

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 LAWRENCE)
DENNEY, Secretary of State of the State of)
Idaho, in his official capacity,)

Respondents.)

PETITION CHALLENGING ADOPTED REDISTRICTING PLAN L03

Spencer E Stucki 5046 Independence Ave. Chubbuck, ID 83202

I. Introduction

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 found necessary to adjust the number 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."ⁱ

II. Background

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 primary 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 occurs, 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, in those split precincts as they would be in two different legislative districts. It doesn’t seem practical and is questionable for rural precincts. At their

1 Appendix VIII – Political Subdivision Splits Report

2 Appendix III – Minutes - Boise September 16, 2021

3 Appendix III – Minutes – Coeur D’ Alene September 22, 2021

final meeting the commission passed a motion stating that they couldn't do their work without splitting precinct 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 plan⁵. Also, the Marsh Valley area is a community of interest and school district 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. Districts 8 and 35 are odd shaped districts also. A newspaper columnist⁶ 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.⁷ 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

4 Appendix III – Minutes – Pocatello October 6, 2021

5 Appendix III – Minutes – Fort Hall October 6, 2021

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

7 Final report 44 District 27. A.

plans were dismissed as they split nine counties. The people and counties were not treated equally 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 roads⁸. 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, more districts could be drawn with highway connections, fewer rural precincts or communities of interest would be split, and districts 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 Fremont counties, whereas in L03, Fremont is not connected to Clark County by highway.

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 no public announcement. The only significant changes made to eastern Idaho between L01

8 Plan L074 et.al.

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 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 appendix⁹. The Block Equivalency report for L03¹⁰ gives more concise details.

III. 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.¹¹ 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 - 95.¹² As I was unable to find my complete written testimony in the final report, I am including it as an addendum to this filing.¹³

9 L03 Block Equivalency

10 Appendix VI

11 Appendix III – Minutes Lewiston October

12 Final Report 44 District 27 to 52 District 35

13 Plan L056 was modified to become L074

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 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, avoids splitting precincts and communities of interest unnecessarily, and without oddly shaped districts for a better overall plan.

/s/ Spencer E Stucki

Spencer E Stucki
Co-chair Committee for Fair Elections
<https://committeeforfairelections.org>
5046 Independence Ave.
Chubbuck, ID 83202
Phone: 208-604-3393
Email: commffelect@gmail.com

VERIFICATION

I, Spencer E Stucki, petitioner and a qualified elector in Bannock County in the State of Idaho, declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Spencer E Stucki
Spencer E Stucki, Petitioner

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

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

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

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

 /s/ Spencer E Stucki

Petitioner

Written Testimony submitted by Spencer Stucki prior to the remote hearing of 10/12/2021.

Plan L056

Let me speak about plan L056. My goal as I started this mapping process was primarily focused on Districts 7, 8, and 32 from the last redistricting and eliminating the problems caused in those districts. As the base for this plan I used plan L01 from the commission and modified it to fit my goal for southeast Idaho. At first glance it appeared across southern Idaho to have districts with a very north south orientation and Bear Lake was still combined with Teton and a large chunk of Bonneville County along with a part of Bannock County. Commissioner Pence being from Teton, I'm surprised she would want to be attached to Bear Lake. There is no direct connection between the two. It can't even be said that the road through Bone ties Bonneville to Caribou County. That road goes to Bingham County. I did like the way that no counties were split except for Nez Perce and some difficult combinations were split up. I liked the way L01 had drawn the lines in the Magic Valley area. I first switched Oneida and Power Counties because it was a better fit for Oneida County. Oneida County is not tied to Cassia County by I-84. I-84 barely passes through a remote underpopulated corner of Oneida County. I joined Butte and Custer Counties with Jefferson County along with the western area of Bonneville County in District 32. I think Commissioner Davis indicated that part of Bonneville County was in his district when he was first elected. It was needed for numbers in that district. I joined Fremont County with Teton County and eastern Bonneville County for District 28. Bonneville County still has two complete districts within the county. Bear Lake and Caribou County were added to Franklin and the southeast area of Bannock County in district 27. The northern area of Bannock County including the reservation community of interest area was added to Bingham County. The boundary of district 29 was moved north across I-86. My final moves added some eastern areas of Bingham County, which is tied to Bonneville including by the road through Bone, to district 28. This split was necessary to balance out diversions in population in neighboring districts. As a result of moving Custer County out of district 8, that district was short of people so I added Adams County from District 7. This plan makes for a much better plan than the current in place plan, remembering districts 7, 8, and 32, and maybe 23 and 25. Plan L056. Consider the Sandpoint situation and that it would be around a four hour drive to get from Teton to Bear Lake County. In the hearing in Burley the sub-committee for eastern Idaho asked for help with ideas for how to handle Bannock and Eastern Idaho, L056 is my suggestion.

North Idaho L055 & L060

After listening to the Lewiston hearing I went back to my previous proposal and made a couple of changes that eliminated an external split of a county. It hardly seems right that a county that has enough population to have more than a district, and is forced to join with another county, should count as an external split against the allowed eight. All the larger population counties have at least one complete district entirely within the county and then the balance is added to other counties. Even Ada and Canyon Counties, in L01 had external splits joining with Owyhee County in District 23. My move of Adams County to District 8 kept the district that includes Idaho County from including any county below the Salmon River. To me this plan only splits three counties Bonner, because it is forced, Nez Perce (or Idaho) because something had to give somewhere, and Bingham because it became necessary and was actually somewhat logical. My plan L026 was referred to at this hearing as a better way by dividing Idaho County rather than Nez Perce. If there was a way to modify and keep district 7, Idaho County, all north of the Salmon and district 8 south I could go for that. I have

submitted two plans, one revising My L026 plan only as a regional plan concerning splitting Idaho County. The second plan revising L026 made changes for a statewide plan meeting deviation standards, they are L055 and L060. Almost unanimous agreement with L01 in Twin Falls.

L056

On a historical note, I would like to point out that when redistricting was first done, Bear Lake, Caribou, and Franklin Counties were one complete district. There was a sort of gentleman's agreement that each county would have one of the legislators. As redistricting occurred through the years, first Oneida County was added. Before that they had been linked with southern Bannock County in a district. Another time Downey and Lava were added to those southern counties. Then instead of going further into Bannock County, in order to keep Bannock County more intact, eastern Bonneville County was added. My father represented that district from Bear Lake County for nine years in the Idaho House and now his position, in recent years, was held by a representative from Ammon. There is no direct connection from Bonneville County to Caribou and Bear Lake Counties. Plan L044 and L047 and now L056 keep those southeast counties together and connect them in a compact and contiguous and logical manner with southern and eastern Bannock County. Taking I-15 south from Pocatello, with available exits, major roads lead to all the southeast counties in that district. It would seem that often Bear Lake County is an after thought, lets just put it with these other areas that haven't been assigned. It should be handled like, what is a good combination for the county to be added to.

Speaking of the Congressional District plans, I was curious as to why they kept referring to C024 as the plan they preferred in the Twin Falls hearing. I don't see that much difference from C01. My preference would be C018 but either C01 or C024 or similar plan would be acceptable.

Legislative District Public Plan L074 by Spencer Stucki

