

IN THE SUPREME COURT OF THE
STATE OF IDAHO

SPENCER E STUCKI, registered voter)
pursuant to the laws and Constitution)
of the State of Idaho)

SUPREME COURT NO.

49295-2021

Petitioner)

vs.)

IDAHO COMMISSION FOR)
REAPPORTIONMENT, and LAWERENCE)
DENNEY, Secretary of State of the State of)
Idaho, in his official capacity,)

Respondents.)

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PETITION CHALLENGING ADOPTED REDISTRICTING PLAN L03

Spencer E Stucki 5046 Independence Ave. Chubbuck, ID 83202

Petitioner challenges the adopted redistricting plan L03 on two grounds.

1. Counties, districts, and voters across the state were not given equal consideration in the adopted plan.

2. Commission dismissed submitted maps which split an eastern Idaho county because that would cause a ninth county to be split. Submitted maps used criteria that were found necessary to adjust the deviations in districts.

Rules and laws of the commission

The state constitution requires that state legislative districts "be contiguous, and that counties be preserved intact where possible." State statutes require that both congressional and state legislative districts meet the following criteria:

- County lines must be maintained "to the extent possible."
- Districts must "preserve traditional neighborhoods, communities of interest, and (if possible) voting precinct boundaries."
- Districts should not be "oddly shaped."

- In districts comprising more than one county or a portion thereof, "those constituent pieces must also be connected by a state or federal highway."

In these guidelines it is obvious that the "counties be preserved intact where possible" and "to the extent possible" is important. Not stated but of prime importance is "equal Protection" which is provided with low deviation numbers between the high and low districts. It should be noted that there are six counties that have to be split because of their population numbers. When they split they are combined with neighboring counties. It is important that any other county splits be minimized and only occur when it is necessary to achieve acceptable numbers. In the north, Bonner County has to be split because Boundary County, the farthest north panhandle county, with 12,058 people is not a large enough population by itself, but with Bonner's 47,110 they have more than enough for one district. Kootenai County has to be split because their population calls for 3.2 districts. It is pretty impossible to get out of north Idaho without another county split somewhere. Idaho County also goes from the east to the west border, in that part of the state, which limits options. As a result of a previous court ruling, the Commission operated with the guideline that only eight counties could have external splits. We just left north Idaho and we have used up the quota for external splits.

Ada and Canyon Counties come next. Ada has the population for 9.4 districts and Canyon 4.4 requiring some neighboring counties to join them. Twin Falls County population equals 1.7 districts as does Bannock County. Bonneville County has enough people for 2.4 districts. By not splitting any other counties in south or east Idaho, the Commission came up with the configuration in L03 for southeast Idaho. The commission had the goal to have no more than 8 county splits statewide. District 28 in Bannock County gives an example. Having the one full district in the City of Pocatello, what happens to the additional Bannock County residents? To balance the number of voters in the district to the east

3,464 were moved from Bannock County and added to district 35, splitting the Marsh Valley area¹. Franklin and Power Counties were included in district 28 to get the right amount of people for a district.

The provisions for counties and communities of interest or voting precincts both have “if possible” or “to the extent possible” attached to them whereas the oddly shaped and the highway provisions are stated without qualification. This commission took the testimony of the Ada County Clerk² and a tribal chief from north Idaho³ and applied it to the whole state in spite of almost all other clerks and tribal spokespersons testifying against splitting precincts and communities of interest. It is interesting to note that the majority used opposite arguments in their C03 and L03 plans when it came to splitting counties.

Preserving voting precinct boundaries and communities of interest should be preserved (if possible). Most of the testimony given by county clerks and some others were very much against splitting precinct boundaries. The Ada County Clerk had said that it didn’t matter because they could just draw up new boundaries as necessary. Drawing precinct boundaries is the responsibility of the county commission in each county and it does happen, generally upon recommendation of their county clerks. But when it involves rural precincts in smaller communities, it is different than in cities. In Bannock County four rural precincts were split, Arimo, McCammon, Pebble Creek, and Inkom, which, if allowed to stand, would require two separate ballots as they would be in two different legislative districts. It doesn’t seem practical and is questionable for rural precincts. At their final meeting the commission passed a motion stating that they couldn’t do their work without splitting precinct

1 Appendix VIII – Political Subdivision Splits Report
2 Appendix III - Minutes
3 Appendix III - Minutes

boundaries. In the second final meeting on November 10, one commissioner voted against passage, I think, hoping that the commissioner that voted nay with him on the Congressional map would join him, and the motion would have failed. They were given maps that didn't split those precincts and the Bannock County clerk gave specific testimony against splitting those three precincts.⁴ The statement about precinct boundaries includes communities of interest and also applies to these precinct splits. The two most populous areas of the Fort Hall Reservation are split by this plan. Also, the Marsh Valley area is a community of interest that is split by L03.

There is a provision about odd shaped districts. The districts in southeast Idaho look as though they could have been drawn to protect current Senators. I contend that district # 28 is an odd shaped district. As you look at it on the map, you see Franklin County which adjoins southern Bannock County and includes Downey. Then it goes through low populated areas to the west, the split off portions of three precincts, and misses the cities of Arimo, McCammon, and Inkom. The district then skips most of Pocatello but includes Chubbuck and includes all of Power County to the west. The Marsh Valley area and school district is split in two. District 8 and 35 are odd shaped districts also. A newspaper columnist⁵ stated that Bear Lake, Franklin, and Oneida counties, long linked together in one district, will now be linked to Driggs, American Falls, and Burley in separate districts. The commission in their final report stated that public opinion at the hearings overwhelmingly favored keeping those three counties together, but that they were unable to find a way to do it.⁶ Several options were presented, however, one that wasn't discussed was including Power County in district 27 with Cassia and Minidoka which gives a deviation of +3.0% whereas with Oneida it was -3.26%. Publicly submitted plans were dismissed as they split nine counties. The people and counties were not all treated the same

4 Appendix III - Minutes

5 Randy Stapilus, November 21, 2021 Idaho State Journal p. B6

6 Final report 44 District 27. A.

statewide. Hearings began in the Treasure Valley, moved to north Idaho, then to south central Idaho, and finished up in eastern Idaho.

Then there is the provision about requiring a state or federal highway to connect the areas of a district. This provision also had a motion stating that the commission couldn't complete their work if they followed this requirement. Plans were submitted that had connecting roads⁷. How do you drive from Mackay to Mountain Home or Glenns Ferry or even McCall. What about from Burley to Malad or Paris to Driggs?

The Commission, being constrained by the no more than eight external county splits, had no choice but to draw the southeast Idaho districts as in L03. All submitted plans with a nine county split were dismissed in spite of overwhelming testimony in favor of them. Given an interpretation of "avoiding county splits if at all possible" which would allow a county split for east Idaho, districts could be drawn allowing highway connections, no rural precincts or communities of interest to be split, and would be more compact and logical in their configuration, not be oddly shaped. Teton County could be connected to Fremont County rather than Bear Lake and the three counties on the south could remain in the same district. State highway 32 does connect Teton and Jefferson counties.

It should be noted that the commission only gave about 24 hours notice between making L03 public and their adoption of it, not enough time for public reaction. They did come back and redo their vote on the 10th, but I saw no public announcement. The only significant changes made to eastern Idaho between L01 and L03 was to move the Mink Creek precinct from 29 to 28 and crossing the interstate to the east to add some of the Highland area to 29. The western boundary for district 35 in Bannock

⁷ Plan L074 et.al.

County was moved east to I 15. I am also concerned about the inordinate number of Census block use in L03 as shown in L03 block equivalency in the appendix⁸. The Block Equivalency report for L03⁹ gives more concise details.

REQUESTED ACTION:

I would ask that plan L074 be considered. This plan was prepared using L01 as the basis and mostly involved changes to eastern Idaho including splitting Bingham County to achieve adequate numbers. This plan would dovetail nicely into L03 for the Treasure Valley southwest Idaho area. Adams County becomes the problem. It is one of the smallest counties by population and fits much better with those counties to the south and east of it than it does to northern Idaho. Much testimony from northern Idaho favored dividing at the Idaho County line.¹⁰ Northern Idaho as in either L074 or L03 could be adopted, though it would require some adjustments to adjust deviation numbers, there may be fewer county splits. Clearwater County is a problem of where to put it because of roads. This map provides the most compact arrangement for the large counties with small populations for the state as a whole. This plan makes sense considering roads and community of influence. Plan L078 is another plan to consider. I would ask for the reviews of written testimony submitted to the commission and the explanations given for districts 28 and 35 in their final report findings pages 77 - 95.¹¹ As I was unable to find my complete written testimony in the final report, I am including it as an addendum to this filing.¹²

1. Declare adopted plan L03 inadequate in meeting the needs of counties in southeast and elsewhere in Idaho and ask the commission to make appropriate revision. Northern Idaho district seven to end at the southern boundary of Idaho County, with appropriate adjustments to meet population deviation goals in

8 L03 Block Equivalency

9 Appendix VI

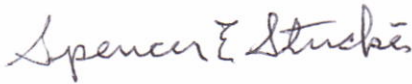
10 Appendix III - Minutes

11 Final Report 44 District 27 to 52 District 35

12 Plan L056 was modified to become L074

districts 1 through 6. No adjustments would need to be made for the Treasure Valley area from L03, only as necessary to dovetail. A plan similar to submitted plan L074 be adopted for the rest of the state, south central and eastern Idaho.

2. Declare that given the populations and geographical boundaries of counties in the state of Idaho that 9 county external splits does not exceed the rigid requirements of the Constitution of the State of Idaho when used to give equal and reasonable representation to the people. When by so doing it enables the road provision and avoids splitting precincts and communities of interest unnecessarily for a better overall result.



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CERTIFICATE OF SERVICE

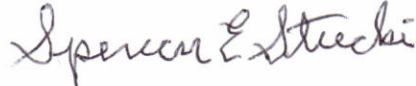
I HEREBY CERTIFY that on 26th day of November, 2021 a true and correct copy of this PETITION CHALLENGING ADOPTED REDISTRICTING PLAN L03 was sent to the following:

Idaho Commission for Reapportionment
PO Box 83730
Boise, ID 83720

U.S. Mail
 Email: redistricting@redistricting.idaho.gov

Lawrence Denney
Idaho Secretary of State
450 N. 4th Street
Boise, ID 83702

U.S. Mail
 Email: elections@sos.idaho.gov



/s/ Spencer E Stucki

Petitioner

