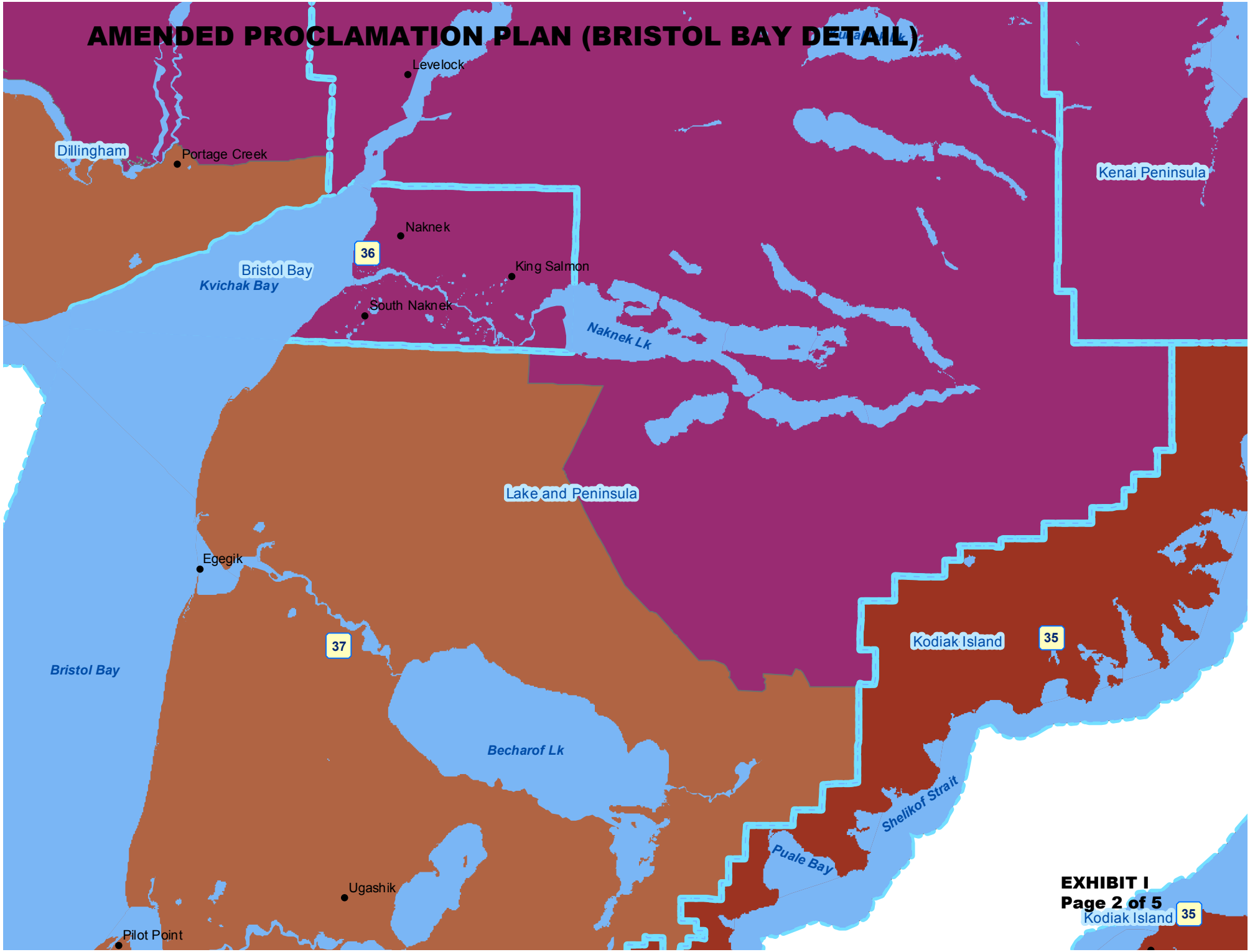
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Bristol Bay
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King Salmon
South Naknek
Naknek Lk
Lake and Peninsula
Egegik
37
Kodiak Island
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Kodiak Island
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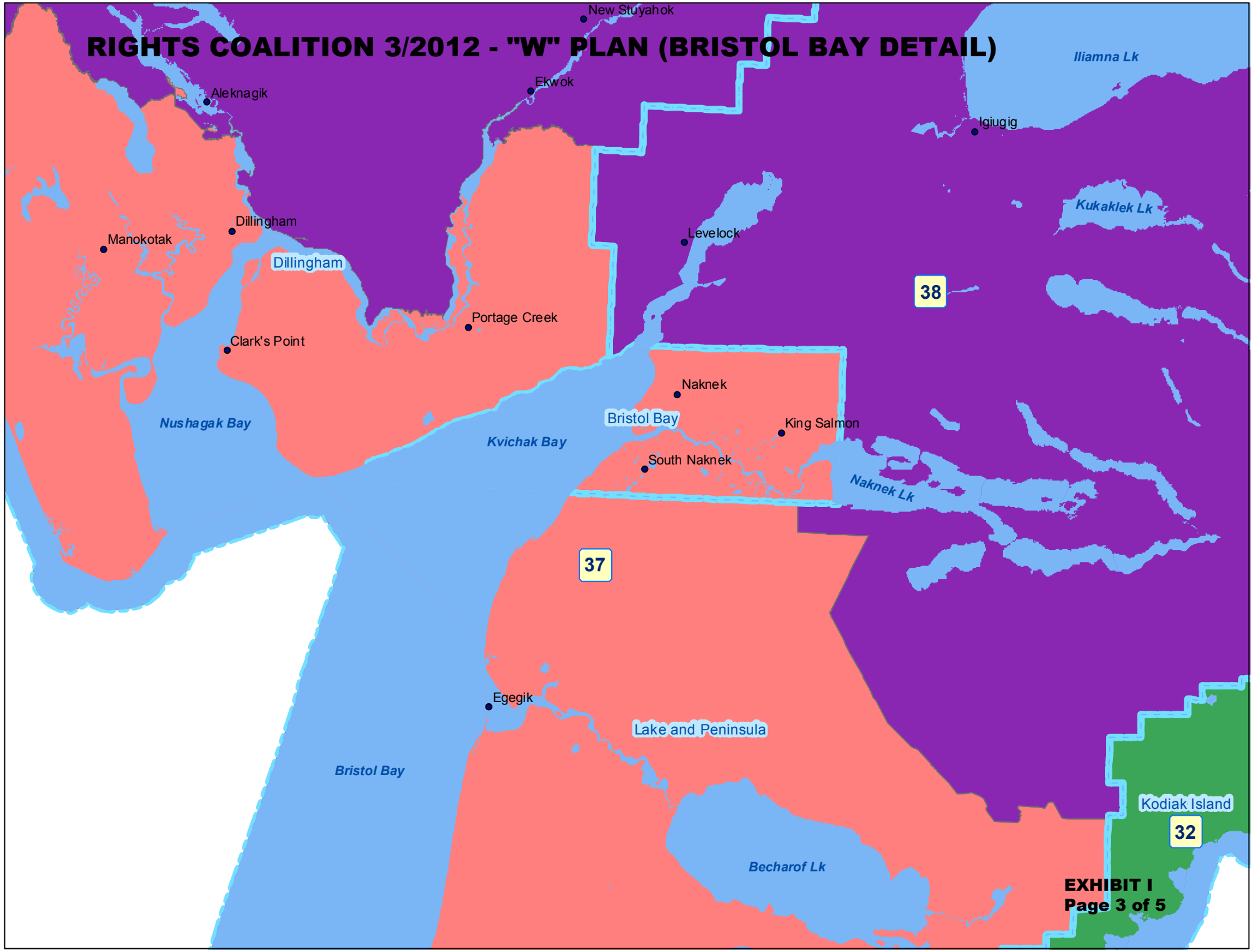
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Clark's Point
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Bristol Bay
King Salmon
Nushagak Bay
Kvichak Bay
South Naknek
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Egegik
Lake and Peninsula
Bristol Bay
Kodiak Island
32
Becharof Lk
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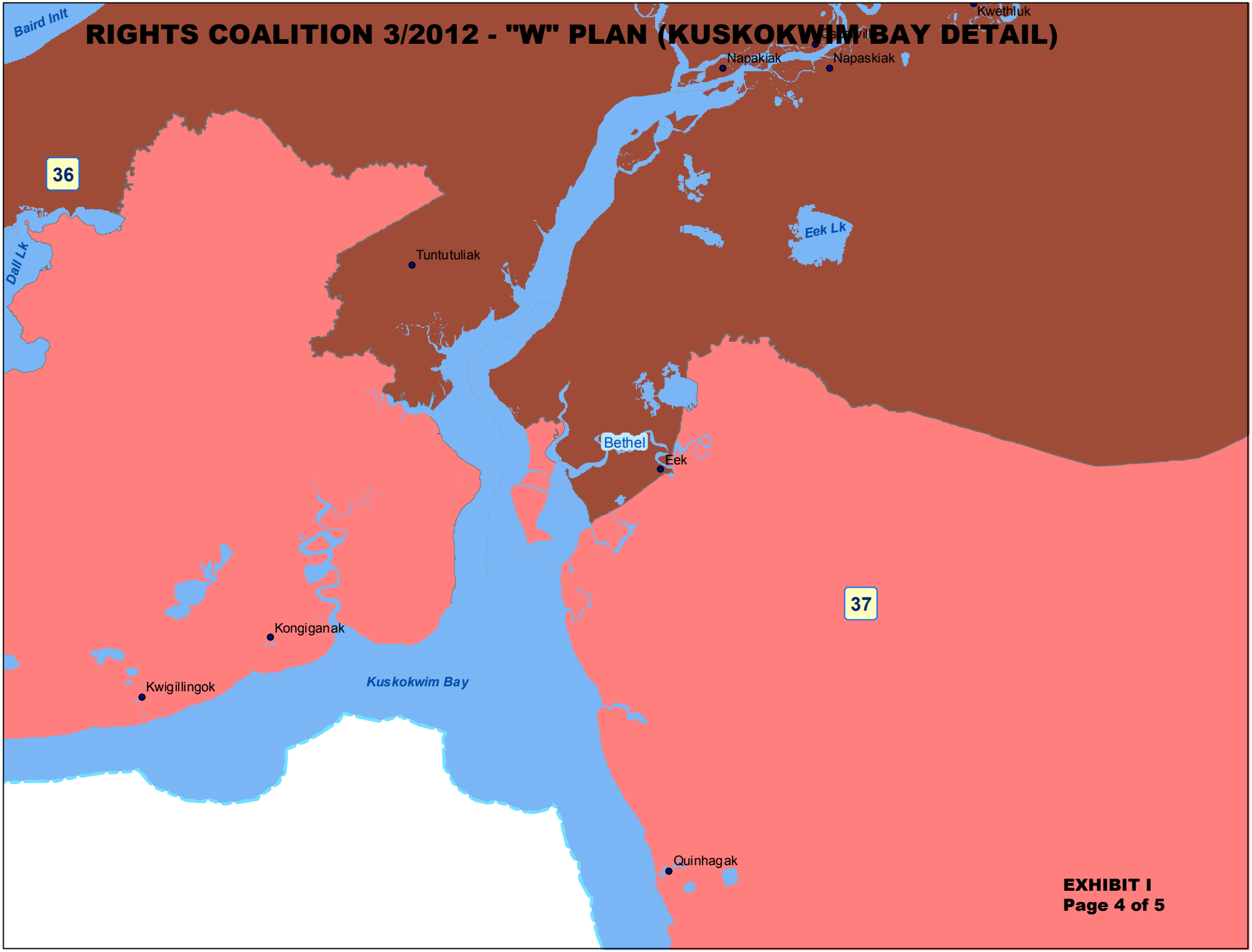
RIGHTS COALITION 3/2012 - "W" PLAN (KUSKOKWIM BAY DETAIL)
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Kwethluk
Napakiak
Napaskiak
36
Dall Lk
Eek Lk
Tuntutuliak
Bethel
Eek
37
Kongiganak
Kwigillingok
Kuskokwim Bay
Quinhagak
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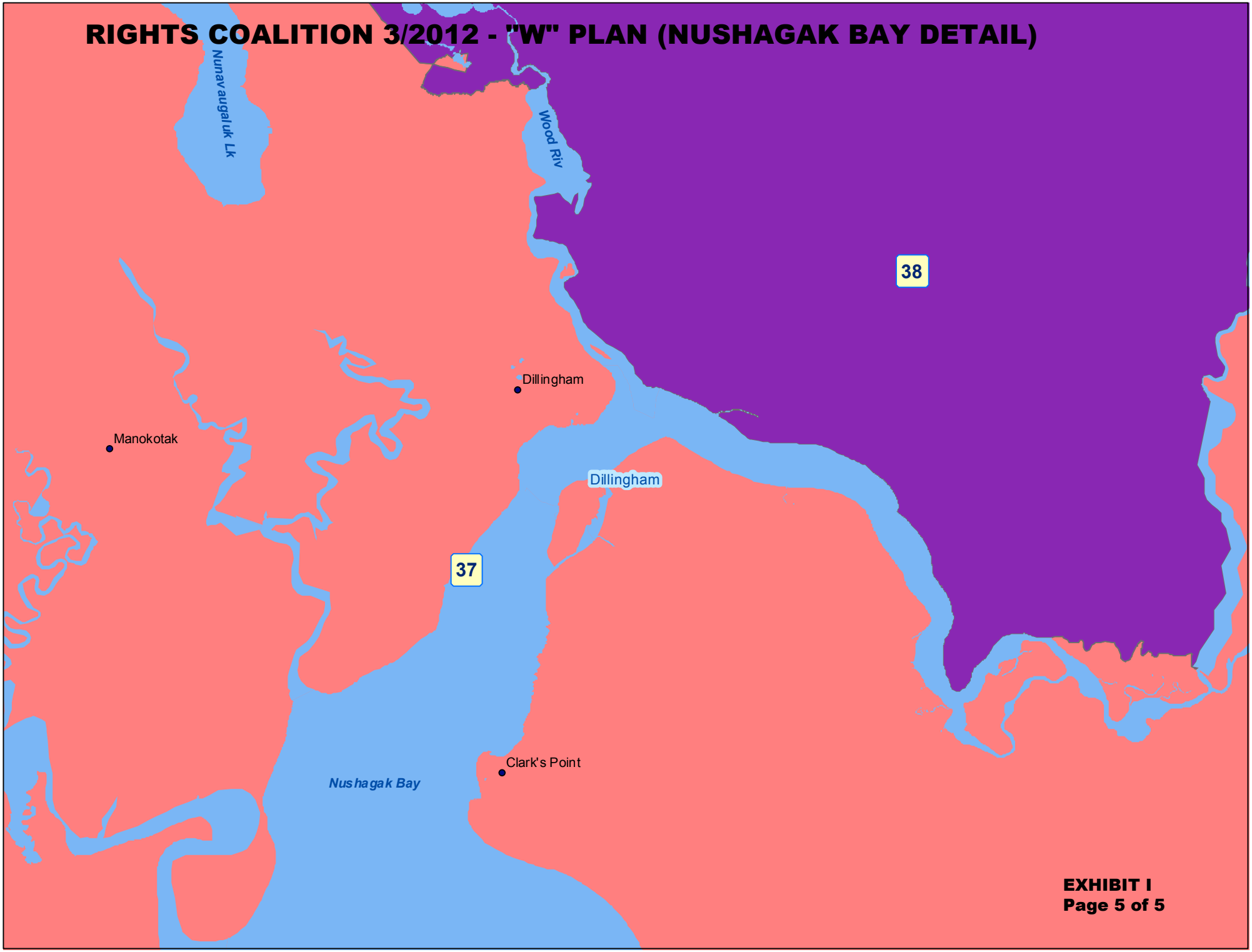
RIGHTS COALITION 3/2012 - "W" PLAN (NUSHAGAK BAY DETAIL)



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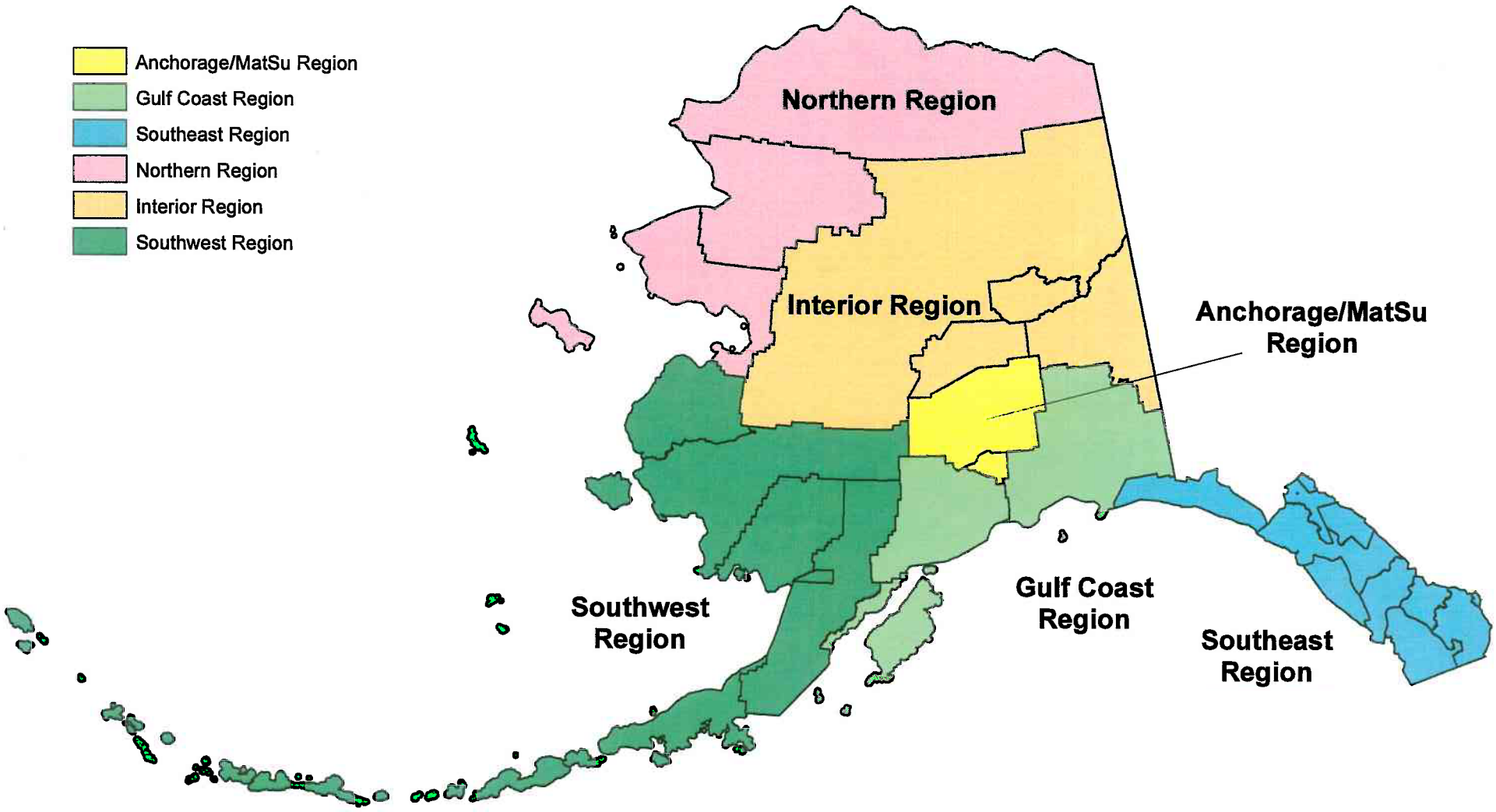
Alaska Economic Regions



Source: U.S. Census 2010 TIGERline
Bureau of Labor Statistics
Alaska Department of Labor and Workforce Development, Research and Analysis Section