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

IN RE 2011 REDISTRICTING CASES

Case No. 4FA-11-02209 CI

RILEY ET. AL. PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

The Riley Plaintiffs seek partial summary judgment on several issues related to the third final redistricting plan adopted by the Proclamation of Redistricting, July 12, 2013 (herein reference as Final Plan). The reasons are set forth in the accompanying memorandum.

Date: September 12<sup>th</sup>, 2013

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

IN RE 2011 REDISTRICTING CASES

Case No. 4FA-11-02209 CI.

**RILEY ET. AL. PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION FOR  
SUMMARY JUDGMENT**

The Riley Plaintiffs seek partial summary judgment on several issues related the third final redistricting plan adopted by the Proclamation of Redistricting, July 12, 2013 (herein referenced as Final Plan).<sup>1</sup> Specifically, they seek summary judgment on the issues of compactness of the House Districts 3,5,9,12, and 32; the unnecessary splits in the Mat-Su and Kenai Districts; the avoidable deviation variation in SD 5 and 6; and the Alaska Equal Protection claims related to the non-compact nature of SD B and the splitting of the University of Alaska (UAF) campus.

**I. SUMMARY JUDGMENT STANDARD**

The law of this case respecting the standard of review was set out by this Court in its order of December 23, 2011,<sup>2</sup> and this Courts Memorandum Decision of February 1, 2012.<sup>3</sup> Specifically, this Court's review of the Board's action

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- 1 ARB 00017436 The Court's scheduling order set out an abbreviated procedural history of this remand which shall not be repeated here. See Scheduling Order (Aug. 28, 2013), at 1.
- 2 Order on Contiguity of House District 37, at 4 (12/23/11)
- 3 *Memorandum Decision and Order Re: 2011 Proclamation Plan* (Feb. 1, 2012), at 45-47

**Memo: Summary Judgment**  
*In Re 2011 Redistricting*  
*Case No. 4FA-11-02209 Ci*

Page 1 of 46

utilizes a somewhat modified standard of review employed by the Court in reviewing administrative agency actions.<sup>4</sup> The Court has held that the standard of review is to ensure that the reapportionment plan under review is not unreasonable and is constitutional under Art. VI, § 6 of Alaska's Constitution.<sup>5</sup> Whether a plan or a portion of a plan is constitutional is a question of law subject to *de novo* review. As to whether a plan or a portion of a plan is unreasonable, the "Court must examine not policy but process and must ask whether the agency has not really taken a 'hard look' at the salient problems or has not generally engaged in reasoned decision making."<sup>6</sup>

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4 *Id.* citing *Alaska Airboat Assoc. v State*, 18 P.3d 686, 690 (Alaska, 2001)

5 *Memorandum Decision and Order Re: 2011 Proclamation Plan* (Feb. 1, 2012), at 45., citing *Carpenter v Hammond*, 667 P.2d 1204, 1214 (Alaska, 1983) quoting *Groh v Eagan*, 526 P. 2d 863, 866-67 (Alaska, 1974); Also referencing *Kenai Peninsula Borough v State*, 743 P.2d 1352, 1275-58 (Alaska 1987); *Hickel v Southeast Conference*, 846 P.2d 38 (Alaska, 1992)

6 *Memorandum Decision and Order Re: 2011 Proclamation Plan* (Feb. 1, 2012), at 46. As the Court is aware, the Plaintiffs assert that the proper standard of review as to "unreasonableness" where there are disputed facts at issue also includes consideration as to whether the agency's decision is supported by the facts and has a reasonable basis in the law". *Gunderson v University of Alaska*, 922 P.2d 229, 233 (Alaska, 1996) quoting *Tesoro Alaska v Kenai Pipeline Co.*, 746 P.2d 896 (Alaska, 1987) Under this test, "there must be substantial evidence in the record that supports the findings that are disputed." *City of Nome v Catholic Bishop of Northern Alaska*, 707 P.2d 870, 875 n. 2&3, and 876 (Alaska, 1985) Under such circumstances, the Board may not rely upon *post hoc* justifications involving evidence outside the record to support the Board's actions. *Id.* The Plaintiffs would request the Court to reconsider the applicable standard and reserves their objection to the Court previously articulated standard.

## II. COMPACTNESS CLAIMS

a) Introduction. The Plaintiffs Riley et. al.'s Amended Renewed Application challenges House Districts (HD) 3, 5, 9, 12, and 32 alleging that they are not relatively compact when compared to possible alternatives, and therefore violate Article VI, Section 6 of the Alaska Constitution.<sup>7</sup>

As the Court is aware, the Alaska Constitution requires that each legislative district be compact.<sup>8</sup> Compactness is the first priority among the constitutional standards applicable to redistricting.<sup>9</sup> As this Court has previously held, "compact" means having a small perimeter in relation to the area encompassed, which should not have irregular appendages.<sup>10</sup> Of particular relevance to the present question, this Court "should 'look to the relative compactness of proposed and possible districts in determining whether a district is sufficiently compact." (emphasis added)<sup>11</sup>

<sup>7</sup> First Amended Application To Correct Errors In Alaska State Legislative Redistricting Plan After Remand, para. 14, 20, & 23

<sup>8</sup> AK CONST. Art. VI, Sec. 6 *Hickel v Southeast Conference*, 846 P.2d 38, 44 (Alaska, 1992); *Kenai Peninsula Borough v State*, 743 P.2d 1352, 1367 (Alaska, 1992) The Court is familiar with the standards purpose and goals, which need not be repeated here. Scheduling Order (Aug. 28, 2013), at 4.

<sup>9</sup> "The requirements of Article VI, Sec. 6 (of the Alaska Constitution) shall receive priority *inter se* in the following order: (1) continuous and compactness....." *In re 2001 Redistricting Cases*, 44 P.3d 141, 143 n.2 (Alaska, 2002), quoting *Hickel v Southeast Conference*, 846 P.2d at 62. The purpose of the compactness requirement is to prevent gerrymandering, which is the "dividing of an area into political units "in an unnatural way with the purpose of bestowing advantages on some and thus disadvantaging others."

<sup>10</sup> *Memorandum Decision and Order Re: 2011 Proclamation Plan* (Feb. 1, 2012), at 34 citing *Hickel*, *supra.*, at 45-46; *Carpenter v Hammond*, 667 P.2d 1204, 1218 (Alaska, 1983)(Matthews, J., concurring), *Davenport v Apportionment Comm'n of New Jersey*, 304 A. 2d 736, 743 (N.J. Super. Ct. App. Div. 1973)

<sup>11</sup> *Id.*

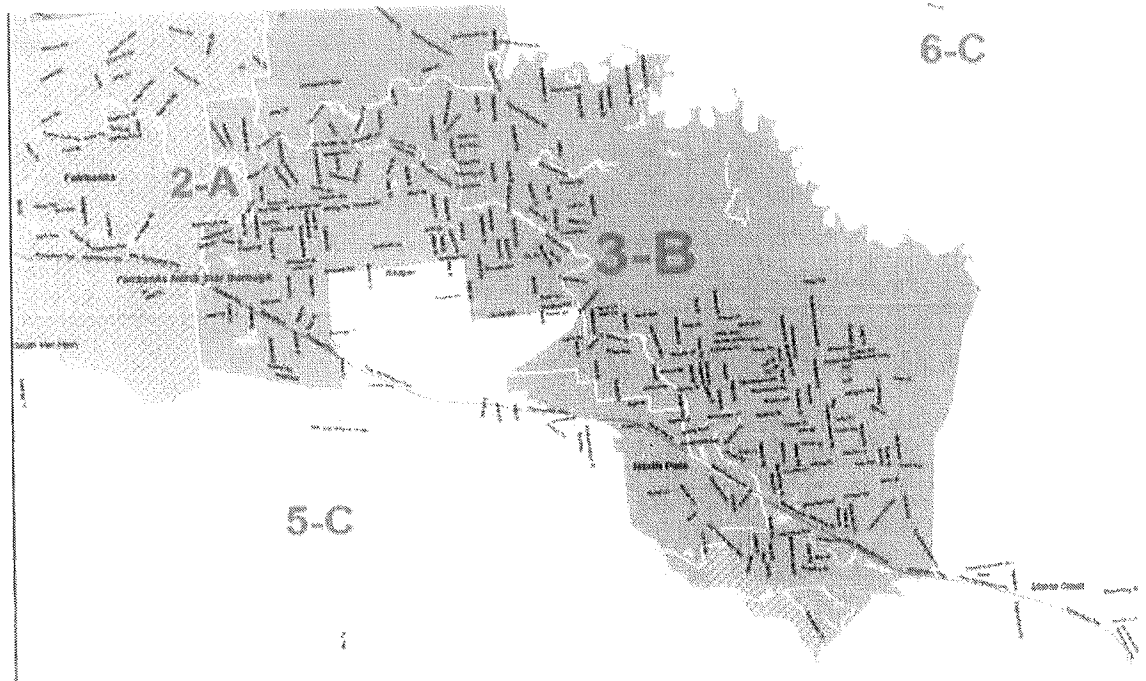
b) House Districts 3 & 5.<sup>12</sup> House Districts 3 and 5 are not relatively compact. HD 3 is an elongated district running in a northwest- southeast orientation on the eastern side of the Fairbanks North Star Borough. It includes a portion of Chena Hot Springs Road (Fabian Dr. to Nordale Road) on the northwestern border, and runs to Old Valdez Trail (south of North Pole). On the other hand, HD 5 is a large district whose population is concentrated on the western side of the FNSB, including Chena Ridge and Chena Pump Roads. The District jumps across the Chena River to include the Fort Wainwright Artillery Range, and back across the Chena River to pick up an anvil-shaped appendage containing a slice of the Richardson Highway (Rozack Rd to Holland Aviation Street) west of the City of North Pole that protrudes into HD 3 up to a portion of Bradway Road (Lakloey Dr to Benn Lane). The anvil-shaped appendage contains an estimated 811 people.<sup>13</sup> The irregular anvil-shaped appendage clearly juts into an area that is more closely associated with the adjacent areas in HD 2 or 3, however, the removal of the anvil-shaped appendage from HD 3 would require the elongation of HD 3 in either the south-eastern or northwestern direction.

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<sup>12</sup> First Amended Renewed application, para. 14

<sup>13</sup> Exhibit 1 (Aff't of L. Lawson)

HD 3 & 5 Final Plan (Snapshot)<sup>14</sup>



Comparing two draft configurations for the area --- Board Draft Plan D and Gazewood & Weiner (G&W) plans<sup>15</sup> -- clearly demonstrate that a more compact North Pole district could be configured. Both of these configurations were adopted as proposed plans by the Board on June 21, 2013<sup>16</sup> and posted on the Board's website on June 24, 2013.<sup>17</sup> Thus, the more compact alternative configurations for the area of HD 3 were not only possible but were actually Board adopted draft plans; one of the plans, (Draft D) was actually drawn by the Board, and is clearly the most compact of the above demonstrations.<sup>18</sup>

14 ARB 00017436

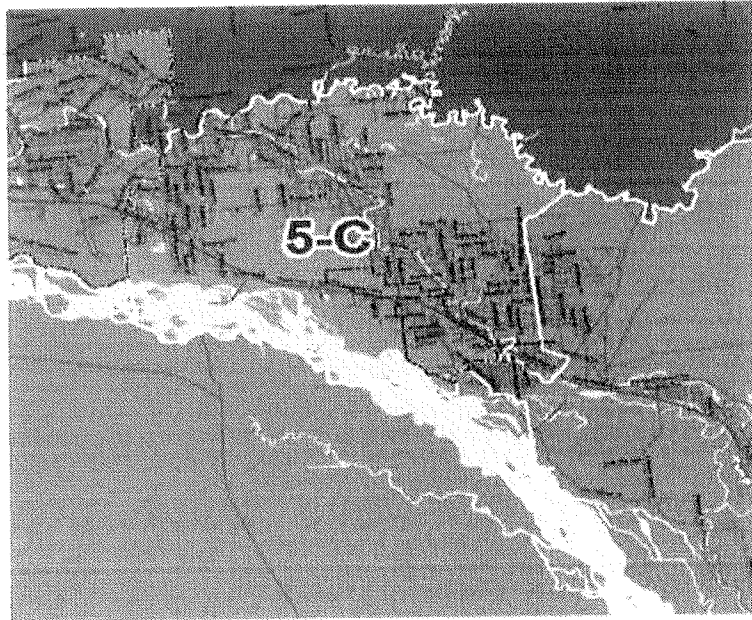
15 ARB 00017300

16 ARB 0001711-13, 16 (Tr.- June 21, 2013 Hearing , pp. 11-13, 16)

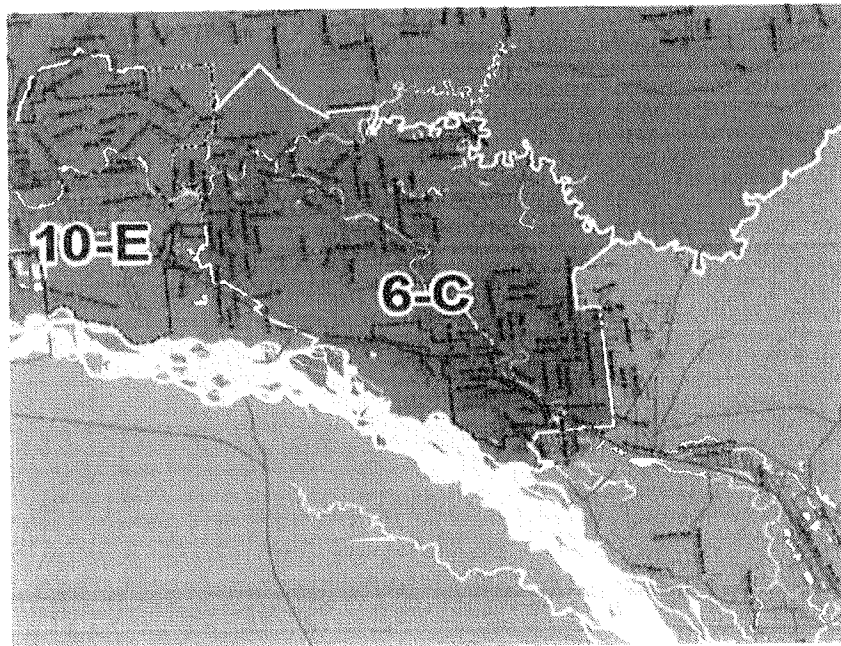
17 See <http://www.akredistricting.org>

18 ARB 0001711-13 The Riley Plaintiffs have not included mathematical measurements of the districts given the Court's prior observation that such mathematical measurements were unhelpful.

Board Draft Plan D (Snapshot)



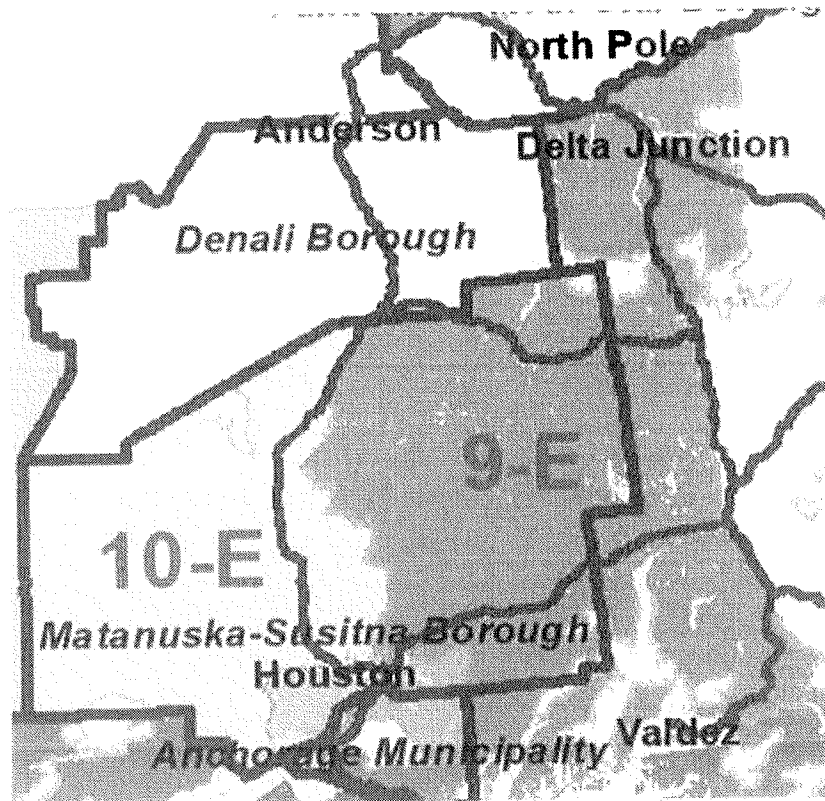
Gazewood & Weiner Draft Plan (Snapshot) (down)





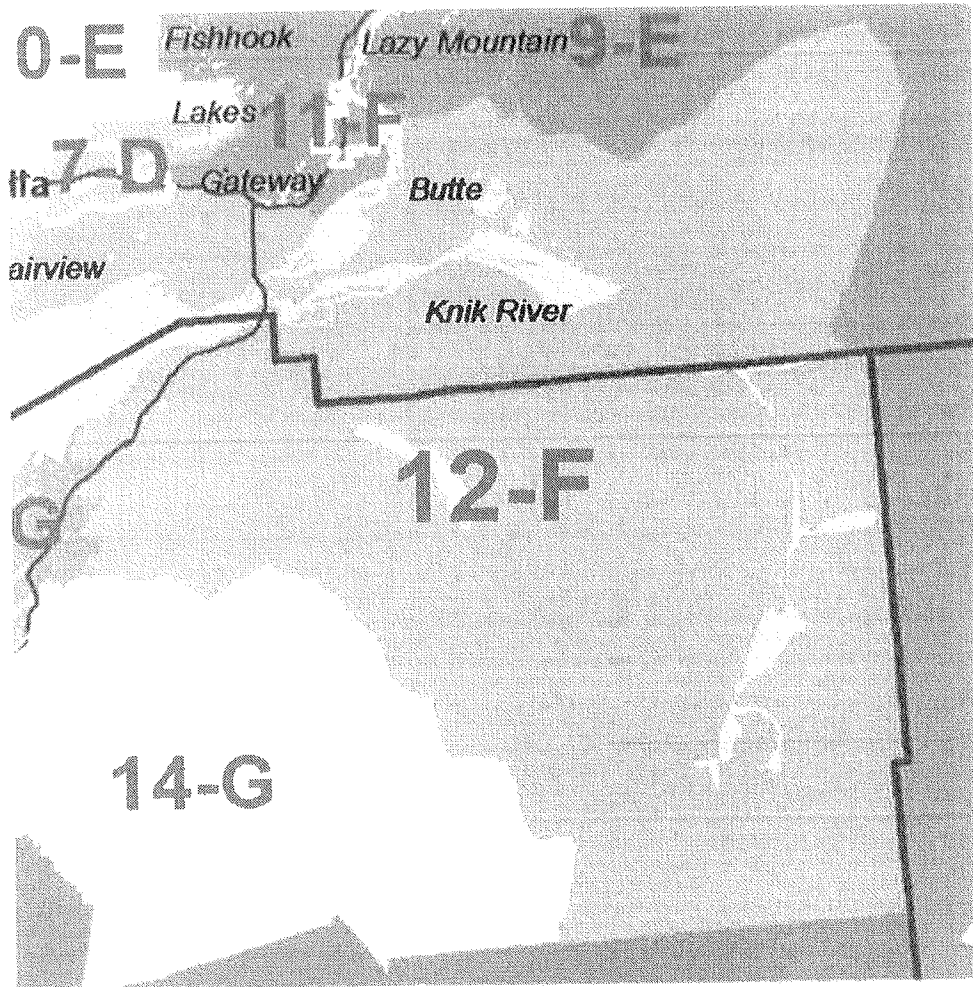
b) **HD 9 and 12.**<sup>19</sup> House Districts 9 and 12, located within and without the Matanuska-Susitna (Mat-Su) Borough, are not relatively compact. HD 9 comprising the eastern Mat-Su areas east, northeast and southeast of the borough. The district straddles the eastern boundary of the Mat-Su Borough. The district has two appendages: one jutting north to pick up Delta Junction and its environs, and a second jutting to the south to pick up Valdez and the northern coast of Prince William Sound. This second appendage

**HD 9 & 12 Final Plan (Snapshot)<sup>20</sup>**



<sup>19</sup> First Amended Renewed application, para. 20  
<sup>20</sup> ARB 00017436

HD 12 Final Plan (Snapshot)<sup>21</sup>



actually dissects HD 32 destroying any sense of land-contiguity along the north shore of Prince William Sound in HD 32. On the other hand, HD 12 straddles the Mat-Su/Anchorage boundary, and has a rounded appendage jutting into HD 9 in a northeastern direction.

The Mat-Su borough, itself, is a compact semi-rectangular shape, and it is possible to construct five (5)

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21 ARB 00017436

house districts completely within the borough's boundaries. However, under the Final Plan, there are six (6) districts (HD 7-12) containing Mat-Su residents.<sup>22</sup> This is only possible if two districts cross the Mat-Su borough boundaries to join populations to the Borough districts. Of course, joining one area outside the borough to a Mat-Su district, mathematically requires a second area outside the borough be joined to a second Mat-Su district to avoid underpopulation of that district.

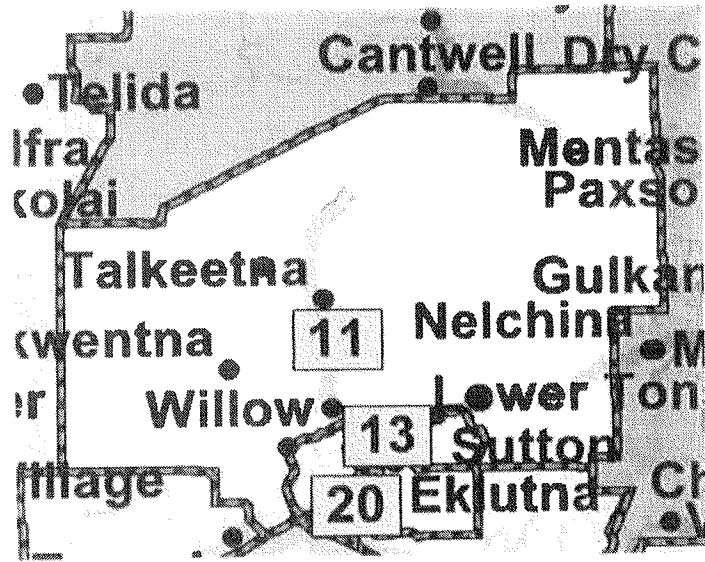
Remarkably, since the beginning of this redistricting cycle in 2011, the Board has known that a more compact plan for the Mat-Su is possible. On May 23, 2011, the RIGHTS Coalition submitted a plan<sup>23</sup> with compact Mat-Su district confined to the boundaries of the Mat-Su Borough. As clearly illustrated in the accompanying illustration, the RIGHTS Plan clearly demonstrated that five (5) compact districts might be drawn within the Mat-Su Borough. When compared to the Final Plan drawn two (2) years later, the Board simply ignored the clearly demonstrated ability to draw more compact districts in the Mat-Su.

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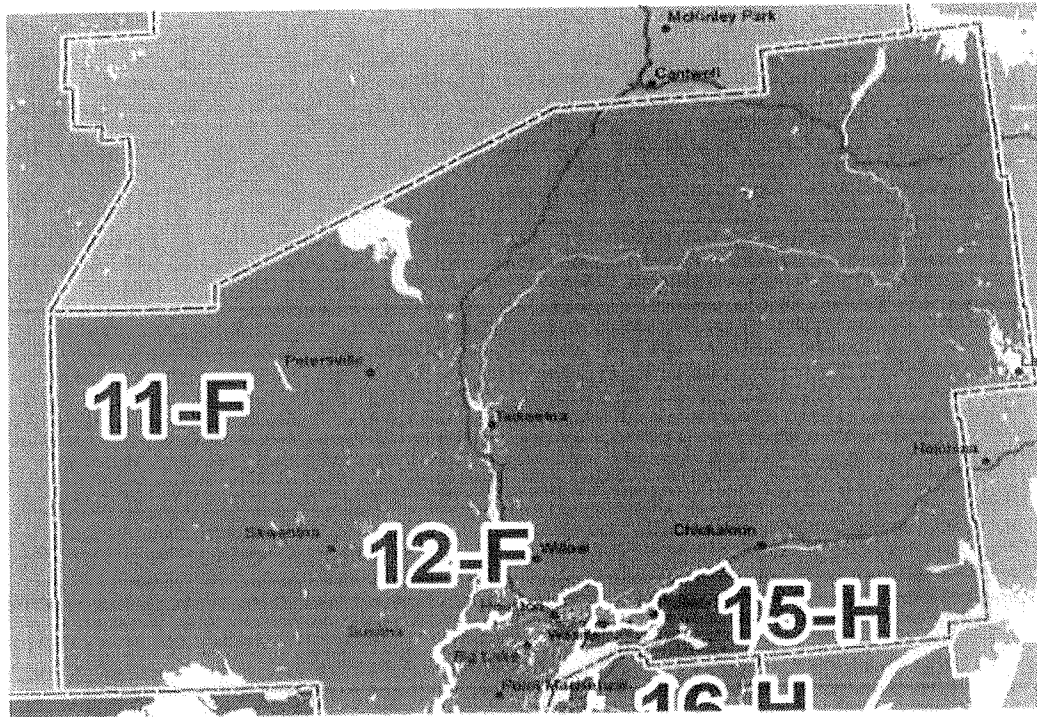
<sup>22</sup> Of course, this configuration raises serious over-representation and equal protection issues discussed below.

<sup>23</sup> Trial Exhibit J 15. See accompanying report at Trial Exhibit J16

**RIGHTS COALITION PLAN (MAY 23, 2011) (Snapshot)**



**Gazewood & Weiner Draft Plan (Snapshot)**



The Board cannot argue that these possibilities were

overlooked on the third remand to the Board. On July 1, 2013, the undersigned presented the G&W Plans to the Board.<sup>24</sup> The plans demonstrate that more compact Mat-Su districts could have been configured if the districts were confined to the Mat-Su borough boundaries. As demonstrated in the above snapshot, the G&W plan fit all the proposed HD 11-15 compactly into the Mat-Su Borough. Neither the RIGHTS nor the G&W plans contain districts with bizarre appendages, and no districts needlessly protrude out from the borough to capture non-borough populations.

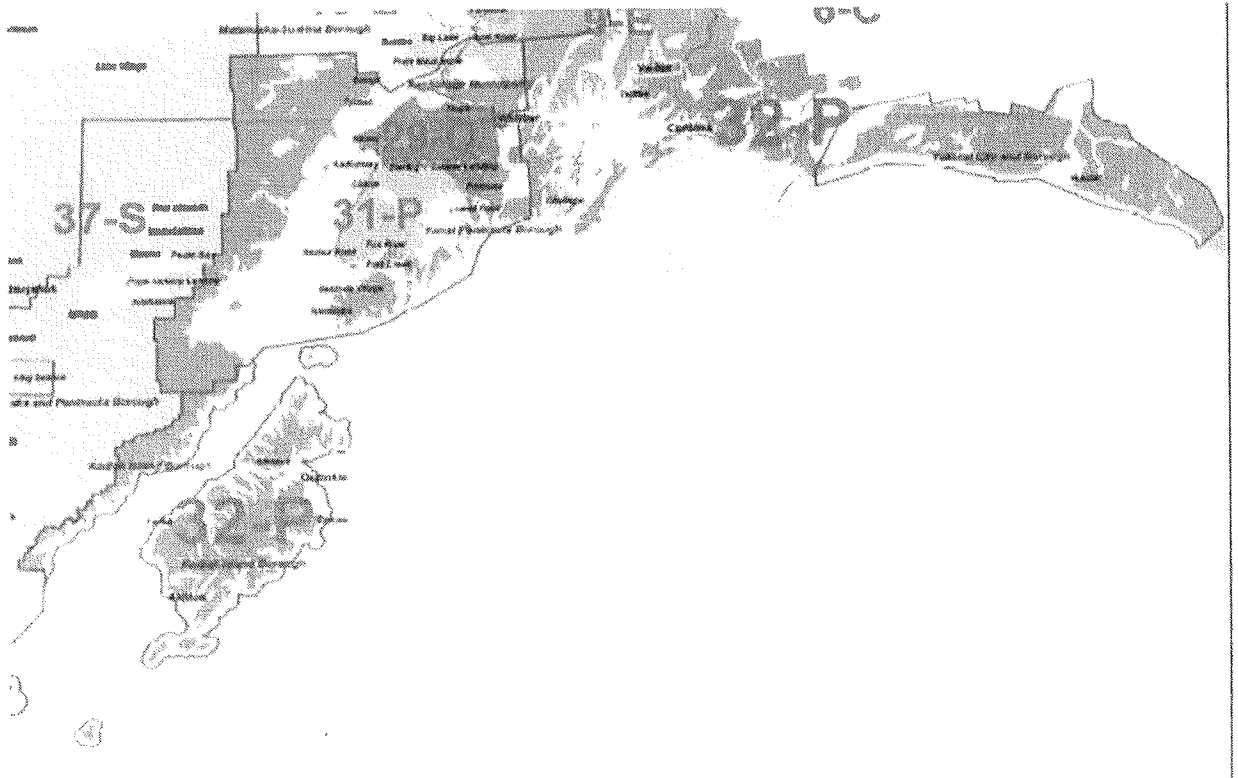
Comparatively HD 9 of the Final Plan has the most egregious protrusions, which snake out of the borough to include Delta Junction, Valdez and Whittier with the Mat-Su districts. However, alternative configurations were not only possible, but were proposed and accepted as draft plans by the Board in the first round of planning as well as the third round of planning. Clearly, the RIGHTS and G&W Plans demonstrate a more compact configuration of Mat-Su was possible, considered by the Board and rejected. As a consequence, Final Plan HD 9 and 12 are not relatively compact.

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24 ARB 00017010 et. seq.

c) **HD 32.**<sup>25</sup> House District 32, which stretches from western mainland shore of Cook Inlet within the Kodiak Borough, across the Gulf of Alaska to include the southern tip of the Kenai Borough, and includes portions of the north coast of Prince William Sound, Cordova and Yakutat City and Borough. The most noticeable lack of compactness in

**HD 32 Final Plan (Snapshot)**<sup>26</sup>

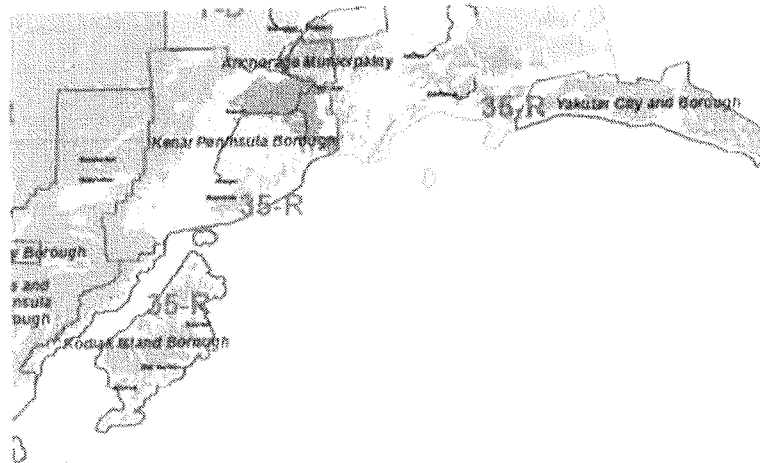


HD 32 is directly related to the lack of compactness in HD 9. Specifically, HD 9 drops down to include Whitter and Valdez, severing those communities from Prince William Sound, and destroying the coastline contiguity between the Eastern and Western Prince William Sound coastlines within HD 32.

<sup>25</sup> First Amended Renewed application, para. 23  
<sup>26</sup> ARB 00017436

A more compact alternative can actually be found in the Board's First Final Plan (6/13/11). HD 32 is very similar to the First Final Plan HD 35, except that HD 32 includes Tyonek, the western coast of Cook Inlet in the Kenai Borough, Nanwalek, and Port Graham, but does not include Whittier. As a result, HD 32 is less compact than HD 35 found within the First Final Plan. Specifically, the addition of the western coast of Cook Inlet within the Kenai Borough (which includes Tyonek and Belgua) creates an unnecessary appendage jutting to the north.

HD 35 First Final Plan (6/13/11) (Snapshot)

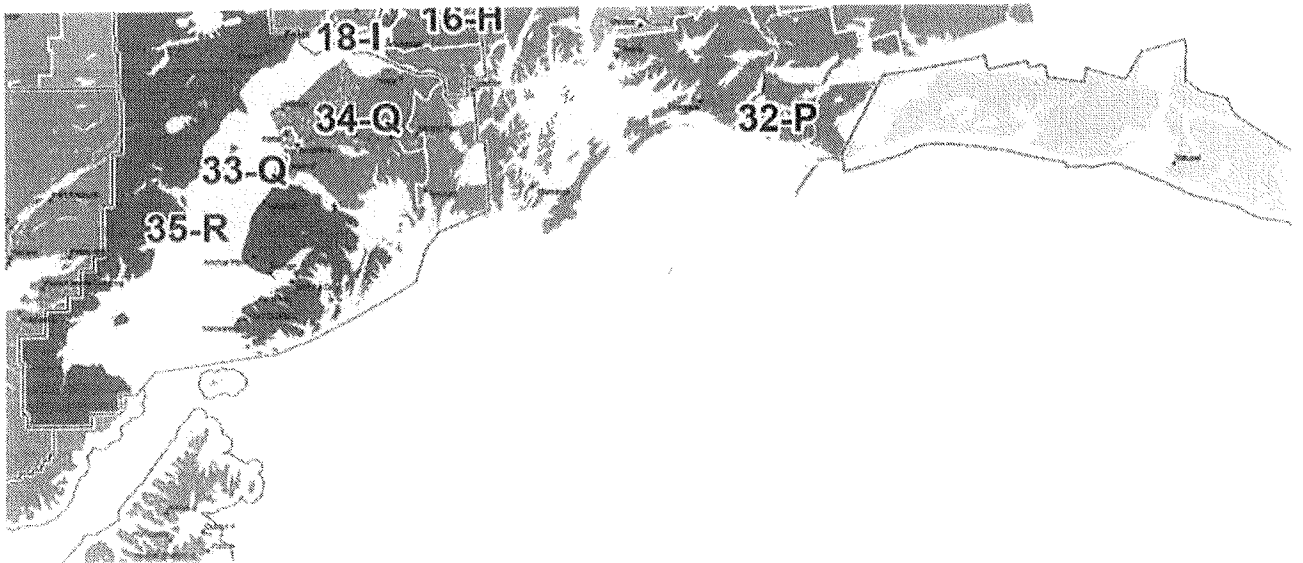


More compact alternatives for the area were proposed to the Board and ignored by the Board. For example, the G&W Draft plan presented an option that united Prince William Sound coastline with the exception of Valdez.<sup>27</sup> While this

<sup>27</sup> This is achieved by including portions of south Anchorage, the eastern portion of which includes a portion of Prince William Sound. Valdez was excluded because of the comments by the City of Valdez which expressed a desire to be included within the Richardson Highway Corridor.

portion of Alaska presents serious challenges because of the irregular coastline around the relatively large Gulf of Alaska, configuring the area around Cook Inlet and Prince William Sound is more manageable and allows Kodiak to be associated with its adjacent coast line in Southwestern Alaska, configures the southern Kenai borough with other portions of the Kenai borough and allows Yakutat to be associated with the rest of Southeast Alaska.<sup>28</sup> The result is more compact districts.

**Gazewood & Weiner Draft Plan (Snapshot)**



**d) Summary: Compactness.** As demonstrated above, HD 3, 5, 9, 12, and 32 are not relatively compact when compared to possible alternatives. The Districts therefore violate

<sup>28</sup>These advantages largely relate to the socio-economic integration standards in the Alaska Constitution, which necessarily involve disputed facts.



Article VI, Section 6 of the Alaska Constitution.

**III. UNNECESSARY SPLITTING IN THE MAT-SU AND KENAI DISTRICTS.**

a) **Introduction** The Riley Plaintiffs contend that the configuration of Mat-Su and Kenai House Districts violate the equal protection requirements of the Alaska and federal constitution.<sup>29</sup> Previously in this case, the Courts primarily looked at splitting municipal populations to dilute voting strength of the City of Fairbanks<sup>30</sup> and portions of the Fairbanks North Star Borough.<sup>31</sup> The Plaintiffs claims vis-a-vis the Mat-Su and Kenai House Districts is that the Final Plan unnecessarily split municipal voters residing in these two boroughs.

b) **Splitting Municipal Boundaries- The Law of the Case.** Art. VI, § 6 of the Alaska Constitution allows but does not require the Board to consider municipal boundaries.<sup>32</sup> However, on March 16, 2011, the Board adopted Guidelines that it would use in the 2010 redistricting cycle.<sup>33</sup> The guidelines provide, "The Alaska Redistricting Board shall use the following criteria in order of priority listed when adopting a

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<sup>29</sup> First Amended Application To Correct Errors In Alaska State Legislative Redistricting Plan After Remand, para. 21 & 24

<sup>30</sup> Supreme Court Order No. 77, at 6-7

<sup>31</sup> Order Regarding the Law of the Case and the Splitting of the Excess Population of the Fairbanks North Star Borough, (Dec. 23, 2011). See also *Memorandum Decision and Order Re: 2011 Proclamation Plan* (Feb. 1, 2012), at 108-112

<sup>32</sup> The section reads, "Consideration may be given to local government boundaries."

<sup>33</sup> Exhibit 3. ( See ARB00000009)

Redistricting Plan for the State of Alaska."<sup>34</sup> Among State Constitutional Redistricting Principles, the Board listed as its sixth priority "Consideration to be given to local government boundaries where it is practical to do so".<sup>35</sup> Of course, practicality may be defined by whether a guideline with a higher priority necessitated a different result. Thus, to the extent that the Board employed a 'reasoned decision making process," that process was defined by the Board's self-imposed guidelines.

Notwithstanding independent self-imposed guidelines, local government boundaries implicate constitutional considerations. As this Court has previously held, "a redistricting board 'cannot intentionally discriminate against a borough or any other politically salient class of voters by invidiously minimizing that class's right to an equally effective vote.' Intentional discrimination can be inferred where a redistricting plan 'unnecessarily divides a municipality in a way that dilutes the effective strength of municipal voters."<sup>36</sup> "But an inference of discriminatory intent may be negated by a demonstration that the challenged aspects of a plan resulted from legitimate non-discriminatory policies such as the Article VI, section 6 requirements of compactness, contiguity and socio-economic integration."<sup>37</sup>

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34 Id.

35 Id.

36 *Memorandum Decision and Order Re: 2011 Proclamation Plan* (Feb. 1, 2012), at 107-108

37 Id., at 108 n 159

The Alaska borough system is a unique system of local government, with the Unorganized Borough being the most unique aspect. The Unorganized Borough is a single borough established by State statute, and comprised of all areas of the state not within organized boroughs.<sup>38</sup>

**c) The Mat-Su Splits**

The Mat-Su Borough has a population of 88,955.<sup>39</sup> It is undisputed that the "ideal district population" is 17,755.<sup>40</sup> As a result, the Mat-Su Borough's population is equal to a near perfect five (i.e. 5.010) ideal districts. This fact is undisputed and was a finding made by the Board.<sup>41</sup> Thus, the surplus population within the Mat-Su Borough boundaries was largely *de minimus* being roughly 1% of an ideal district (roughly 177 people). It is a mathematical certainty that "spreading" these 177 people over the five ideal districts that might be constructed in the Mat-Su would only increase deviation by .2%. It is a mathematical likelihood that if any significant number of Mat-Su voters are located in a single district whose boundaries extend outside the Mat-Su borough boundaries, another district will have to be constructed in a manner that also transects the borough boundaries. And that is exactly what the Board did.

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38 AS 29.03.010. The Unorganized Borough is authorized by AK CONST. X, section 6

39 Exhibit 4 (P.L. 94-171 Redistricting Data for Boroughs and Census Areas)

40 Supra. Re: compactness discussion of Mat-Su districts.

41 ARB00017350 [Written Findings In Support of ARB's 2013 Proclamation Plan]

The Board carved out six (6) districts that are either totally (HD 7,8,10 and 11) or partially (HD 9 & 12) within the Mat-Su borough.<sup>42</sup> Five of these districts (HD 7,8,10,11 & 12) contain a majority of Mat-Su borough voters.<sup>43</sup> The sixth district has less than a majority of Mat-Su Borough voters. As discussed above, HD 9 includes areas of the unorganized borough to the east, north and south of the Mat-Su borough eastern boundary; HD 12 straddles the common border of the Mat-Su Borough and the Municipality of Anchorage.<sup>44</sup>

There was no reason to split the Mat-Su. As noted above, the Rights Coalition Plan submitted at the beginning of this process (May 23, 2011) and the G&W plan submitted after the third remand, both demonstrate that it is completely feasible to draw five (5) districts within the Mat-Su Borough boundaries. By unnecessarily dividing the the Mat-Su borough this court may infer that the Board intentional discriminated against a politically salient class.<sup>45</sup> Moreover, by deviating from its guidelines by failing to consider municipal boundaries, the Board has deviated from its "reasoned decision-making." As a result, the law of this case provides that the Board has the burden of proof to demonstrate that it had a neutral non-

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42 Id.; see Exhibit 7 (Community By District; ARB00017377-ARB00017387)  
43 ARB00017351[Written Findings In Support of ARB's 2013 Proclamation Plan]

44 Supra. Re: compactness discussion of Mat-Su districts.

45 Memorandum Decision and Order Re: 2011 Proclamation Plan (Feb. 1, 2012), at 107-108

discriminatory purpose in twice splitting the Mat-Su borders,<sup>46</sup> and that the this purpose gave effect to a higher priority goal articulated in its guidelines. It cannot do so.

The Board seeks to justify its unnecessary division of the Mat-Su in light of the need to accommodate the excess population of Anchorage(MOA).<sup>47</sup> The population of Anchorage is 291,826, or 16.43 ideal districts.<sup>48</sup> The Board considered this one of the three major problems confronting the Board: i.e. the Rural Population Shortfall, the excess population of Anchorage and the excess population of Fairbanks.<sup>49</sup>

Clearly, the three presenting problems required "hard choices and a balancing of competing constitutional requirements." However, those choices and balancing were made more simple by the reasoned decision making set forth in priorities contained in the Board guidelines, which reflected the *Hickel* process. The Court in *Hickel and In re 2001 Redistricting Cases*, provided clear guidance as to the process the Board was to use in balancing competing constitutional requirements. That process set clear priorities as follows:

Priority must be given first to the Federal Constitution, second to the federal voting rights act,

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46 *In re 2001 Redistricting Cases*, 44 P.3d 141, 144 (Alaska, 2002),

47 ARB00017350 [Written Findings In Support of ARB's 2013 Proclamation Plan]

48 ARB00017349 [Written Findings In Support of ARB's 2013 Proclamation Plan]

49 ARB00017349 [Written Findings In Support of ARB's 2013 Proclamation Plan]

and third to the requirements of article VI, section 6 of the Alaska Constitution. The requirements of article VI, section 6 shall receive priority *inter se* in the following order: (1) contiguousness and compactness, (2) relative socioeconomic integration, (3) consideration of local government boundaries, (4) use of drainage and other geographic features in describing boundaries.<sup>50</sup>

The Guidelines adopted by the Board reflect these priorities and set forth a clear measure of the "reasoned decision-making process" required of the Board. Unfortunately, the Board once again did not follow the *Hickel* process. There is nothing in the findings demonstrating that the Board considered the order of priority set forth in *Hickel* or the Board adopted Guidelines when they considered the competing constitutional standards.<sup>51</sup>

The *Hickel/2001 Redistricting* priority process clearly elevates contiguity and compactness as the first priority in balancing article VI, section 6 constitutional standards. As noted above, there were plans presented to the Board which provided a more compact Mat-Su configuration; e.g. the Draft Plan D and G&W plans.<sup>52</sup> Those plans generally solved the Anchorage excess population problem by combining the excess populations from Anchorage and Kenai with Whittier-Valdez-

<sup>50</sup> *In re 2001 Redistricting Cases*, 44 P.3d 141, 143 n.2 (Alaska, 2002), quoting *Hickel v Southeast Conference*, 846 P.2d at, 62

<sup>51</sup> Interestingly, the Board's findings include the finding that the Board counsel advised the Board that it need not complete steps 2 and 3 of the *Hickel* process. ARB00017349 There is nothing in the Findings clarifying whether the Board counsel advised the Board that the ordered priority of constitutional standard was part of the *Hickel* process.

<sup>52</sup> See discussion *supra*.

Cordova (Draft Plan D) or Whittier-Seward-Cordova (G&W Plan).<sup>53</sup> The question, therefore, is whether these plans were considered by the Board, and whether the Board found that constitutional standards with a higher priority to compactness required the configuration set forth in the Final Plan.

The Board findings indicate that it failed to take a hard look at either the Whittier/Valdez/Cordova configuration set out in its own Draft Plan D, or the Whittier/Seward/Cordova configuration set out in the G&W Plan. More importantly, the findings do not support a conclusion that the Board ever considered relative compactness as a priority in balancing the constitutional requirements implicated by the Anchorage excess population problem.<sup>54</sup>

The Board findings state that the Board considered four (4) options to solve the Anchorage excess population problem: i.e. 1) over-populating the Anchorage districts by spreading the excess population across the other 16 Anchorage districts; 2) creating a Anchorage-Kenai district; 3) creating an Anchorage-Valdez-Richardson Highway district, or 4) creating a larger Anchorage-Mat-Su district. However, the Board's justification for these choices were premised upon

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<sup>53</sup> See discussion relating to compactness of HD 32 supra.

<sup>54</sup> See generally ARB00017349-350

factors other than compactness. Those factors had either a lower priority than compactness or had no priority at all.

i) The decision To Not Spread Anchorage Population Across The Other Anchorage Districts. Of course, the Board has always been reluctant to spread the excess population of Anchorage across the other 16 Anchorage-majority districts, and has cited a concern that such a plan would increase the deviations within the Anchorage districts by 2.72% "pushing the total deviation range within Anchorage over 4%."<sup>55</sup> This Court has expressed the view that the Board's approach to deviations in the past is "somewhat strict", but agreed that an error in favor of lowering deviations was clearly within the Board's discretion.<sup>56</sup> Thus, the Board clearly had the discretion to adopt a plan with lower deviation in Anchorage. However, the Board's argument is misleading because the Board failed to apply the proper standards and process in its desire to maintain low deviations in the Anchorage bowl.

The concern respecting urban deviations arises out of the Court's holding in *In re 2001 Redistricting Cases*, which considered acceptable deviations in Anchorage. In that case, the Court struck down deviation within the Anchorage bowl ranging between 5.5% to 9.5%, because the Board had not

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<sup>55</sup> ARB00017349

<sup>56</sup> Memorandum Decision and Order Re: 2011 Proclamation Plan, *supra*, at 109.



attempted to reduce deviations further.<sup>57</sup> In reaching this conclusion, however, the Court explained that it was applying previously established priorities between constitutional standards. The Court stated

The board considered and rejected Anchorage plans with significantly lower maximum deviations, apparently because these plans did not respect the board's conception of neighborhood boundaries. But ... Anchorage neighborhood patterns cannot justify "substantial disparities" in population equality across Anchorage districts. Anchorage is by definition socio-economically integrated, and its population is sufficiently dense and evenly spread to allow multiple combinations of compact, contiguous districts with minimal population deviations. Accordingly, the Anchorage deviations are unconstitutional, and require the board on remand to make a good faith effort to further reduce the deviations.<sup>58</sup> (emphasis added)

Thus, the test is not merely whether the Board plan reflects the smallest population deviation, but rather, the Court requires a process in which the Board must attempt to reduce deviations among districts that are compact and contiguous. Thus, in the consideration of priorities, reducing deviations in urban areas is an equal priority to maintaining compact and contiguous districts.

As noted above, the Board elevated reducing deviations in Anchorage without consideration of whether the alternatives resulted in more compact and contiguous districts. The resulting HD 9 and 12 are not relatively

<sup>57</sup> *In re 2001 Redistricting Cases*, 44 P. 3d, at 146 n 11. The Court later declined to articulate any maximum deviation among districts within an urban area explaining that its prior decision merely meant that deviations "slightly under 10% (i.e. 9.5%) were unconstitutionally excessive. *In re 2001 Redistricting Cases*, 47 P. 3d, at 146

<sup>58</sup> *In re 2001 Redistricting Cases*, 44 P. 3d, at 146

compact, which not only fails to comply with the process demands articulated in *Hickel* and *In re 2001 Redistricting Cases*, but misunderstands the substantive standard articulated by the court that requires districts with the lowest deviations also be compact and contiguous districts.<sup>59</sup>

ii) The decision To Not Create An Anchorage-Kenai District. The Board justified it's rejection of an Anchorage-Kenai district option, because it would split the Kenai Peninsula Borough boundary twice.<sup>60</sup> The justification is factually wrong and legally incorrect. As noted above, creating an Anchorage/Kenai/Valdez (Draft Plan D) or an Anchorage/Kenai/Seward (G&W Plan) configuration is clearly possible without splitting the Kenai Borough boundaries twice.<sup>61</sup> The Board's assertion that a second split of Kenai was necessary if Anchorage and Kenai were joined is simply factually incorrect and is disproved by one of the Boards own draft plans (Draft Plan D).

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<sup>59</sup> Id. The fact that the Board's effort to reduce deviations in Anchorage did not consider compactness issues is reflected in several Anchorage districts that suffer from symptoms reminiscence of Kawasaki's finger in Fairbanks. There are elongated districts (e.g. HD 16 and 27) and bizarre appendages (e.g. southeastern appendage to HD 15, northeastern appendage on HD 18; the northwestern appendage on HD 23; the western notched appendage on HD 27; the southeastern triangular wedge on HD20; the far western up-thrust finger of HD 24 jutting into HD 22). These observations are not made to assert new causes of action with respect to the Anchorage districts. Rather, the observations are made to illustrate the consequences of elevating a "somewhat strict" view about deviations without regard to compactness. The observation is further evidence that the Board did not consider compactness in its quest for low deviation as required in *In re 2001 Redistricting Cases*, and that its findings in this regard are either pre-textual or the Board simply did not understand the holding of the Court in that case.

<sup>60</sup> ARB00017349-350

<sup>61</sup> See discussion relating to compactness of HD 32 supra.

The Board's rationale also employs the wrong standard. Attempting to justify splitting the Mat-Su twice to avoid splitting the Kenai twice presents a false choice. As previously noted, respect for municipal boundaries is a lower priority than compactness. Hence the proper question the Board should have reviewed is not which municipal boundaries need to be split twice; rather what configuration would result in the more compact configurations. Again, the Anchorage/Kenai/Valdez (Draft Plan D) or an Anchorage/Kenai/Seward (G&W Plan) configuration clearly present more compact configurations. The Board failed to consider the balance of conflicting constitutional standards using the correct priorities, which were set out in the Board's guidelines and prior case law. Thus, the Board failed to use a reasoned decision-making process consistent with prior case law and its own guidelines.

iii) The Anchorage-Valdez-Richardson Highway Option. The Board rejected the idea of an Anchorage-Valdez-Richardson Highway option because it would likely not be considered socio-economically integrated.<sup>62</sup> The Board's decision on this matter was probably correct, however, for a different reason than articulated in the findings. Frankly, a district that jutted out of Anchorage's eastern boundary, included Whittier, crossed Prince William Sound to pick up Valdez, and then up the Richardson Highway, would be a meandering thin

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62 ARB00017350

district that would violate compactness and socioeconomic standards. The Board's only articulated reason was a lack of socioeconomic integration, which provides further confirmation that the Board was not using the priorities set out in the guidelines and prior court decisions, and was not using the reasoned decision-making process set out in *Hickel* and *In Re 2001 Redistricting Cases*.

iv) A Larger Anchorage-Mat-Su District. The findings do not indicate why the Board rejected a larger Anchorage-Mat-Su district. Indeed, there is little evidence in the record that the Board actually considered a larger Anchorage-Mat-Su district.

y) The Anchorage/Mat-Su District. The Board findings include six (6) articulated reasons in favor of an Anchorage/Mat-Su District that required the splitting of the Mat-Su boundaries twice. None are articulated in reference to compactness or a need to maintain low deviations, but relied upon lower priority standards to deviate from a more compact configurations. Additionally, the Board used one unconstitutional standard and two extra-constitutional standards that were not articulated in its guidelines, as well as lower priority constitutional standards.

One articulated reason is that the Mat-Su is a fast

growing area of the state. This factor actually violates the Alaska Constitution which requires that "Reapportionment shall be based upon the population within each house and senate district as reported by the official decennial census of the United States."<sup>63</sup> As board council advised the Board,<sup>64</sup> in the 1970's and 1980's, the redistricting process adjusted census population numbers to exclude non-resident military from the census population.<sup>65</sup> However, the 1998 constitutional amendment added language requiring the used of the official decennial census data.<sup>66</sup> In 1999, the Legislature enacted AS 15.10.200 which prohibits adjusting census numbers for use in redistricting. In this case, the Board's use of projected future growth rates amounts to a prohibited population measure, and was an improper factor for the board to consider.

Two of the reasons cited by the Board were political "extra-constitutional" standards. Specifically, the Board found that the Mat-Su Mayor supported the plan.<sup>67</sup> Additionally, the board noted that there were no objections or public comment against the option.<sup>68</sup> Assuming that the Board is correct, such political support as relied upon by the Board, does not outweigh constitutional standards.

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63 AK CONST. ART. 6, § 3

64 Memorandum White to Miller (April 8, 2011) See <http://www.akredistricting.org/Files/PrisonMemo.pdf>

65 *Carpenter v Hammond*, 667 P.2d 1204, 1210- 1214 (Alaska, 1983); *Groh v Egan*, 526 P. 2d 863, 869-874 (Alaska, 1974)

66 AK CONST. ART. 6, § 3

67 ARB00017350

68 Id.

Finally, the Board cited three other reasons that have constitutional significance for splitting the Mat-Su twice: socioeconomic integration, need to accommodate excess population and maintenance of proportional representation of the Mat-Su population. None of these reasons justify the splitting of the Mat-Su borough boundaries twice, because other plans submitted to the Board would accomplish the same results without splitting the Mat-Su twice.

Specifically, the Board Draft Plan D and the G&W plans maintain socioeconomic integration,<sup>69</sup> accommodate Anchorage's excess population and reflects the same proportional representation for all the affected boroughs. In addition, the plans provide for a more compact configuration, which has a higher priority than the other constitutional standards upon which the Board relies. Thus, the articulated basis for the configuration splitting the Mat-Su twice is legally insufficient and does not reflect a reasoned decision-making process in accordance with the guidelines adopted by the Board and prior court decisions.

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69 Under both plans, all Mat-Su districts and all Anchorage and Kenai districts except one (i.e. the Anchorage/Kenai/Cordova district) are within a common borough, so that these districts would be socioeconomically integrated as a matter of law. *In re 2001 Redistricting Cases*, 44 P.3d, at 146. Generally, Cordova has been held to be socioeconomically integrated with other communities around Prince William Sound. The final 1994 Redistricting plan had a district including Cordova, Valdez and Seward, which was found to be socioeconomically integrated. See [http://www.akredistricting.org/Files/1980%20Board%20Archive/Prince%20William%20Sound%20Election%20Districts%20\(1984\).pdf](http://www.akredistricting.org/Files/1980%20Board%20Archive/Prince%20William%20Sound%20Election%20Districts%20(1984).pdf) See *Kenai Peninsula Borough v State*, 743 P.2d 1352, 1362 (Alaska, 1992)

c) **The Kenai Split.** The Kenai Borough has a population of 55,400.<sup>70</sup> It is undisputed that the "ideal district population" is 17,755.<sup>71</sup> As a result, the Kenai Borough's population is equal to 3.12 ideal districts, which means that it has a surplus population of 2,130.<sup>72</sup> If this population was evenly spread over the three Kenai districts wholly within the borough, the deviation would be below 4%. In the Anchorage situation, which is more urban than the Kenai, the Board didn't want to exceed 4% deviation, which suggests that the surplus population in the Kenai could be spread over the other Kenai districts in a manner consistent with the benchmarks set by the Board. The Board split the Kenai borough into 3 districts wholly within the borough (i.e. HD 29, 30, and 31) and placed 1,382 residents in HD 32.<sup>73</sup> The Districts wholly within the borough are slightly over-populated having deviations of 1.53, 1.50 and 1.51. Consequently, the split of the Kenai was not necessary, which would require the Board to demonstrate a neutral non-discriminatory for such a split.<sup>74</sup>

The Board findings do not explain why the Board felt it was necessary to split the Kenai.<sup>75</sup> Consequently, it is impossible for the Court to review such reasons on the

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70 Exhibit 4 (P.L. 94-171 Redistricting Data for Boroughs and Census Areas)

71 Supra. Re: compactness discussion of Mat-Su districts.

72 ARB00017350

73 ARB00017388- ARB00017493; Cf. Exhibit 4 and 6.

74 *In re 2001 Redistricting Cases*, 44 P.3d 141, 144 (Alaska, 2002),

75 See generally ARB0001745- ARB00017352

record.

Of course, the G&W plan also split the Kenai, however, there was a clear purpose in doing so: i.e. the need to deal with the surplus population of Anchorage. But the Final plan submerged the southern Kenai (i.e. Homer) in a long meandering district that starts in Tyonek, drops to Kodiak, back up to the southern Kenai, crosses the Gulf of Alaska skipping Valdez. The Final Plan does not use the surplus population of the Kenai borough to deal with any other surplus population nor to create a compact district. There is no articulated rationale for the split, and there is no observable rational reason for the split within the Board's Final Plan.

d) **Summary of Splits.** The Board's Final Plan unnecessarily splits the Mat-Su and Kenai House Districts. It is clearly possible to configure districts that retain the borough populations within the boundaries of their respective districts. The population of both boroughs were unnecessarily split municipal voters residing in these two boroughs. Intentional discrimination can be inferred where a redistricting plan 'unnecessarily divides a municipality'<sup>76</sup> "But an inference of discriminatory intent may be negated by a demonstration that the challenged aspects of a plan

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<sup>76</sup> *Memorandum Decision and Order Re: 2011 Proclamation Plan* (Feb. 1, 2012), at 107-108



resulted from legitimate non-discriminatory policies such as the Article VI, section 6 requirements of compactness, contiguity and socio-economic integration."<sup>77</sup> The Board bears the burden of proof on this point.<sup>78</sup>

As noted above, the Board cannot demonstrate on its record that it engaged in a reasoned decision-making process, guided by the priorities of constitutional standards articulated in its guidelines and prior Court decisions. On the contrary, the record contains optional plans that maintained the integrity of borough boundaries in compact and continuous districts. In fracturing the Kenai boundaries of these boroughs, the Board failed to explain its reasoning. In the case of the Mat-Su districts, the Board applied unconstitutional standards, and extra-constitutional standards. Where the Board cited constitutional standards in the case of the Mat-Su, it failed to engage in a proper reasoned decision-making process by failing to consider such standards in the order of priority prescribed by the Courts in *Hickel* and *In re 2001 Redistricting Cases*.

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<sup>77</sup> Id., at 108 n 159  
<sup>78</sup> Id.

### III. Avoidable Deviation Variance in SD 5 & 6.

a) **Introduction.** The Plaintiffs Riley et. al.'s Amended Renewed Application challenges the Fairbanks Senate District deviations.<sup>79</sup> In this context, "deviation" references the population of a district which is above or below the ideal district size based upon the official census data. As discussed below, the Board was under an obligation to minimize deviation between Senate districts. The record before the Board clearly indicates that the Board generally did not take a "hard look" at the deviation between Senate Districts in general. However, in considering a settlement offer from the Riley Plaintiffs, the Board was presented with an opportunity to reduce deviations in the Fairbanks Senate districts and failed to engage in the required "reasoned decision making process." Thus, the failure to reduce deviations between Fairbanks Senate districts was both unconstitutional and unreasonable.

b) **Relevant Facts.** Senate District B (SD B), comprised of HD 3 & 4) has a total population of 35,459. Senate District C (SD C), comprised of HD 5 & 6, has a total of 35,644. This results in a total deviation of -51 persons in SD B and +134 in SD C from an ideal senate district population.<sup>80</sup> On July 11, 2011 the Riley Plaintiffs, through

<sup>79</sup> First Amended Application To Correct Errors In Alaska State Legislative Redistricting Plan After Remand, para. 16

<sup>80</sup> Alaska House District is 17,755 and an ideal Senate District of 35,510. See Plt. Renewed Application & Board Answer (paragraph 9)

the undersigned counsel, made an offer to settle the present litigation if the Board would swap the Dist. 4-B to 4-C, and to change Dist. 6-C to Dist. 6-B in the proposed "Concept Plan" under consideration by the Board.<sup>81</sup> The change would change the populations of the Senate districts to 35,480 (SD B) and 35,623 (SD C) and reduce deviations between Senate districts to -30 and +113 respectively.<sup>82</sup>

The Board met on July 14, 2012 but did not go into executive session, nor did the Board's attorney advise the Board on the record about the offer.<sup>83</sup> Afterward, the undersigned called Board counsel and objected to the fact that the offer had not been communicated to the Board.<sup>84</sup> Board Counsel indicated that he had discussed the matter with the Board Chairman and that the Board Chairman had discussed the offer with each of the Boardmembers individually.<sup>85</sup> Board Counsel indicated that this was a normal and customary way that the Board transacted business.<sup>86</sup> The undersigned advised Board counsel that in his opinion, such a procedure --- often called daisy-chain communication --- violated the state Open Meeting Act, and that the Board should cure the violation by meeting and placing the matter on the record. Board counsel requested that the offer be made in writing, and on July 17,

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<sup>81</sup> Exhibit 2, (Aff't of Counsel, attached e-mail Walleri to White July 11, 2013)

<sup>82</sup> See 00017764 - 00017765

<sup>83</sup> ARB 00016854- 00016867

<sup>84</sup> Exhibit 2 (Affidavit of Counsel)

<sup>85</sup> Id.

<sup>86</sup> Id.

2013, the undersigned provided the offer in writing, which was included in the Board record.<sup>87</sup> The letter explains that the relative deviation difference.

On July 18, 2013, the Board met to consider the offer,<sup>88</sup> and, after an executive session,<sup>89</sup> rejected the offer. In rejecting the offer, Mr. Brodie admitted that the Board never considered the deviations between Senate districts as a relevant factor.<sup>90</sup>

**c) The Board's Obligation To Reduce Deviations Between Senate Districts.** As this Court has previously noted, the Art. VI, § 6 requirements that requiring the lowest practicable deviations between districts applies to house districts, and not to senate districts.<sup>91</sup> However, this Court also noted that federal and state constitutional equal protection requirements mandate that "[A] State must make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable. Whatever the means of accomplishment, the overriding objective must be substantial equality of population among the various districts, so that the vote of any citizen is approximately equal in weight to that of any

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87 ARB 00016854- 00016867

88 Hrg. Tr. (July 18, 2013)

89 Id., at 5

90 Id., 7:19-24.

91 Memorandum Decision and Order Re: 2011 Proclamation Plan, supra, at 37-

other citizens in the state."<sup>92</sup> Thus under the law of the case, the Board had an obligation to make a good faith effort to reduce the deviations between Senate districts under state and federal equal protection standards.

**d) The Fairbanks Senate Pairing Plan Violated State And Federal Constitutional Standards, The Board Failed To Take A Hard Look At Reducing Deviations Between Senate Districts In General, And Failed To Engage In Reasoned Decision Making Relative to Reducing Deviations Between Fairbanks Senate Districts.** As Boardmember Brodie admitted, the Board did not make a good faith effort relative to Senate districts; indeed, Mr. Brodie admitted that the Board never considered or otherwise attempted to reduce deviations between Senate Districts. The face of the record makes out a *prima facie* case that the Board simply failed to comply with this requirement in any fashion whatsoever. Thus, the record clearly establishes that the board failed to take a hard look at reducing deviations between senate districts in general.<sup>93</sup>

<sup>92</sup> *Id.*, at 38-39, citing, *Reynolds v Sims*, 377 U.S. 533, 577 (1964), quoted in *Kenai Peninsula Borough v State*, 743 P.2d 1352, 1358 (Alaska 1987); and *Hickel v Southeast Conference*, 846 P.2d 38, 47 (Alaska 1992).

<sup>93</sup> The Board's emphatic refusal to consider deviations among Senate Districts is curiously at odds with the Board's prior stated position relative to deviations among Fairbanks House Districts. As this Court noted, the Board refused to "spread" the Fairbanks excess population among the Fairbanks districts because it would increase the deviation between Fairbanks house districts by 3.5%. This Court noted that the Board's definition of "as nearly as practicable" to be "somewhat strict", but agreed that an error in favor of lowering deviations was clearly within the Board's discretion. *Memorandum Decision and Order Re: 2011 Proclamation Plan*, *supra*, at 109. Taking an inconsistent position to not even consider deviations among Senate districts undermines any argument that the Board was engaged in a reasoned decision making process.

More specific to the present question, the Board record clearly establishes that in considering the Plaintiffs offer, the Board considered the relative deviations between SB B & C, and an alternative configuration with lower deviations. In such considerations, the Board selected the senate configuration with the higher deviation, which violates the Board's duty to make a good faith effort to reduce deviations between Senate districts.

More interestingly, Mr. Brodie urged his fellow board members to deny the lower deviation configuration on political grounds: i.e. to deny the Riley plaintiffs a perceived political advantage.<sup>94</sup> No other boardmember offered any other reason for selecting the senate configuration with the higher deviation, so that the only articulated reason in the record is a political (i.e. partisan) motivation. While the only articulated rationale for the decision was political, the Court need not involve itself in the partisan motivations of the Board. Rather, the law of the case is

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<sup>94</sup> Boardmember Bob Brodie indicated that "he (referencing the undersigned) just looked at the political makeup of the senate districts where his clients live and now he wants to change it to give them (Mr. Riley and Mr. Dearborn) the biggest advantage they possible can without any altruistic feelings of the state redistricting process. Hrg. Tr. (July 18, 2013) , at 8: 1-5 Of course, Dr. Handley identified the residents of Ester/Goldstream as Democratic leaning voters, and Board Counsel has often stated that the Riley Plaintiffs were stalking horses for the Democratic party. Of course, the Board denies any motivation to benefit the Republican party with the resulting district configuration, however, the statements by Mr. Brodie indicate that he believed that the senate pairing benefited the political interests of the political party that the Board associated with the Riley Plaintiffs, and an intention to ignore deviation considerations in furtherance of an intention to deny any such advantage to the Riley Plaintiffs and their Democratic associates. The motivations present factual issues in dispute that will require trial.

very clear that when confronted with the option to select a senate pairing plan that lower deviations, the Board has a duty to make a good faith effort to reduce deviations between senate districts. The failure to do so is clearly violative of state and federal equal protection requirements previously articulated by this court, rendering the Senate pairing plan for Fairbanks unconstitutional.

Additionally, it is clear that the Board did not take a "hard look" at its ability to reduce deviations in the Fairbanks Senate pairing. In articulating a political motivation to justify its failure to take this "hard look" the Board record clearly establishes that the Board failed to engage in a reasoned decision-making process. Thus, the Fairbanks Senate pairing plan is both unconstitutional and unreasonable, and this Court should make such a finding.

#### **IV. TRUNCATION.**

a) **Prior Case Law On Truncation.** As a general matter, Senators are elected to four (4) year terms.<sup>95</sup> Senate terms are staggered so that one-half of the Senate is elected in each of the State's two year election cycle.<sup>96</sup> New redistricting plans necessarily produce districts that are substantially different districts, so that "a need to truncate the terms of incumbents may arise when

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<sup>95</sup> AK CONST. Art. II, II, §3

<sup>96</sup> Id.

reapportionment results in a permanent change in district lines which either includes substantial numbers of constituents previously represented by the incumbent or includes numerous other voters who did not have a voice in the selection of that incumbent."<sup>97</sup> The power to truncate is a "discretionary power", and thus subject to review for abuse of discretion.<sup>98</sup> In *Groh v Eagan*, the Court held that the Governor had articulated valid reasons for shortening the terms of Senators in districts that had substantially changed by a permanent plan, although the Court did not explain what those reasons were.<sup>99</sup> In that redistricting round, the Court ordered interim redistricting plan did not require truncation of any Senate terms, because the Court "felt that it was preferable not to shorten the terms of Senators, particularly as this may become a necessity upon the formulation of a permanent plan."<sup>100</sup>

While the law respecting truncation of Senate terms in Alaska is sparse, it is sufficiently clear to discern that the Board has discretion to truncate Senate terms upon the adoption of a permanent redistricting plan for those incumbent Senators whose districts have substantially

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<sup>97</sup> *Eagan v Hammond*, 502 P.2d 856, 873-874 (Alaska, 1972)

<sup>98</sup> *Id.* See also *Groh v Eagan*, 526 P.2d 863, 881 (Alaska, 1974) In these cases, the Court was discussing the Governor's power and discretion to truncate Senate terms, and held that the power was "incidental to his general reapportionment powers". *Eagan v Hammond*, 502 P.2d, at 874 Given the Constitutional amendment that transferred those powers to the Redistricting Board, the power and discretion to truncate Senate terms would necessarily also transfer to the Board.

<sup>99</sup> *Groh v Eagan*, 526 P.2d at, 881

<sup>100</sup> *Eagan v Hammond*, 502 P.2d, at 874 n 51



changed. While the law defining "substantial change" is not clear, the Board's power in this regard is discretionary and subject to review for abuse of discretion. The "Court must examine not policy but process and must ask whether the agency has not really taken a 'hard look' at the salient problems or has not generally engaged in reasoned decision making."<sup>101</sup> Specifically in regard to truncation, the Board must articulate "valid reasons" for its decisions.

**b) The History of Truncation In This Redistricting Cycle.** Originally, in adopting its original plan two years ago, the Board required all Senate seats to stand for election in 2012, except in SD P, which had 86.8% of the previous Senate District population.<sup>102</sup> In discussing the matter, the Board adopted a recommendation from the Board council to truncate all seats that had over a 13% change (i.e. 87% the same).<sup>103</sup> As a result, all seats less than 85% of the population of the former district were truncated,

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<sup>101</sup>Memorandum Decision and Order Re: 2011 Proclamation Plan (Feb. 1, 2012), at 46. As the Court is aware, the Plaintiffs assert that the proper standard of review as to "unreasonableness" where there are disputed facts at issue also includes consideration as to whether the agency's decision is supported by the facts and has a reasonable basis in the law". *Gunderson v University of Alaska*, 922 P.2d 229, 233 (Alaska, 1996) quoting *Tesoro Alaska v Kenai Pipeline Co.*, 746 P.2d 896 (Alaska, 1987) Under this test, "there must be substantial evidence in the record that supports the findings that are disputed." *City of Nome v Catholic Bishop of Northern Alaska*, 707 P.2d 870, 875 n. 2&3, and 876 (Alaska, 1985) Under such circumstances, the Board may not rely upon *post hoc* justifications involving evidence outside the record to support the Board's actions. *Id.* The Plaintiffs would request the Court to reconsider the applicable standard and reserves their objection to the Court previously articulated standard.

<sup>102</sup>Memorandum Decision and Order Re: 2011 Proclamation Plan (Feb. 1, 2012), at 29. See Exhibit 8 (Senate Terms, First Final Plan, 6/13/11; ARB00000587)

<sup>103</sup>ARB 000003534 (lines 13-17)

including two (2) seats over 75%: i.e. SD L (77.7%)SD T (78.1%).<sup>104</sup>

Of course, that plan was invalidated by the Courts, which was followed by an Amended Plan, which truncated all seats except SD P, which slightly changed and was not 86.7% the same. Oddly, the Board truncated SD B(City of Fairbanks) to allow only a two-year term in 2012 despite the fact that SD B had changed less than SD P (i.e. 86.9%).<sup>105</sup> Of course, this inconsistency begs the question as to whether, in considering the interim plan, the Board employed any standard based upon the percentage of change that might reflect a reasoned decision-making process.

On its third attempt to fashion a plan, the Board met on July 7, 2013 and once again altered course on truncation by changing its standard from the 13% change to a 25% change.<sup>106</sup> In making this decision, the Board clearly intended to affect only one district: i.e. SD B, which is the new North Pole/Ester district. Senator Coghill (R/North Pole) is the incumbent. The change allowed that Senator Coghill would not have to stand for election in 2014.

In the true Alaskan spirit that "There are strange

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<sup>104</sup>Id.

<sup>105</sup>Exhibit 9 (Senate Terms Amended/Interim Plan). As the Court may remember, the Fairbanks City Senate seat was a primary issue of contention in the first round of litigation.

<sup>106</sup>ARB 000016914 (lines 11-24)

things done 'neath the midnight sun," the Board's July 7<sup>th</sup> meeting provides inferential evidence of overt partisan manipulations concerning the preservation of Senator Coghill's term of office. As the Board convened to consider truncation, it is clear that SD B was on the Board's mind and featured prominently in the discussions.<sup>107</sup> However, the conversation became very confused because the Board was re-lettering the Senate districts.<sup>108</sup> At this point, Mr. Randy Ruedrich, former head of the Alaska Republican party interrupted the Board discussion to interject the following:

Mr. Ruedrich: I would suggest that you allow us to either participate or take a recess so we can provide some clarity.

Mr. Brodie: I wouldn't be opposed to that. We seem to be working ourselves into a corner.<sup>109</sup>

Mr. Ruedrich then goes on to explain that the problem under discussion is an "artifact" of the relettering of Districts in relation to the re-numbering of house districts.<sup>110</sup> Mr. Ruedrich offered specific examples of the problems focusing on specific districts. In addressing Mr. Coghill's district, he stated

Ruedrich: You have the same problem in Fairbanks. If you change the the 2,3, the 1,2,3,4 locations, then A (City of Fairbanks) would be back to where it's suppose to be and B (Ester/North Pole) would be --- and I think all

107E.g. ARB 000016887 (lines 3-14);ARB 000016896 (lines 11-12);ARB 000016905 (lines 13)

108 See generally discussion at ARB 000016905-ARB 000016910.

109ARB 000016910 (lines 20-24)

110ARB 000016911

this conversation goes away, it becomes straightforward.<sup>111</sup>

Of course, Mr. Ruedrich's comments about how the districts were "suppose to be" strongly infers a shared pre-determination as to outcomes. The events that followed are consistent with such an inference.

Shortly thereafter, the Board discussed Sen. Stevens and whether he should have to run again.<sup>112</sup> Again confusion predominated. At this point, the Chairman announced that they should take a 15-minute so "We can all kind of get educated and look at this again"<sup>113</sup> The comment was an obvious reference to accepting Mr. Ruederich's offer to "educate" the board. After coming back on the record, Ms. McConnochie appeared to understand the situation better, and made a clear and concise motion to truncate districts if they were less than 75% the same people, and noted that it would only affect SD B, which, under the new standard, would not be truncated.<sup>114</sup> In substance, the Board went off record, conferred with the former chairman of the Republican party, and came back on the record to take the action.

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111ARB 000016911 (lines 12-16)  
112ARB 000016912-ARB 000016915  
113ARB 000016914 (lines 3-5)  
114ARB 000016914 (lines 11-19)

c) **The Truncation Plan Should Be Invalidated Because It Violated The Open Meeting Act.** Whether or not the Board complied with the Open Meetings Act,<sup>115</sup> AS 44.62.310, is a question of law.<sup>116</sup> Generally, the statute provides that all meetings should remain open to the general public.<sup>117</sup> Actions taken contrary to the Act are voidable.<sup>118</sup> Clearly going off the record to confer with the former head of the Republican Party as to which incumbent Senators should have to stand for election and for what terms constitutes a violation of the Opening Meetings Act.

In *Hickel*, the Court declined to enforce similar violations of the Open Meetings Act because the Court struck the plan down for other reasons.<sup>119</sup> Thus, if the Court doesn't invalidate the truncation plan on other grounds, the Court should invalidate the plan based on the open and flagrant violation of the Open Meetings Act.

d) **The Truncation Plan Should Be Invalidated Because It Was Irrational.** As noted above, the "Court must examine whether the agency has taken a 'hard look' at the salient problems or has not generally engaged in reasoned decision making."<sup>120</sup> Based on the clear record, it is obvious that the

115 AS 44.62.310

116 *Ben Lomond, Inc. v. Fairbanks North Star Borough, Bd. of Equalization*, 760 P.2d 508, 511 (Alaska 1988).

117 AS 44.62.310(a)

118 AS 44.62.310(f)

119 *Hickel v Southeast Conference*, 846 P.2d, at 56-57

120 *Memorandum Decision and Order Re: 2011 Proclamation Plan* (Feb. 1, 2012), at 46.

Boards actions were arbitrary and capricious to the extreme. When faced with truncation on three occasions, the Board applied at least two standards, and inconsistently applied its standards to the second interim truncation plan. More disturbing, however, is the fact that the record shows clear manipulation in the third instance with a single district in mind and to not require Sen. Coghill to stand for re-election. The Court should also consider the rather brazen and unusual involvement of Mr. Ruedrich interrupting the Board proceedings, and the board taking a break to get "educated" by him off the record. The Board's actions do not reflect a "reasoned decision-making process," but rather reflect a arbitrary, and result-oriented process contrived to change truncation standards for the benefit of one incumbent Senator.

**e) The Truncation Plan Should Be Invalidate Because It Compared The Wrong Plans.** As the Court indicated in *Eagan v Hammond*, and *Groh v Eagan*, truncation may occur when the State is changing from one permanent plan to another. In *Groh v Eagan*, the State was going from an interim plan to a permanent plan, and in determining whether districts had undergone substantial changes, the Board compared the prior permanent plan to the new permanent plan, and required all Senators to run on alternating staggered terms. The Board determined substantial change based using a comparison with

the interim plan and the new permanent plan. This was error.<sup>121</sup>

f) **Summary.** The Court should invalidate the Board's truncation plan because it was the product of 1) a violation of the Open Meetings Act, 2) an arbitrary and irrational process aimed at the protection of one incumbent Senator, and 3) to the extent that a standard for measuring substantial change may be discerned, such measurements were the product of comparing an interim plan and the new permanent plan rather than an old permanent plan and the new permanent plan.

#### V. SENATE DISTRICT B AND UAF

a) **Summary of Claims.** The Riley Plaintiffs have challenged the compactness of SD B and the division of the UAF campus. These claims arise under the Alaska Equal Protection Clause.

b) **Alaska's Equal Protection Analysis & Senate Configuration.** "Senate districts which meander and ignore

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<sup>121</sup> The use of the Interim Plan as the benchmark to determine substantial change is more questionable in the current circumstance because the Interim Plan was identical to the Amended Proclamation Plan invalidated by this Court as violative of the mandated *Hickel* process. In substance, the Interim plan was the product of a process that this Court held to be a violation of the Alaska Constitution. Using a flawed plan as the benchmark serves no rational purpose.

political subdivision boundaries and communities of interest will be suspect under the Alaska Equal Protection clause"<sup>122</sup> In applying Alaska's Equal Protection clause in the redistricting process, the Court in *Kenai Peninsula Borough* adopted a neutral factors test similar to that proposed by Justice Powell in his dissent in *Davis v Bandemer*.<sup>123</sup> As the Alaska Supreme Court explained,

Under such a test we look both to the process followed by the Board in formulating its decision and to the substance of the Board's decision in order to ascertain whether the Board intentionally discriminated against a particular geographic area. .... District boundaries which meander and selectively ignore political subdivisions and communities of interest, and evidence of regional partisanship are also suggestive.... District boundaries which meander and selectively ignore political subdivisions and communities of interest, and evidence of regional partisanship are also suggestive.<sup>124</sup>

Evidence of such meandering boundaries shifts the burden of proof to the Board to "demonstrate that its acts (were) aimed to effectuate proportional representation." That is to say,

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<sup>122</sup>*Kenai Peninsula Borough v State*, 743 P.2d 1352, 1365 n 21 (Alaska 1987);

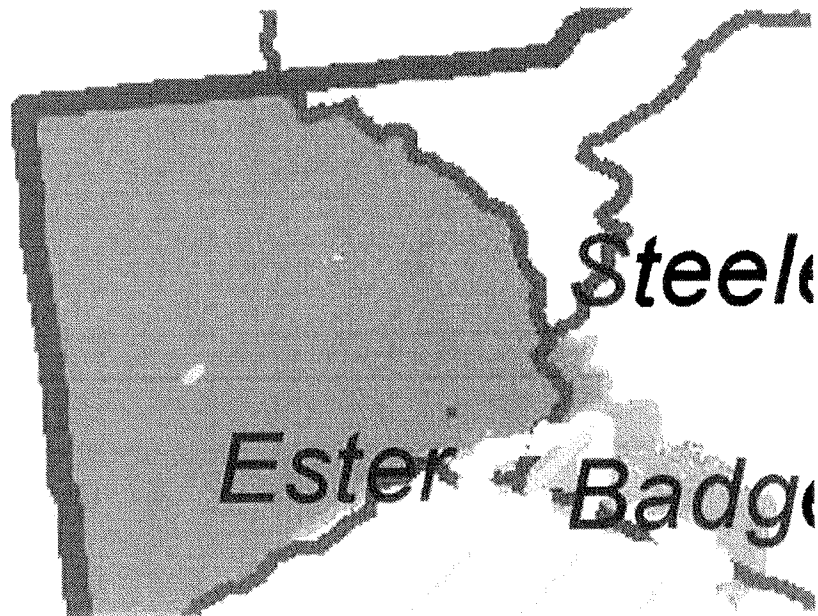
<sup>123</sup>478 U.S. 109 (1986) The principle ruling in the case is that political gerrymandering is judicially cognizable, however, the opinion and its progeny has not been successful in developing a workable standard. Justice Powell's approach in his dissenting opinion would "test the constitutionality of an apportionment plan according to a number of neutral criteria." *Kenai Peninsula Borough v State*, 743 P.2d, at 1369. As the Court explained, the reason for the test was explained as follows: "exclusive or primary reliance on 'one person, one vote' can betray the constitutional promise of fair and effective representation by enabling a legislature to engage intentionally in clearly discriminatory gerrymandering." *Id.*

<sup>124</sup>*Id.*



"the Board will have the burden of proving that any intentional discrimination against voters of a particular area will lead to more proportional representation."<sup>125</sup>

c) **SB B's Odd & Bizzare Shape.** There is little question that SD B comprised of HD 3 (green) & 4 (blue) is an odd and



bizarre shape, and ignores communities of interest. As the above snapshot demonstrates, the district meanders from one end of the population center of the Fairbanks borough to the other starting in the wide expanses of the northwest FNSB running east in increasingly narrowing configuration. While both Ester and North Pole/Badger are within the same borough

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<sup>125</sup>*Kenai Peninsula Borough v State*, 743 P.2d, at 1369

and are therefore socioeconomically integrated by operation of law,<sup>126</sup> Ester and North Pole are clearly differing communities of interest.

As the trial testimony of J. Holmes and Prof. Lisa Handley<sup>127</sup> noted Ester Goldstream is an identified stronghold of democratic voters. Indeed, the strong democratic voting tradition of the area was the reason that the Board placed Ester/Goldstream with the Wade Hampton area in the past redistricting cycle. Equally, the Board was aware that Badger/North Pole area was an area of strong conservative voting patterns, and the Board did not want to locate this area into Wade Hampton because it feared the inclination of Republican voters to not cross-over and vote for Native preferred candidates made the match inappropriate. As the Court is aware, this record demonstrates a clear inference that Ester/Goldstream was the focus of the Board's activities two years ago, and this focus was premised upon the

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<sup>126</sup>*Hickel v Southeast Conference, supra*, at 52. The Plaintiffs conceded that SD B is socio-economically integrated and withdrew that element of their complaint.

<sup>127</sup>See generally, ARB 00013329-13474

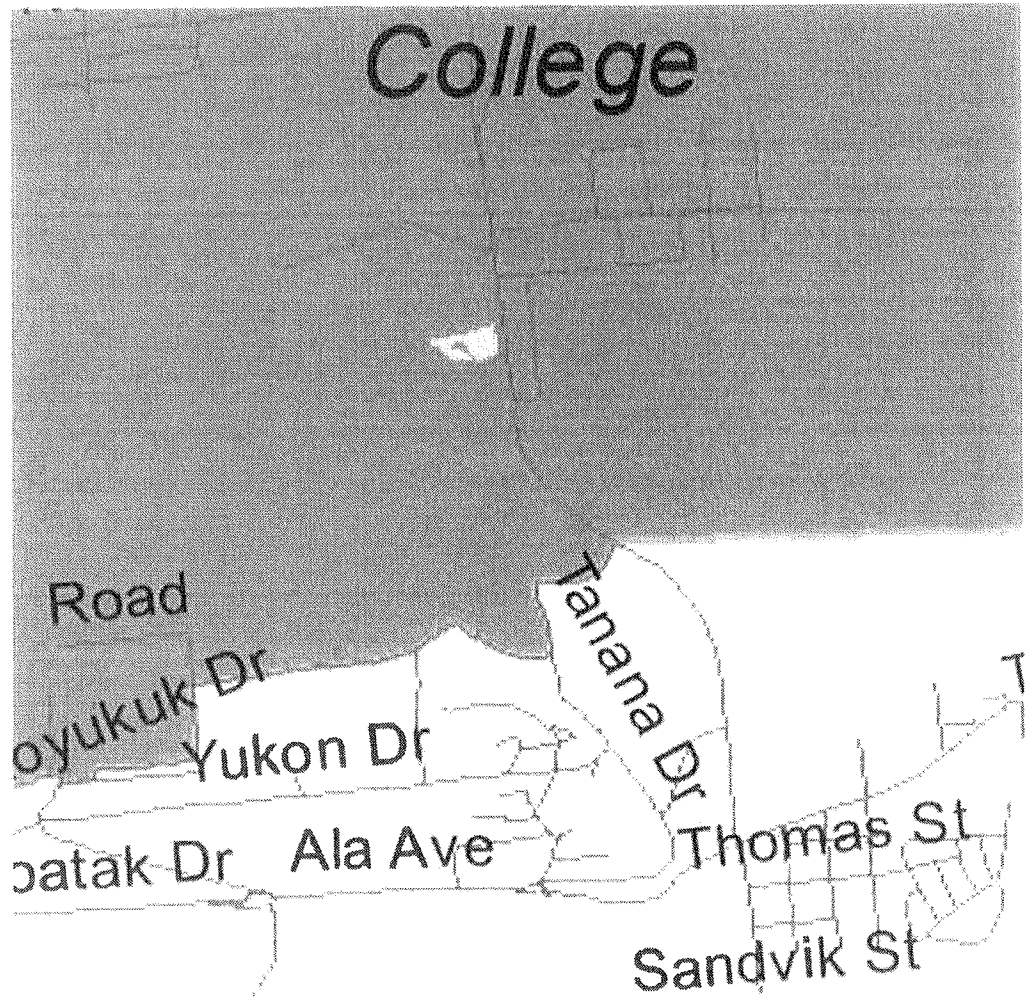
democratic voting pattern of the area.

As noted in Mr. Bordie's comments at the July 17<sup>th</sup> hearing, the Board was fully aware that the configuration was adverse to the interest of the Ester/Goldstream area.<sup>128</sup> The totality of the evidence-- meandering bizarre shaped district, mixing different communities of interest, and a Board record that clearly demonstrates conflicting political inclinations --- demonstrates a strong inference of discrimination. Under Alaska's Equal Protection Clause, such evidence shifts the burden of proof to the Board to demonstrate that the configuration at issue provides greater proportionality.

**d) Division of UAF.** One of the more curious parts of the Final Plan is the division of UAF between HD 4 & 5 and SD B & C. The

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<sup>128</sup>Id., 7:19-24.



division occurs along Koyukuk Drive located on the UAF campus. There is little question that the University of Alaska is a community of interest, and its division creates a clear inference under *Kenai Peninsula Borough of* discriminatory treatment. Under Alaska's Equal Protection Clause, such evidence shifts the burden of proof to the Board


to demonstrate that the configuration at issue provides greater proportionality.

**CONCLUSION.**

The Riley Plaintiffs request entry of summary judgment on the issues stated above for the reasons set forth herein.

Date: September 12, 2013

GAZEWOOD & WEINER, PC  
Attorneys for Riley et.al. Plaintiffs

  
Michael J. Walleri ABA No. 7906060  
Jason A. Gazewood ABA No. 0211060

Certificate of Service

I certify that a true and correct copy of the foregoing was served by e-mail on this ~~August 15, 2013~~ Sept. 12, 2013 to:

Mr. Michael D. White Nicole A Corr Patton Boggs, LLP 601 5 <sup>th</sup> Ave., Suite 700 Anchorage, AK 99501 <a href="mailto:mwhite@pattonboggs.com">mwhite@pattonboggs.com</a> <a href="mailto:ncorr@pattonboggs.com">ncorr@pattonboggs.com</a>	Mr. Thomas F. Klinker Birch, Horton, Bittner & Cherot 1127 W. 7 <sup>th</sup> Ave. Anchorage, AK 99501 <a href="mailto:tklinkner@bhb.com">tklinkner@bhb.com</a>
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By: 

IN THE SUPREME COURT FOR THE STATE OF ALASKA

IN RE 2011 REDISTRICTING CASES

Superior Ct Case No. 4FA-11-2209CI

**AFFIDAVIT OF LEONARD LAWSON**

State of Alaska        )  
                                  ) ss  
Anchorage             )

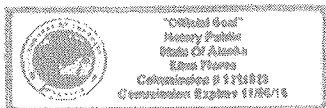
I, Leonard Lawson, hereby affirm as following:

- 1) I was an expert witness during the trial of the above captioned matter in 2012 relating to the operation of GIS systems used in redistricting.
- 2) As indicated in my testimony during the trial in the above captioned matter, I am familiar with the various redistricting plans, including the Final Redistricting Plan adopted by the Alaska Redistricting Board on July 14, 2013.
- 3) I was requested to analyze the House District 3 and 5 of that plan, which I did using GIS software.
- 4) In particular, I was asked how many persons resided in the anvil shaped portion of the House District 5 that is north of the Tanana River and adjacent to House District 3.
- 5) My analysis resulted in me determining that there are 811 persons residing in that district using 2010 census data.
- 6) The remaining 17,026 persons residing in House District 5 all live in the area of the district that is North of the Tanana River and adjacent to House District 4 which generally comprises the Chena Ridge and South Van Horn areas.

Leonard Lawson

Sworn and Subscribed before me  
this 11th day of September, 2013

\_\_\_\_\_  
Notary Public for the State of Alaska.  
My Commission expires on 11/1/14



IN THE SUPREME COURT FOR THE STATE OF ALASKA

IN RE 2011 REDISTRICTING  
CASES

Superior Ct Case No. 4FA-11-  
2209CI

**AFFIDAVIT OF COUNSEL**


State of Alaska            )  
                                  ) ss  
Fairbanks                 )

I, Michael Walleri, hereby affirm as following:


- 1) I am the Council of Record for the Riley Plaintiffs in the above captioned matter.
- 2) On July 11, 2011 I communicated an offer, on behalf of the Riley Plaintiffs, through counsel to settle the present ligation if the Board would swap the Dist. 4-B to 4-C, and to change Dist. 6-C to Dist. 6-B in the proposed "Concept Plan" under consideration by the Board.
- 3) On July 14, 2012 I monitored the Board meeting and noted that the Board did not go into executive session, nor did the Board's attorney advise the Board on the record about the offer.
- 4) After the meeting, I called Board counsel and objected to the fact that the offer had not been communicated to the Board.
- 5) Board Counsel indicated to me that he had discussed the matter with the Board Chairman and that the Board Chairman had discussed the offer with each of the Boardmembers individually.
- 6) Board Counsel also indicated that this was a normal and customary way that the Board transacted business.
- 7) I advised Board counsel that in my opinion, such a procedure --- often called daisy-chain communication --- violated the state

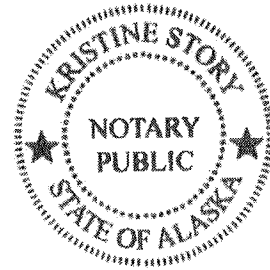
Open Meeting Act, and that the Board should cure the violation by meeting and placing the matter on the record.

8) Board counsel requested that the offer be made in writing, and on July 17, 2013, the undersigned provided the offer in writing, which was included in the Board record.

  
\_\_\_\_\_  
Michael Wallert

Sworn and Subscribed before me  
this 12<sup>th</sup> day of September, 2013

  
\_\_\_\_\_  
Notary Public for the State of Alaska.  
My Commission expires on 2-22-17.





From: Michael Walleri <walleri@gci.net>  
Subject: Re: Offer  
Date: July 11, 2013 3:56:02 PM AKDT  
To: "White, Michael" <MWhite@PattonBoggs.com>  
Bcc: Marcia Davis <mdavis@calistacorp.com>, Ron <rkdearborn@acsalaska.net>, George Riley <georgedriley@gmail.com>

This communication is a communication of an offer to compromise subject to Evid. R. 408, which is to confirm an offer, on behalf of my client. My clients have reviewed the concept plan currently tentatively adopted by the Redistricting Board and believe that there are viable claims that might be pressed, and are inclined to press those claims. While my clients believe that their claims have merit and are prepared to go forward with those claims, they are also aware of the uncertainty of litigation and believe that their concerns may be addressed in a manner short of further litigation. As we discussed in our conversation my clients are prepared to not object to the plan provided that the Board changes the Senate pairings in the concept plan as follows: change Dist. 4-B to 4-C, and to change Dist. 6-C to Dist. 6-B, provided there are no other changes other than the purely technical changes to conform the plan, such as filling holes), including no change to the truncation schedule, except that the Board may either truncate the new Sen. B (i.e. North Pole/Rural Interior District) to require election in such district in 2012 for a two year term, or to have the incumbent serve out the term. Either action is non-objectionable to my clients.

On Jul 11, 2013, at 2:47 PM, White, Michael wrote:

Mike:

Can you put your offer in writing to me please.

Thanks.

MDW

DISCLAIMER: This e-mail message contains confidential, privileged information intended solely for the addressee. Please do not read, copy, or disseminate it unless you are the addressee. If you have received it in error, please call us (collect) at (202) 457-6000 and ask to speak with the message sender. Also, we would appreciate your forwarding the message back to us and deleting it from your system. Thank you. This e-mail and all other electronic (including voice) communications from the sender's firm are for informational purposes only. No such communication is intended by the sender to constitute either an electronic record or an electronic signature, or to constitute any agreement by the sender to conduct a transaction by electronic means. Any such intention or agreement is hereby expressly disclaimed unless otherwise specifically indicated. To learn more about our firm, please visit our website at <http://www.pattonboggs.com>.

**Alaska Redistricting Board**  
**2011 Redistricting Guidelines**

[Adopted March 16, 2011]

*The Alaska Redistricting Board shall use the following criteria in order of priority listed when adopting a Redistricting Plan for the State of Alaska.*

1. **Federal Constitutional Redistricting Principles**

- A. "One Person, One Vote". Standard established by US Supreme Court in *Baker v. Carr* and *Reynolds v. Sims*. According to "one person, one vote," legislative seats must be apportioned exclusively based on population, and the populations of the respective legislative districts must be substantially equal.
- B. Districts of as nearly as equal size as practicable. Maximum overall deviation of no more than 10%, (i.e., plus or minus 5%). Deviation is the measure of how much a district or plan varies from the ideal. Good faith efforts to make deviations as small as practicable must be made.
- C. No purposeful discrimination against a group that has been consistently excluded from the political process.
- D. No political or racial gerrymandering.

2. **Federal Statutory Redistricting Principles**

- A. Sections 2 and 5 of the US Voting Rights Act of 1965
  - i. Section 2—No denial or abridgement of voting rights on account of race, color or status as a member of a language minority. The minority group must be large, cohesive and vote as a bloc.
  - ii. Section 5—No avoidable retrogression. Retrogression is drawing a district in a manner that worsens minority voting strength as compared to the previous district configuration.

3. **State Constitutional Redistricting Principles**

- A. House districts of as nearly equal size as practicable (no overall deviation greater than 10% (plus or minus 5%).
  - i. 10% deviation standard is not a safe harbor, good faith efforts must be made to reduce deviations to as small as practicable.

- ii. Deviations in urban areas must be made as small as practicable because new technology makes it practicable to achieve those deviations.
- B. Redistricting must be based upon the population within each district as reported by the official U.S. Decennial Census.
- C. Districts must be contiguous. Contiguity = All parts of a district being connected at some point with the rest of the district.
- D. Districts must be relatively compact. Compactness = Having the minimum distance between all parts of a district.
- E. House Districts consisting of relatively socio-economically integrated areas.
- F. Consideration to be given to local government boundaries where it is practical to do so.
- G. Senate districts composed of two contiguous House districts.
- H. Drainage and other geographic features must be used, whenever possible, in describing boundaries.

4. *State Statutory Redistricting Principals*

- A. Compliance with AS 15.10.200. Redistricting Board may not adjust the census numbers by using estimates, population surveys, or sampling for the purpose of excluding or discriminating among persons counted based on race, religion, color, national origin, sex, age, occupation, military or civilian status, or length of residency.

# 2013 Proclamation Plan

## Communities by District

[Prepared by the Alaska Redistricting Board – July 14, 2013]

[**Bold** = Incorporated Cities; *Italic* = Census Designated Place]

### House District 1

**Fairbanks** (part)

### House District 2

*Badger* (part)

**Fairbanks** (part)

### House District 3

*Badger* (part)

**North Pole**

*Steele Creek* (part)

### House District 4

*College* (part)

*Ester* (part)

*Farmers Loop*

*Fox* (part)

*Goldstream*

*Steele Creek* (part)

### House District 5

*Chena Ridge*

*College* (part)

*Ester* (part)

*South Van Horn*

### House District 6

*Alcan Border*

**Anderson**

*Arctic Village*

*Beaver*

*Birch Creek*

*Cantwell*

*Central*

*Chalkyitsik*

*Chicken*

*Chisana*  
*Chistochina*  
*Chitina*  
*Circle*  
*Copper Center*  
*Dot Lake*  
*Dot Lake Village*  
*Dry Creek*  
**Eagle**  
*Eagle Village*  
*Eielson AFB*  
*Ferry*  
**Fort Yukon**  
*Four Mile Road*  
*Fox (part)*  
*Gakona*  
*Glennallen (part)*  
*Gulkana*  
*Harding-Birch Lakes*  
*Healy*  
*Healy Lake*  
*Kenny Lake*  
*Livengood*  
*Manley Hot Springs*  
*McCarthy*  
*McKinley Park*  
*Mentasta Lake*  
*Minto*  
*Moose Creek*  
*Nabesna*  
**Nenana**  
*Northway*  
*Northway Junction*  
*Northway Village*  
*Pleasant Valley*  
*Rampart*  
*Salcha*  
*Silver Springs*  
*Slana*  
*Steele Creek (part)*  
*Stevens Village*  
*Tanacross*  
**Tanana**  
*Tazlina*  
*Tetlin*  
*Tok*  
*Tonsina (part)*  
*Two Rivers*  
*Venetie*  
*Willow Creek (part)*

House District 7

*Knik-Fairview (part)*

*Lakes (part)*

*Meadow Lakes (part)*

*Tanaina (part)*

**Wasilla**

House District 8

*Big Lake*

*Knik-Fairview (part)*

*Meadow Lakes (part)*

*Point Mackenzie*

*Susitna (part)*

House District 9

*Big Delta*

*Buffalo Soapstone*

*Chickaloon*

**Delta Junction**

*Deltana*

*Eureka Roadhouse*

*Farm Loop (part)*

*Fishhook (part)*

*Fort Greely*

*Glacier View*

*Glennallen (part)*

*Lake Louise*

*Lakes (part)*

*Lazy Mountain (part)*

*Mendeltna*

*Nelchina*

*Paxson*

*Sutton-Alpine*

*Tolsona*

*Tonsina (part)*

**Valdez**

*Whitestone*

**Whittier**

*Willow Creek (part)*

House District 10

*Chase*

*Fishhook (part)*

**Houston**

*Lakes (part)*

*Meadow Lakes (part)*

*Petersville*  
*Skwentna*  
*Susitna (part)*  
*Susitna North*  
*Talkeetna*  
*Tanaina (part)*  
*Trapper Creek*  
*Willow*

House District 11  
*Farm Loop (part)*  
*Gateway (part)*  
*Lakes (part)*  
*Lazy Mountain (part)*  
**Palmer**

House District 12  
**Anchorage (part)**  
*Butte*  
*Gateway (part)*  
*Knik-Fairview (part)*  
*Knik River*  
*Lakes (part)*

House District 13  
**Anchorage (part)**

House District 14  
**Anchorage (part)**

House District 15  
**Anchorage (part)**

House District 16  
**Anchorage (part)**

House District 17  
**Anchorage (part)**

House District 18  
**Anchorage (part)**

House District 19  
**Anchorage** (part)

House District 20  
**Anchorage** (part)

House District 21  
**Anchorage** (part)

House District 22  
**Anchorage** (part)

House District 23  
**Anchorage** (part)

House District 24  
**Anchorage** (part)

House District 25  
**Anchorage** (part)

House District 26  
**Anchorage** (part)

House District 27  
**Anchorage** (part)

House District 28  
**Anchorage** (part)

House District 29  
*Bear Creek*  
*Cooper Landing*  
*Crown Point*  
*Funny River*  
*Hope*  
*Lowell Point*  
*Moose Pass*  
*Nikiski*



*Point Possession*  
*Primrose*  
*Ridgeway (part)*  
*Salamatof*  
**Seward**  
*Sterling*  
*Sunrise*

House District 30  
*Kalifornsky (part)*  
**Kenai**  
*Ridgeway (part)*  
**Soldotna**

House District 31  
*Anchor Point*  
*Clam Gulch*  
*Cohoe*  
*Diamond Ridge*  
*Fox River*  
*Fritz Creek*  
*Happy Valley*  
**Homer**  
**Kachemak**  
*Kalifornsky (part)*  
*Kasilof*  
*Nikolaevsk*  
*Ninilchik*

House District 32  
**Akhiok**  
*Aleneva*  
*Beluga*  
*Chenega*  
*Chiniak*  
**Cordova**  
*Halibut Cove*  
*Karluk*  
**Kodiak**  
*Kodiak Station*  
**Larsen Bay**  
*Nanwalek*  
**Old Harbor**  
**Ouzinkie**  
*Port Graham*  
**Port Lions**  
**Seldovia**

*Seldovia Village*  
*Tatitlek*  
*Tyonek*  
*Womens Bay*  
*Yakutat*

House District 33

*Covenant Life*  
*Excursion Inlet*  
**Gustavus**  
*Haines*  
**Juneau (part)**  
*Klukwan*  
*Lutak*  
*Mosquito Lake*  
*Mud Bay*  
*Skagway*

House District 34

**Juneau (part)**

House District 35

**Angoon**  
**Coffman Cove**  
**Craig**  
*Edna Bay*  
*Elfin Cove*  
*Game Creek*  
*Hobart Bay*  
*Hollis*  
**Hoonah**  
**Kake**  
**Kasaan**  
**Klawock**  
**Kupreanof**  
*Naukati Bay*  
**Pelican**  
**Petersburg**  
*Point Baker*  
**Port Alexander**  
*Port Protection*  
**Sitka**  
**Tenakee Springs**  
**Thorne Bay**  
*Whale Pass*  
*Whitestone Logging Camp*

House District 36

**Hydaburg**

*Hyder*

**Ketchikan**

*Loring*

*Metlakatla*

**Saxman**

**Wrangell**

House District 37

**Adak**

**Akutan**

**Aleknagik**

**Anvik**

**Atka**

*Attu Station*

**Chignik**

*Chignik Lagoon*

*Chignik Lake*

**Clark's Point**

**Cold Bay**

**Dillingham**

**Egegik**

**Ekwok**

**False Pass**

*Flat*

**Grayling**

**Holy Cross**

*Igiugig*

*Iliamna*

*Ivanof Bay*

**King Cove**

*King Salmon*

*Kokhanok*

*Koliganek*

*Lake Minchumina*

*Levelock*

*Lime Village*

**Manokotak**

**McGrath**

*Naknek*

*Nelson Lagoon*

**New Stuyahok**

**Newhalen**

**Nikolai**

*Nikolski*

**Nondalton**

*Pedro Bay*

*Perryville*

**Pilot Point**

*Pope-Vannoy Landing*  
*Port Alsworth*  
**Port Heiden**  
*Portage Creek*  
*Red Devil*  
**Sand Point**  
**Shageluk**  
*Sleetmute*  
*South Naknek*  
**St. George**  
**St. Paul**  
*Stony River*  
*Takotna*  
**Togiak**  
*Twin Hills*  
*Ugashik*  
**Unalaska**

House District 38

*Akiachak*  
**Akiak**  
**Aniak**  
*Atmautluak*  
**Bethel**  
**Chefornak**  
**Chuathbaluk**  
*Crooked Creek*  
**Eek**  
**Goodnews Bay**  
*Kasighuk*  
*Kipnuk*  
*Kongiganak*  
**Kwethluk**  
*Kwigillingok*  
**Lower Kalskag**  
**Marshall**  
**Mekoryuk**  
*Mertarvik*  
**Napakiak**  
**Napaskiak**  
*Newtok*  
**Nightmute**  
**Nunapitchuk**  
*Oscarville*  
**Platinum**  
**Quinhagak**  
**Russian Mission**  
**Toksook Bay**  
*Tuluksak*  
*Tuntutuliak*

*Tununak*  
**Upper Kalskag**

House District 39

**Alakanuk**  
**Brevig Mission**  
**Chevak**  
**Diomedede**  
**Elim**  
**Emmonak**  
**Galena**  
**Gambell**  
**Golovin**  
**Hooper Bay**  
**Huslia**  
**Kaltag**  
**Kotlik**  
**Koyuk**  
**Koyukuk**  
**Mountain Village**  
**Nome**  
**Nulato**  
**Nunam Iqua**  
**Pilot Station**  
*Pitkas Point*  
*Port Clarence*  
**Ruby**  
**Savoonga**  
**Scammon Bay**  
**Shaktoolik**  
**Shishmaref**  
**St. Mary's**  
**St. Michael**  
**Stebbins**  
**Teller**  
**Unalakleet**  
**Wales**  
**White Mountain**

House District 40

*Alatna*  
**Allakaket**  
**Ambler**  
**Anaktuvuk Pass**  
**Atkasuk**  
**Barrow**  
**Bettles**  
**Buckland**  
*Coldfoot*

**Deering**  
*Evansville*  
**Hughes**  
**Kaktovik**  
**Kiana**  
**Kivalina**  
**Kobuk**  
**Kotzebue**  
*New Allakaket*  
*Noatak*  
**Noorvik**  
**Nuiqsut**  
**Point Hope**  
*Point Lay*  
*Prudhoe Bay*  
*Red Dog Mine*  
**Selawik**  
**Shungnak**  
**Wainwright**  
*Wiseman*

**WRITTEN FINDINGS IN SUPPORT OF  
ALASKA REDISTRICTING BOARD'S  
2013 PROCLAMATION PLAN**

**WHEREAS**, on December 28, 2012, the Alaska Supreme Court ruled that the Board's Amended Proclamation Plan, used as the interim redistricting plan for the 2012 elections, did not comply with the Supreme Court's March 14, 2012 order of remand. The Supreme Court held the Board had failed to follow the *Hickel* process outlined in its March 14, 2012 order when drafting the Amended Proclamation Plan, and therefore remanded the plan back to the Board a second time "to draft a new plan based on strict adherence to the *Hickel* process"; and

**WHEREAS**, between June 12, 2013, and June 21, 2013, the Board met in public work sessions to formulate draft *Hickel* Plans which were designed to comply only with the requirements of the Alaska Constitution without regard to Section 5 of the Voting Rights Act ("VRA"); and

**WHEREAS** on June 21, 2013, the Board adopted 10 statewide and 1 regional plan as their draft "*Hickel* Plans" consisting of seven 7 Board created plans, and three third-party statewide plans and one regional plan for two districts in Southeast Alaska; and

**WHEREAS**, on June 25, 2013, the United States Supreme Court struck down Section 4 of the VRA in the case of *Shelby County v. Holder, et al.*, 570 U.S. \_\_\_ (2013), effectively immobilizing the Section 5 preclearance requirement and thereby extinguishing any need for the Board to engage in steps 2 and 3 of the *Hickel* process, which were designed to balance Alaska constitutional requirements with Section 5 of the VRA; and

**WHEREAS** the Board held public hearings on its adopted draft plans in Anchorage on June 28, Fairbanks on July 1, and Juneau on July 2, to take public testimony and input on the draft plans; and

**WHEREAS**, the Board held public meetings on July 5, 6, and 7, 2013, to work on producing its new final plan of redistricting, reviewed and analyzed revised and amended third party plans, and adopted the 2013 Proclamation Plan in concept on July 7, 2013; and

**WHEREAS**, the Board made findings on the record, all of which were unanimous, as to its compliance with all applicable legal requirements as supported by the Board Record prior to adoption in concept of its 2013 Proclamation Plan; and

**WHEREAS**, the Board requested its counsel to review the Board Record and create formal written findings outlining and summarizing the findings made by the Board in order to provide a clear and concise record in support of its 2013 Proclamation Plan.

**NOW, THEREFORE, AS SET FORTH IN AND SUPPORTED BY THE BOARD RECORD, THE ALASKA REDISTRICTING BOARD HEREBY MAKES THE FOLLOWING WRITTEN FINDINGS IN SUPPORT OF ITS 2013 PROCLAMATION PLAN:**

## ADOPTION OF DRAFT *HICKEL* PLAN(S)

1. The Board began its substantive work to comply with the Alaska Supreme Court's December 28, 2012 Order on June 12, 2013, conducting public work sessions over the next 9 days, from June 12, 2013 through June 20, 2013, at the Board's Anchorage office. The Board properly noticed these meetings and made them open to the public.

2. During these public work sessions, the Board and its staff worked on constructing draft *Hickel* Plans which focused exclusively on compliance with Alaska Constitutional redistricting requirements without regard to Section 5 of the VRA. The Board's goal was to take a hard look at as many options as possible, resulting in the seven different Board drafted *Hickel* Plans: Board Options A, B, C, D, E, F, and G.

3. In order to comply with the equal population requirements of Article VI, section 6 of the Alaska Constitution, substantial population had to be added from some urban area of the State to at least one rural district. The requirement of adding urban population to a rural district is, as noted by both the trial court and the Supreme Court, not a matter of "if" but only a matter of "where", and has nothing to do with the requirements of the VRA.

4. The Board encouraged public input and third party proposals throughout its process on remand. The Board requested those who wished to submit plans for the Board's consideration do so by noon on June 21, 2013, the day the Board intended to adopt its draft *Hickel* Plan(s).

5. Three third parties submitted statewide *Hickel* Plans to the Board prior to the June 21, 2013, deadline: Alaskans for Fair and Equitable Redistricting ("AFFER"), Calista Corporation, and Gazewood & Weiner (counsel for the Riley Plaintiffs). The Ketchikan Gateway Borough submitted a two district, regional plan for Southeast Alaska. Between June 22, 2013 and July 5, 2013, the Board received a number of revisions to the initial plans submitted by AFFER and the Calista Corporation.

6. On June 21, 2013, the Board met and adopted the seven different Board drafted *Hickel* Plans, Board Options A through G, as well as all third party draft *Hickel* Plans submitted by noon that same day, as Board draft plans for public comment. All of the adopted plans were posted on the Board's website.

7. On June 25, 2013, the United States Supreme Court issued its decision in *Shelby County v. Holder, et al*, 570 U.S. \_\_\_ (2013), holding Section 4 of the VRA unconstitutional, thereby effectively invalidating the enforcement of Section 5. Board Counsel advised the Board that as a result of the high court's opinion, the Board no longer needed to complete steps 2 and 3 of the *Hickel* process, which required the Board to measure its *Hickel* plan against the requirements of the federal VRA to determine whether it complies with the VRA, and, if it did, alter the districts "to the least degree reasonably necessary to ensure compliance with the Voting Rights Act." Board counsel also advised that while the Board must still ensure its plan does not violate Section 2 of the VRA, the Board did not have to maintain the same number of districts as the benchmark that provide Alaska Natives with the ability to elect their candidate of choice or



seek preclearance from the Department of Justice because Alaska is no longer subject to Section 5.

8. Given that Alaska was no longer subject to Section 5 of the VRA, the Board's mandate became to draft a plan that complied with the requirements of the Alaska Constitution, the Equal Protection Clause of the Federal Constitution, and Section 2 of the VRA.

9. On Friday, June 28, 2013, the Board held a public hearing in Anchorage, which was also a statewide teleconference.

a. At that hearing, the Board heard presentations from AFFER, the Calista Corporation, and the Ketchikan Gateway Borough on their draft plans.

b. The Board also took public testimony in person and telephonically. Twenty-seven individuals testified at the Anchorage public hearing, including the Mayor of the Mat-Su Borough ("MSB"), who testified that the MSB supported its current boundaries and representation and did not want any major changes from the Amended Proclamation Plan. The Mayor also submitted a map which requested minor modifications to some Mat-Su district boundaries to align them with major roads and creeks.

10. On Monday, July 1, 2013, the Board held a public hearing in Fairbanks, which was also a statewide teleconference.

a. At that hearing, the Board heard a presentation from Mr. Walleri on the Gazewood & Wiener Plan.

b. The Board also took public testimony in person and telephonically from twenty-seven individuals.

11. On Tuesday, July 2, 2013, the Board held a public hearing in Juneau, which was also a statewide teleconference.

a. At that hearing, the Board heard testimony from fifteen individuals who primarily testified to the benefit of combining Skagway and Haines in a House District with downtown Juneau, rather than the northern portion of Juneau and the Mendenhall Valley.

b. Representatives of Calista and AFFER testified telephonically regarding the revised and amended plans they had submitted, including one plan that was a joint effort on behalf of the two parties in which they agreed to the boundaries of 36 of the 40 House districts.

#### **ADOPTION OF THE 2013 PROCLAMTION PLAN**

12. The Board held public work sessions over the July 4th holiday weekend to formulate a new final redistricting plan, meeting on July 5, 6, and 7, 2013.

13. On July 5, 2013, representatives from Calista and AFFER made presentations and answered questions on their revised and amended plan. Joe McKinnon also addressed the Board on the plan he had submitted individually after the June 21, 2013 deadline. The Board discussed the various options and draft plans, and worked individually or in groups of two on revisions to the various draft plans.

14. Over the course of the next two days, the Board reviewed drafts and began to construct its final plan on a regional basis. As part of this process, the Board determined there were several difficult areas requiring hard choices and a balancing of competing constitutional requirements. These included:

a. The Rural Population Shortfall: As outlined in the Board Record, the Board's findings, and the court proceedings from 2011 and 2012, it is undisputed that in order to meet constitutional equal population requirements, rural population had to be combined with urban population in some fashion in light of the population shortfall of approximately half a district of population in the rural districts.

b. The Excess Population of the Municipality of Anchorage: Anchorage has a population of 291,826, which is equal to 16.436 ideal House districts. This nearly half a district of excess population in the Municipality of Anchorage required the Board to balance competing constitutional requirements due to the ripple effects inherent in the shift of that amount of population.

c. The Excess Population of the Fairbanks North Star Borough: The FNSB has a total population of 97,581, which is equal to 5.495 ideal districts. Just as in Anchorage, this nearly half a district of excess population in the FNSB required the Board to balance competing constitutional requirements due to the ripple effects inherent in the shift of that amount of population.

15. After careful consideration and deliberation, the Board determined that the most reasonable way to resolve these difficult issues was as follows:

16. Rural Population Shortfall/FNSB Excess Population: The Board resolved the problem of the rural population shortfall and FNSB excess population through its construction of House District 6. HD-6 combines 8,821 people (49% of an election district) from the eastern portion of the FNSB with rural village and towns from interior and eastern Alaska. The Board's decision was based on the following factors, as well as all other evidence in the Board Record:

a. The FNSB has excess population that must be accommodated;

b. The FNSB's geographic location in the center of the State, adjacent to and surrounded by rural villages, allows for the creation of a relatively compact and socio-economically integrated election district;

c. The FNSB status as a regional hub for Interior and northern Alaska communities, who contribute more than \$250 million dollars and hundreds of jobs to the FNSB economy according to the Fairbanks Economic Development Corporation;

d. The FNSB's historical ties to rural Native Alaskan communities and Native Alaskan organizations;

e. The trial court's previous rulings that it was reasonable for the Board to place excess population from the FNSB into a rural district and that "[a]nyone would be hard pressed to assert Fairbanks is not a hub for rural Alaska";

f. Every statewide, third party map submitted to the Board (including the map submitted by the Riley Plaintiffs' attorneys) used excess population from the FNSB to resolve the rural population shortfall;

g. After the first remand, the Board had taken a hard look at taking population from other urban areas of the State, including Anchorage, Mat-Su, and Kenai, to resolve the rural population shortfall, but none of the plans produced complied with the requirements of Article VI, section 6 of the Alaska Constitution for the reasons explained by Board Counsel in his March 27, 2012 written memorandum and explained on the record; and

h. HD-6 is similar in configuration, other than the addition of the FNSB population, to past election districts in the 2002 and 1994 redistricting plans.

16. MOA Excess Population: The Board considered several options for accommodating the excess population in the MOA, none of them ideal. The available options were: (1) spread the population evenly over the 16 other MOA districts, thereby increasing the deviations within the MOA; (2) push the population south to create a shared Anchorage/Kenai district, thereby breaching the Kenai Peninsula Borough a second time; (3) create a district which combined the excess population from Anchorage with Whittier, Valdez, and other communities along the Richardson Highway north to the Fort Greely area; or (4) push the population north to create a shared Anchorage/Mat-Su district. After discussion and deliberation, the Board determined that the most reasonable way to accommodate the MOA excess population that best balanced all redistricting requirements was by creating HD-12, a shared Anchorage/Mat-Su District. HD-12 places 7,739 residents of the MOA (43% of an ideal district) into a district with south Mat-Su. The Board's decision was based on the following factors as well as all other evidence in the Board Record:

a. Overpopulating all of the MOA districts with the 7,739 spread evenly over the other 16 districts was not a desirable option as it increased the deviations within the MOA by 2.72%, pushing the total deviation range within the MOA to over 4% which the Board considered unacceptable in an urban area under Alaska Supreme Court precedent;

b. Creating an Anchorage/Kenai district was not a desirable option as that combination would require the Board split the population of the Kenai Peninsula

Borough ("KPB") twice. Additionally, the KPB has a population of 55,400, which is equal to 3.12 ideal districts. With an excess population of only 2,135 (12% of an ideal district), population from other areas outside the MOA and the KPB would need to be added, thereby creating a ripple effect that made any such district constitutionally troublesome and unworkable as a whole;

c. The Board looked very hard at the Valdez/Anchorage option in several different configurations, including configurations proposed by third parties. However, the Board did not find an Anchorage-Valdez/Richardson Highway district desirable because it created a district that the courts would likely not consider socio-economically integrated. The Board also has concerns that the district might not meet the compactness requirements due to the large appendage that had to be created to geographically combine Anchorage and Whittier into the district; and

d. Although the adoption of the shared Anchorage/Mat-Su district to accommodate the excess population of the MOA does result in splitting the MSB twice, the Board considered it the most reasonable option because:

i. HD-12 maximizes socio-economic integration as the MSB and MOA are closely tied geographically, economically, socially, and recreationally;

ii. The Alaska Supreme Court has held that the need to accommodate excess population is a sufficient justification to depart from the anti-dilution rule;

iii. The MSB still has four districts completely within its boundaries and a majority of the population in HD-12, thereby giving it effective control of five House districts, the amount justified by its population of 88,995 (5.01 ideal districts);

iv. The MSB is the fastest growing area of the State (and contains areas that were the fastest growing areas in the country in the last decade), ensuring the MSB will have the population to effectively control that district throughout the decade;

v. The Board received no objections or public comment against this option; and

vi. The Mayor of the MSB submitted public comment and public testimony in favor of the Anchorage/Mat-Su combination, which has been a feature of both previous proclamation plans to which no party objected to or challenged.

17. After consideration and deliberation, on July 7, 2013, the Board voted unanimously to adopt "in concept" its 2013 Proclamation Plan.

18. After adoption of its 2013 Proclamation Plan "in concept," the Board instructed Board staff to make any necessary technical corrections, produce maps, written metes and bounds descriptions of the districts, and any other necessary documents in preparation for the Board's formal adoption of its 2013 Proclamation Plan. Board counsel was instructed to prepare a written document summarizing the Board's findings.

19. As set forth in the Board Record and these findings, the 2013 Proclamation Plan complies with all of the requirements set forth in the Alaska Supreme Court's Order of December 28, 2012.

20. The Board's 2013 Proclamation Plan, supported by the Board Record as summarized by these written findings and adopted unanimously 5-0, complies with all federal and state legal requirements.

a. All forty (40) of the House districts are contiguous, relatively compact, and, as nearly as practicable, relatively socio-economically integrated.

i. One area in which the Board struggled was where to place that portion of the KPB located across Cook Inlet from the Kenai Peninsula and contains the communities of Tyonek and Beluga with 379 total people.

ii. Historically, this section of the KPB has been placed in different regions, sometimes with the rest of the KPB, other times with an Aleutian Chain or Kodiak district. The Board considered draft plans that included all of these options.

iii. After discussion and deliberation, the Board determined that the most reasonable alternative was to incorporate this area into HD-32 in order to (1) avoid splitting the excess population of the KPB twice; and (2) to keep all of the rural areas of the KPB off the road system on both sides of Cook Inlet together in one district.

b. The 2013 Proclamation Plan also complies with the requirements of geographic proportionality. The only Borough that has been split more than once is the Mat-Su Borough, which the Board split twice as the most reasonable alternative to accommodate the excess population of the MOA as established by the Board Record and these findings.

c. The 2013 Proclamation Plan has an "Overall Range" (the difference between the largest and smallest election district) of 4.24% for House districts and 2.96% for Senate districts, by far the lowest overall deviations of any Alaska redistricting plan in Alaska's history. Deviations in the five major urban areas are even lower, all being well under 2%.

d. Each of the Senate districts is composed of two contiguous House districts.

e. While some plans submitted by third parties had lower overall deviation ranges, those plans had other issues with some or all of the Alaska constitutional requirements of contiguity, compactness, or socio-economic integration. The Board only increased deviations in order to maximize compliance with the Alaska constitutional requirements.

21. As discussed on the record, the Board reviewed the truncation issue and designation of Senate terms, and voted unanimously to truncate all Senate seats that had changed by 25% or more and who had been assigned four year terms in 2012. The Board found that this standard required truncation of the term of four sitting senators in accordance with the criteria set forth in *Egan v. Hammond*, 502 P.2d 856 (Alaska 1972):

a. These districts under the new system of identification are Senate Districts C, G, P, and S. The 2013 Proclamation Plan substantially changes the Senate districts these senators currently serve and they would otherwise not be required to stand for election in 2014 but for truncation. Because of the substantial change in the election districts, new elections are required in those districts.

b. The Alaska Constitution requires half the senators stand for election every two years (Article II, section 3). Therefore, at the general election in 2014, 14 senate districts will be up for election, the 10 senators assigned two year terms by the 2012 redistricting plan and the 4 senators whose terms must be truncated. All six of the Senate districts not required to stand for election in 2014 are effectively assigned 2 year terms, meaning they are not required to run for election until 2016. Four 4 seats, Senate Districts F, N, P, and T, are assigned two 2 year terms. Ten seats, Senate Districts A, C, E, G, I, K, M, O, Q, and S, are assigned four 4 year terms. The designation of two-year and four-year seats is shown in the materials provided along with the Board's Proclamation of Redistricting. Through this designation, 10 Senate districts will be up for election in 2016 and 10 in 2018, thereby meeting the requirements of Article II, section 3 of the Alaska Constitution.

c. This determination was made based on the data shown in the two tables which are part of the materials provided along with the Board's Proclamation of Redistricting.

**ADOPTED BY UNANIMOUS VOTE OF THE ALASKA REDISTRICTING BOARD THIS 14<sup>TH</sup> DAY OF JULY, 2013, AT ANCHORAGE, ALASKA.**

  
\_\_\_\_\_  
**JOHN TORGERSON**  
CHAIR - ALASKA REDISTRICTING BOARD

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WRITTEN FINDINGS IN SUPPORT OF ARB'S 2013 PROCLAMATION PLAN  
Page 8 of 8

EXHIBIT 5  
Page 8 of 8

# PL 94-171 Redistricting Data for Boroughs and Census Areas

## Population – All Ages

Area	Total	Race Alone						Hispanic/Latino		
		White	American Indian/ AK Native	Black	Asian	Pacific Islander	Other	Two or More Races	Hispanic	Not Hispanic
Aleutians East Borough	3,141	660	876	219	1,130	19	84	153	385	2,756
Aleutians West Census Area	5,561	2,004	857	332	1,606	103	348	311	726	4,835
Anchorage Municipality	291,826	192,498	23,130	16,226	23,580	5,901	6,846	23,645	22,061	269,765
Bethel Census Area	17,013	1,894	14,109	65	160	27	45	713	181	16,832
Bristol Bay Borough	997	481	334	0	8	3	4	167	24	973
Denali Borough	1,826	1,637	65	10	19	1	14	80	42	1,784
Dillingham Census Area	4,847	878	3,470	11	32	6	12	438	101	4,746
Fairbanks North Star Borough	97,581	75,175	6,879	4,423	2,591	396	1,446	6,671	5,651	91,930
Haines Borough	2,508	2,086	230	10	14	0	21	147	47	2,461
Hoonah-Angoon Census Area	2,150	1,014	890	8	12	1	6	219	77	2,073
Juneau City and Borough	31,275	21,814	3,692	279	1,919	218	386	2,967	1,588	29,687
Kenai Peninsula Borough	55,400	46,857	4,081	269	631	119	336	3,107	1,641	53,759
Ketchikan Gateway Borough	13,477	9,176	1,910	78	943	27	93	1,250	538	12,939
Kodiak Island Borough	13,592	7,522	1,797	92	2,660	87	397	1,037	996	12,596
Lake and Peninsula Borough	1,631	380	1,061	9	6	5	6	164	43	1,588
Matanuska-Susitna Borough	88,995	75,540	4,901	856	1,096	221	640	5,741	3,301	85,694
Nome Census Area	9,492	1,552	7,199	27	96	9	22	587	115	9,377
North Slope Borough	9,430	3,147	5,100	94	425	104	67	493	249	9,181
Northwest Arctic Borough	7,523	846	6,121	37	42	12	17	448	58	7,465
Petersburg Census Area	3,815	2,711	614	15	100	7	42	326	130	3,685
Prince of Wales-Hyder Census Area	5,559	2,799	2,207	17	21	21	20	474	127	5,432
Sitka City and Borough	8,881	5,798	1,493	47	529	30	113	871	437	8,444
Skagway Municipality	968	885	34	0	5	1	4	39	21	947
Southeast Fairbanks Census Area	7,029	5,651	808	76	64	18	69	343	234	6,795
Valdez-Cordova Census Area	9,636	7,127	1,315	46	354	54	46	694	349	9,287
Wade Hampton Census Area	7,459	201	7,085	1	18	0	3	151	7	7,452
Wrangell City and Borough	2,369	1,719	384	4	33	1	5	223	37	2,332
Yakutat City and Borough	662	281	237	2	27	12	1	102	17	645
Yukon-Koyukuk Census Area	5,588	1,243	3,992	10	14	6	9	314	66	5,522

## Population – Age 18 and Over

Area	Total	Race Alone						Hispanic		
		White	American Indian/ AK Native	Black	Asian	Pacific Islander	Other	Two or More Races	Hispanic	Not Hispanic
Aleutians East Borough	2,770	607	628	217	1,106	19	79	114	361	2,409
Aleutians West Census Area	4,746	1,744	654	330	1,421	93	323	181	627	4,119
Anchorage Municipality	216,040	151,621	16,461	11,654	16,710	3,538	4,792	11,264	13,666	202,374
Bethel Census Area	10,795	1,620	8,604	54	147	14	30	326	108	10,687
Bristol Bay Borough	772	408	248	0	7	3	4	102	15	757
Denali Borough	1,415	1,282	52	9	15	1	10	46	30	1,385
Dillingham Census Area	3,252	757	2,233	8	23	6	12	213	57	3,195

Fairbanks North Star Borough	72,580	57,906	4,896	3,109	2,118	265	1,051	3,235	3,496	69,084
Haines Borough	2,009	1,700	183	8	13	0	8	97	32	1,977
Hoonah-Angoon Census Area	1,726	876	707	4	7	1	5	126	46	1,680
Juneau City and Borough	23,939	17,616	2,691	221	1,420	136	291	1,564	1,008	22,931
Kenai Peninsula Borough	42,289	36,578	2,966	217	507	94	238	1,689	1,045	41,244
Ketchikan Gateway Borough	10,250	7,389	1,362	66	716	21	75	621	314	9,936
Kodiak Island Borough	9,698	5,664	1,226	72	1,893	63	266	514	578	9,120
Lake and Peninsula Borough	1,139	306	740	2	6	2	3	80	15	1,124
Matanuska-Susitna Borough	63,276	55,171	3,270	631	806	153	464	2,781	1,863	61,413
Nome Census Area	6,233	1,333	4,498	21	80	5	17	279	69	6,164
North Slope Borough	7,179	3,000	3,355	87	357	80	61	239	178	7,001
Northwest Arctic Borough	4,868	746	3,807	30	38	6	14	227	36	4,832
Petersburg Census Area	2,924	2,161	474	8	86	7	30	158	86	2,838
Prince of Wales-Hyder Census Area	4,135	2,253	1,574	14	18	14	17	245	72	4,063
Sitka City and Borough	6,791	4,691	1,107	34	414	21	82	442	276	6,515
Skagway Municipality	816	750	28	0	5	1	4	28	13	803
Southeast Fairbanks Census Area	5,180	4,250	568	54	60	12	55	181	148	5,032
Valdez-Cordova Census Area	7,288	5,633	921	40	268	37	41	348	221	7,067
Wade Hampton Census Area	4,358	172	4,100	1	13	0	3	69	4	4,354
Wrangell City and Borough	1,849	1,414	280	1	20	0	4	130	22	1,827
Yakutat City and Borough	500	227	178	2	27	5	1	60	10	490
Yukon-Koyukuk Census Area	4,036	1,020	2,819	10	11	2	8	166	41	3,995

### Housing Units

Area	Total	Occupied	Vacant
Aleutians East Borough	747	553	194
Aleutians West Census Area	1,929	1,212	717
Anchorage Municipality	113,032	107,332	5,700
Bethel Census Area	5,919	4,651	1,268
Bristol Bay Borough	969	423	546
Denali Borough	1,771	806	965
Dillingham Census Area	2,427	1,563	864
Fairbanks North Star Borough	41,783	36,441	5,342
Haines Borough	1,631	1,149	482
Hoonah-Angoon Census Area	1,771	913	858
Juneau City and Borough	13,055	12,187	868
Kenai Peninsula Borough	30,578	22,161	8,417
Ketchikan Gateway Borough	6,166	5,305	861
Kodiak Island Borough	5,303	4,630	673
Lake and Peninsula Borough	1,502	553	949
Matanuska-Susitna Borough	41,329	31,824	9,505
Nome Census Area	4,008	2,815	1,193
North Slope Borough	2,500	2,029	471
Northwest Arctic Borough	2,707	1,919	788
Petersburg Census Area	1,994	1,599	395
Prince of Wales-Hyder Census Area	2,992	2,194	798
Sitka City and Borough	4,102	3,545	557
Skagway Municipality	636	436	200
Southeast Fairbanks Census Area	3,915	2,567	1,348
Valdez-Cordova Census Area	6,102	3,966	2,136
Wade Hampton Census Area	2,183	1,745	438



Wrangell City and Borough	1,428	1,053	375
Yakutat City and Borough	450	270	180
Yukon-Koyukuk Census Area	4,038	2,217	1,821

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March 24, 2011

Senate Terms			
Proclamation Plan Senate District	Assignment of Term Length in '12 Election	Previous* Senate District	% Population of Previous* Senate District
A	4	F	53.5%
B	2	E	49.8%
C	4	D	49.0%
D	2	G	69.8%
E	4	G	51.7%
F	2	H	55.5%
G	4	J	53.4%
H	2	L	44.2%
I	4	L	41.0%
J	2	N	65.4%
K	4	N	37.6%
L	2	O	77.7%
M	4	I	30.8%
N	2	P	50.1%
O	4	Q	69.4%
P**	2	B	86.8%
Q	4	A	73.8%
R	2	R	44.9%
S	4	S	49.8%
T	2	T	78.1%

\* Previous refers to 2002 Proclamation Senate Districts

\*\* Incumbents in these districts will not stand for reelection in 2012

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EXHIBIT 7  
Page 1 of 1

APPENDIX 3

Page 1 of 1

AMENDED PROCLAMATION SENATE TERMS			
Proclamation Plan Senate District	Assignment of Term Length in '12 Election	Previous* Senate District	% Population of Previous* Senate District
A	4	F	56.3%
B	2	E	86.9%
C	4	D	48.4%
D	2	G	70.6%
E	4	G	51.5%
F	2	H	55.5%
G	4	J	53.4%
H	2	L	44.2%
I	4	L	41.0%
J	2	N	65.4%
K	4	N	37.6%
L	2	O	77.7%
M	4	I	30.8%
N	2	P	50.0%
O	4	Q	68.3%
P**	2	B	86.7%
Q	4	A	73.8%
R	2	R	44.4%
S	4	S	51.4%
T	2	T	78.3%

\* Previous refers to 2002 Proclamation Senate Districts

\*\* Incumbents in these districts will not stand for reelection in 2012

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BOARD CONCEPT SENATE TERMS				
Concept Plan Senate District	Assignment of Term Length in '14 Election	Proclamation Senate District	% Population of Previous* Senate District	Running in 2014
A	4	B	97.6%	X
B	2*	A	77.0%	
C	4	C	46.8%	X
D	2*	E	96.9%	
E	4	D	52.0%	X
F	2	F	49.3%	X
G	4	M	50.9%	X
H	2*	G	100.0%	
I	4	H	100.0%	X
J	2*	I	100.0%	
K	4	J	100.0%	X
L	2*	K	100.0%	
M	4	L	100.0%	X
N	2	N	50.1%	X
O	4	N	50.3%	X
P	2	O	51.3%	X
Q	4	p**	92.7%	X
R	2*	Q	90.7%	
S	4	S	54.3%	X
T	2	T	80.3%	X

\* Up for election in 2016

\*\* Incumbents in these districts did not stand for reelection in 2012

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2013 Proclamation District Population Analysis				
House District	Senate District	Total Population	Percent Deviation From Ideal (17,755)	Voting Age Population
1		17,726	-0.16%	13,737
2		17,738	-0.10%	12,457
3	A	35,464	-0.13%	26,194
4		17,673	-0.46%	12,423
5		17,786	0.17%	13,743
6	B	35,459	-0.14%	26,166
7		17,837	0.46%	13,839
8		17,807	0.29%	13,097
9	C	35,644	0.38%	26,936
10		17,703	-0.29%	12,492
11		17,830	0.42%	12,632
12	D	35,533	0.06%	25,124
13		17,739	-0.09%	13,184
14		17,827	0.41%	12,812
15	E	35,566	0.16%	25,996
16		17,716	-0.22%	12,414
17		17,671	-0.47%	12,744
18	F	35,387	-0.35%	25,158
19		17,678	-0.43%	12,439
20		17,818	0.35%	12,750
21	G	35,496	-0.04%	25,189
22		17,672	-0.47%	11,810
23		17,806	0.29%	13,192
24	H	35,478	-0.09%	25,002
25		17,797	0.24%	13,912
26		17,925	0.96%	14,324
27	I	35,722	0.60%	28,236
28		17,692	-0.35%	11,821
29		17,718	-0.21%	14,629
30	J	35,410	-0.28%	26,450
31		17,642	-0.64%	13,560
32		17,755	0.00%	12,969
33	K	35,397	-0.32%	26,529
34		17,809	0.30%	13,533
35		17,702	-0.30%	12,984
36	L	35,511	0.00%	26,517
37		17,924	0.95%	12,867
38		17,693	-0.35%	12,994
39	M	35,617	0.30%	25,861
40		17,678	-0.43%	13,122
41		17,778	0.13%	13,431
42	N	35,456	-0.15%	26,553
43		18,026	1.53%	14,203
44		18,021	1.50%	13,143
45	O	36,047	1.51%	27,346
46		17,971	1.22%	13,878
47		18,077	1.81%	13,119
48	P	36,048	1.52%	26,997
49		17,635	-0.68%	14,141
50		17,668	-0.49%	13,074
51	Q	35,303	-0.58%	27,215
52		17,825	0.39%	13,652
53		17,874	0.67%	13,572
54	R	35,699	0.53%	27,224
55		17,448	-1.73%	13,581
56		17,546	-1.18%	11,067
57	S	34,994	-1.45%	24,648
58		17,677	-0.44%	11,187
59		17,323	-2.43%	12,325
60	T	35,000	-1.44%	23,512

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EXHIBIT 10  
Page 1 of 1