IN THE SUPREME COURT OF THE STATE OF ALASKA

In the Matter of the 2021 Redistricting Cases (Alaska Redistricting Board/Girdwood Plaintiffs/East Anchorage Plaintiffs)	) Supreme Court No. S-18419

Trial Court Case No. 3AN-21-08869CI

PETITION FOR REVIEW FROM THE SUPERIOR COURT
THIRD JUDICIAL DISTRICT AT ANCHORAGE
THE HONORABLE THOMAS A. MATTHEWS

ALASKA REDISTRICTING BOARD'S EXCERPT OF RECORD
VOLUME 1 OF 1

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Binkley - Borromeo Texts

4:56 LTE

New iMessage Cancel

To: Nicole Borromeo

Sat, Apr 2, 3:43 PM

Madam Chair.
My audio is so poor, I don't believe you can hear me.
Thanks for chairing the meeting.
John.

No problem. Lots of technological difficulties. Hopefully we can get them figure it out by Monday.

iMessage

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Tue, Apr 5, 11:08 AM

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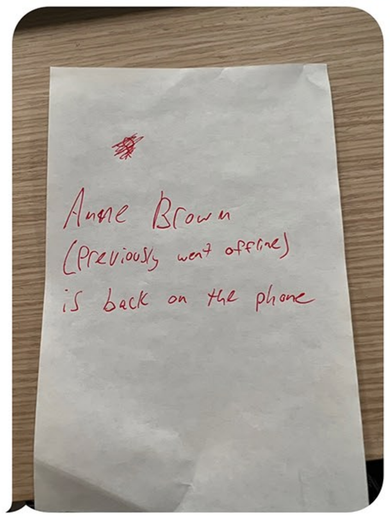

iMessage

Borromeo Texts

1:31

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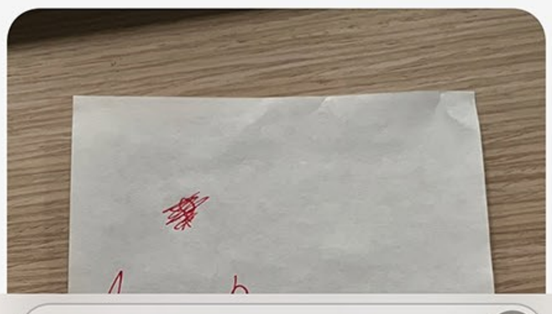

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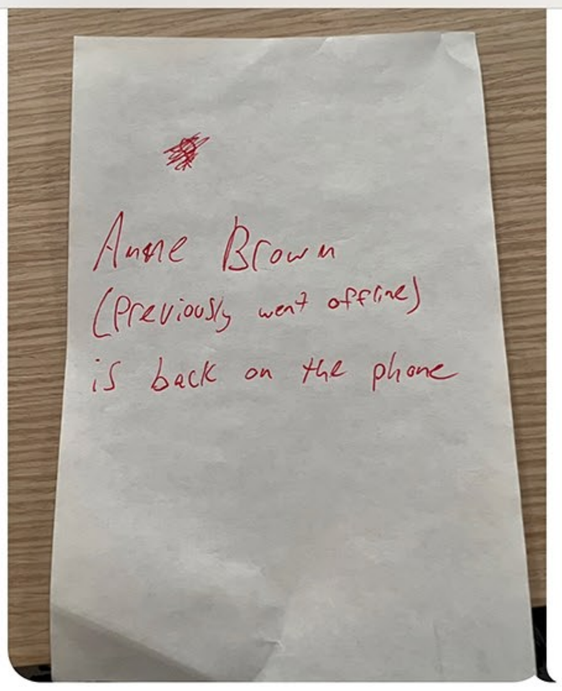

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Wed, Apr 6, 11:32 AM

No follow up.

Thanks

Let him off ;)

Read 4/6/22

iMessage

1:24

BS
Budd

iMessage
Wed, Feb 16, 4:35 PM

Hi, Budd. I'm wondering if you have time for a 10 minute call later today? Thanks for considering.

—nb

Tue, Apr 12, 9:31 AM

Good morning. Are you coming up for the hearings this week?

Delivered

Tue, Apr 12, 12:34 PM

Hi Nicole. I'm going to Zoom for these.

iMessage

1:25

HB
Hallie

would love love love to have you. I do know that you are incredibly busy, No need to run the other di way when you see me but I did want you to know I agree with Ana!!

I tried to get on your board at one point. I think it was right before you took over? They rejected me. 😂 THEN asked me to be a special adviser on their legislative committee.

Well F that!!

That's basically how I felt at the time. LOL. 😉

Let's talk after redistricting. It should be over on Friday. I have to say focused.

Yes please! I will buy you lunch

Sounds like a plan. I'll connect after Easter.

Delivered

Meanwhile kelp whipping those redistricting folks into shape!!

iMessage

CERTIFIED TRANSCRIPT

ALASKA REDISTRICTING BOARD MEETING

TUESDAY, APRIL 5, 2022

VIA VIDEOCONFERENCE

Transcript of Proceedings

Participants:

John Binkley, Chairman
Melanie Bahnke, Board Member
Bethany Marcum, Board Member
Budd Simpson, Board Member
Nicole Borromeo, Board Member
Peter Torkelson, Executive Director

CHAIRMAN BINKLEY: Thank you, Susan. Questions for Susan for board members?

Nicole, I see you've got your hand up.

MEMBER BORROMEO: Thank you very much. I've got three questions for the caller.

You mentioned that certain people are using this process to promote themselves. Can you be more specific who is promoting themselves through the process?

MS. FISCHETTI: I feel like there are -- I don't want to use names. My name was used. I don't really appreciate it. I'm not going to use other names. But there are some people on the board and there are some other so-called, you know, testifiers that have been on, and I just know that they're politically motivated, that this is a gerrymandering move, in my opinion. (Indiscernible) I can say.

MEMBER BORROMEO: It would be helpful as a board member to know who on the board is promoting themselves so I can have a conversation with that person and ask them to get back to the best interests of the state and wrap up our constitutional duties. Perhaps you'll share those names in the future.

Second question is, you said that the Bahnke plan has gone too far. What is your proposed solution then? Do you have a correction that the board can weigh?

MS. FISCHETTI: I believe that since we've now been told that we can't be paired with East Anchorage, which we've done many times in the past, that the options are to pair the Eagle River Valley with the South Hillside area, pair Chugiak with JBER. Whatever has to be done to fix those lines and numbers, that's what we need to focus on. We don't need to, you know, reinvent the entire map. It's just those areas.

MEMBER BORROMEO: Okay. Thank you. Following up from your previous testimony -- and I realize that you have since changed your mind before you -- from the time that you weighed in in the municipality's apportionment process -- but I'm having a hard time understanding, and perhaps you can explain that, why you didn't feel Chugiak and Eagle River was contiguous with South Anchorage but now you're advocating for that position.

MS. FISCHETTI: Okay. I've lived here for 40 years. Some of the members on the board are not from Anchorage or Eagle River. So I do feel like I can speak a little bit more to the subject because I've actually been here, and I've been involved the entire time.

When we were paired with Anchorage the few times, it was difficult for us to meet sometimes because you'd have to, you know, drive a distance or whatever, but at this point in time, you know, we don't have an option.

I don't see anything else that we can do. We do have a lot in common with them. We do have our own road service area. We do live across the mountain from one another. And we can communicate now with Zoom and teleconferences, which we really didn't do back then.

So I have no problem with it now, you know. My first choice would be something else, but I'm not left with anything else to choose from at this point.

MEMBER BORROMEO: Thank you. One follow-up question and then I'll go to my final question --

CHAIRMAN BINKLEY: Okay. Let's see. You -- you had two. You've got some more, Nicole?

MEMBER BORROMEO: Yeah. Just -- just one more, Mr. Chairman.

CHAIRMAN BINKLEY: Okay.

MEMBER BORROMEO: Your testimony also asked us to take the time. What is the time? Is there a date certain that you'd like to put on the record?

MS. FISCHETTI: I realize that, you know, timing is important because we do have an election year that we're dealing with. I really don't like to put a time limit on anything. I've had other issues go on in my life where somebody says, I'm going to get back to you on Sunday and never hear back from them. Going to get back to you on Monday, don't hear back. I don't want to put a

specific time, but it's been ten days. You know, if it's a 30-day period, something that, you know, is reasonable to give people a chance to understand.

Today everybody that I know is at work. They can't even call in or testify. They don't even realize what's happened. I know it's been in the news, but it's very difficult for the average working person to understand what you're even talking about unless they tune in every day and listen and get educated on it. So I don't know what the exact time is, but ten days or, you know, two weeks is really a short time frame, because I think it's your responsibility as a board to look at those -- that Senate District K and come up with a different solution. But the solution of the Bahnke plan is not the solution.

CHAIRMAN BINKLEY: Okay. Thank you, Susan. Thank you, Nicole. Bethany, I see your hand up.

MEMBER MARCUM: Yes. Thank you, Mr. Chairman.

I wanted to apologize to Ms. Fischetti. I feel like the comment that was made to you about changing your mind was a bit insulting and so I want to apologize. I understood your explanation, the fact that why your testimony had changed once the Court had ruled in a way that was not compatible with what your first options were, so I wanted to apologize for the fact that I felt like

that was insulting to you.

But mostly I want to say thank you for the historical perspective that you provided regarding the different pairings that Eagle River has had in the past. That is very important and valuable information for us as a board. So I want to thank you for taking the time to share that today.

MS. FISCHETTI: Thank you.

CHAIRMAN BINKLEY: And I might add my thanks, too, Susan, because that was very interesting. I had an opportunity to serve in the Senate with some of these individuals back in the '80s, and it was interesting. You know, you don't even think about the specifics of their district when you're in the legislature, but it's facinating to hear that now. So thank you for that historical perspective as well.

MEMBER BAHNKE: Mr. Chair?

CHAIRMAN BINKLEY: Yeah, Melanie. Go ahead.

MEMBER BAHNKE: I'd also like to comment since there seems to be speculation about the plan that is being called the Bahnke plan. For some historical perspective, I actually mentioned yesterday that I worked on this plan with Budd during a work session, and it's a plan that I listened to the advice of our VRA expert and our attorney, took their advice into consideration when I made that

plan. I did not work with Scott Kendall or Tom Begich or even Nicole on this map.

I asked the Chairman if I would have support for this map and was told yes, and that is why I was completely surprised when we adopted Bethany's map instead. I did not look at incumbent information and I did not have partisan, political motivations when I worked with Budd on this map.

CHAIRMAN BINKLEY: I just have to comment that I'm not sure what you're talking about, Melanie, but if you somehow thought that I supported your Senate pairings, you were completely mistaken. I did not --

MEMBER BAHNKE: That was the -- that was the impression I had. So we can disagree about that.

CHAIRMAN BINKLEY: We certainly can. Okay. Let's move on.

Let's see, the next one it looks like that's signed up is Patty Wisel for Fairbanks. Patty, are you still in the room?

MS. WISEL: Yes, I am. Can you hear me?

CHAIRMAN BINKLEY: Yes, we can, Patty. Go ahead.

MS. WISEL: Okay. Thank you. Yes, this is Patty Wisel, along with my husband John, from Fairbanks, and we are calling to oppose the Senate minority plan

called the Bahnke plan and request the board to consider a plan more representative of similar socioeconomic profiles and equal Senate seat alignments. Again, we oppose the Bahnke plan from the Senate minority. And I am new to this, so I'm probably not going to be able to answer the questions, but we want to go on record as opposing this plan.

CHAIRMAN BINKLEY: Okay. Thank you. Nicole, I see you have a question.

MEMBER BORROMEO: Thank you very much, Patty. And hello to your husband John as well. If you feel comfortable at this point, I would like to hear what you and John would propose for a correction to the Anchorage unconstitutional gerrymandering in Senate District K.

MS. WISEL: Yes. Like I said, we're -- we're new to this. I'm learn being this. But we just want to go on record as opposing this Bahnke plan.

MEMBER BORROMEO: Okay. Follow-up question.

CHAIRMAN BINKLEY: Okay. A follow-up for Nicole. Go ahead, Nicole.

MEMBER BORROMEO: Thank you. Patty and John, are you familiar with the Municipality of Anchorage, its neighborhoods, churches, schools, shopping centers, private industry?

MS. WISEL: Yes, we have property there. Just

don't live there.

MEMBER BORROMEO: Okay. Fantastic. I'm just trying to glean from you, if you will be so generous to share, what specific objections you have to the plan that is being termed the Bahnke pairings as it relates to gerrymandering.

CHAIRMAN BINKLEY: Just if I could interject here, I think -- I think that she indicated, Nicole, that she didn't know all the specifics. She is just getting up to speed on this and probably couldn't answer specific questions about that. So I think that was in your first question about why do you oppose the Bahnke plan. And so I think she's already answered that question.

MEMBER BORROMEO: And that's fine, Mr. Chairman. I appreciate you interjecting on her behalf. She did call in to testify today publicly, and I believe it's my duty as a board member to help understand what she's testifying to. I don't understand a blanket statement that pairings are gerrymandered if they're not supported. So thank you very much, Patty and John, for taking time out of your day to call in and provide testimony.

MS. WISEL: Yes, thank you.

CHAIRMAN BINKLEY: Thank you. Bethany, you've got your hand up.

MEMBER MARCUM: Yes. My question is not for the

1 caller. I just wanted to make an observation that,
2 Chairman Binkley, whenever you made questions of the
3 testifiers in Fairbanks, you were kind of called out for
4 that, for kind of badgering the testifiers. You mentioned
5 that earlier when we started this meeting, that, you know,
6 there was insinuation that you shouldn't be able to ask
7 these sorts of detailed questions of the testifiers.
8 And now the same thing is happening today with
9 folks. And so, you know -- and I know that you felt like
10 that was a fair thing to do, which I do as well. But I
11 just wanted to point out that the others on the board seem
12 to have taken a different view when you were asking
13 questions of testifiers than when we're choosing to ask
14 those same questions of testifiers today. So thank you.
15 CHAIRMAN BINKLEY: Okay. Thank you. And thank
16 you, Patty and John. And we're going to move on. Let's
17 see. The next one signed up is in the Anchorage LAO.
18 Robert Hockema. Robert, are you there? Good morning.
19 MR. HOCKEMA: Good morning. Can I be heard
20 well?
21 CHAIRMAN BINKLEY: It's a little weak. If you
22 could speak right into the microphone, Robert, that would
23 really help us. I hate to have my ear to my computer and
24 my camera looking --
25 MR. HOCKEMA: (Indiscernible). Is this better?

CHAIRMAN BINKLEY: Say again.

Mr. Hockema: Am I close enough?

CHAIRMAN BINKLEY: That's helpful. Yes, please proceed.

MR. HOCKEMA: May I begin?

CHAIRMAN BINKLEY: Please.

MR. HOCKEMA: This is Robert Hockema, and I am representing myself. I've been involved in the state-level redistricting process since the beginning and was heavily involved with the Anchorage reapportionment process. I even drew a couple of the maps and was heavily involved.

I'm here today to encourage the board to adopt Melanie Bahnke's proposed Senate pairings. These pairings connect communities of interest that would reasonably represent the interests of Alaskans, especially Anchoragites. First and foremost, they connect North and South Muldoon in 20 and 21. This is the best contiguous pairing that's available. It's superior to the U-Med connect to the west, which is far less socially, economically connected, and superior to the alternative Abbott Loop District, which contains completely different sets of school districts, community councils, and community priorities.

I'd like to take a minute to say that just

1 because Muldoon has been compared with Eagle River in the
2 past doesn't mean that those pairings were ever just or
3 fair in the first place. Right? It keeps happening
4 because Muldoon has been consistently steamrolled and
5 disenfranchised by state and local official prophesies.
6 Highly engaged, high-income, high-turnout communities like
7 Eagle River and Chugiak will always have more sway than
8 folks who live in the working-class communities who are
9 too busy living paycheck-to-paycheck to come listen to
10 folks justify why they deserve to get steamrolled again.
11 Second, I support the pairing because it keeps
12 important communities together. These are communities
13 that have repeatedly asked to stay together during both
14 state and municipal reapportionment testimony. This
15 includes Spenard and Turnagain being kept together in 14
16 and 16. Airports Heights and Midtown in 18 and 19.
17 Hillside and Southside in 9 and 11, as Christopher
18 Constant mentioned earlier. And the Southport and Klatt
19 communities in Oceanview in 10 and 15.
20 And lastly, (indiscernible) it shares JBER with
21 Anchorage as opposed to handing it over to Eagle River by
22 default, as other previous redistricting and
23 reapportionment processes have done thus far.
24 The majority members of the board rushed through
25 and unconstitutionally politically gerrymander and refuse

1 to consider these pairings that are on the table proposed
2 right now. They make sense, they're defensible in court,
3 they have broad support, and they deserve to be discussed
4 by the board. Right now there is no discussion or
5 proposals from any other board member but Melanie.
6 I think it's incumbent on the remaining board
7 members, particularly those who are objecting to these
8 proposed pairings without any stated grievance to stop
9 holding their cards close to their chest and be honest
10 about the pairings that they prefer. They need to be
11 honest with Alaskans and stop waiting until the very last
12 minute just to say that they oppose Melanie's pairings for
13 X, Y, and Z stated reasons. There needs to be
14 transparency, unlike the last set of processes, which is
15 exactly why this pairing went to court.
16 I'd also like to use my time to advocate against
17 stalling this process. The filing deadline is less than
18 two months away for candidates. That's 60 days. Voters
19 deserve to know who their incumbent representatives are
20 and who they're going to be voting for. This election
21 cycle will be crazier than usual with 59 legislative
22 seats, multiple statewide seats, and a brand new set of
23 special elections to (indiscernible) Don Young. Right?
24 And the more clarity voters have, the better equipped we
25 are to hold a fair, trusted, and credible election process

this year.

I implore the board to consider these pairings and at the very least avoid trying to pair South Muldoon with an uncontiguous and unsocioeconomically connected district. I think the North and South Muldoon pairings are the baseline for what should be done to correct this process.

Thank you guys for your time and thank you for your involvement in this process. It is a great service to the state and it's incredibly helpful. I'm very happy to be participating. Thank you.

CHAIRMAN BINKLEY: Thank you, Robert.

Questions or comments for Robert? Okay. Let's move on to Randy Ruedrich in Anchorage.

CHAIRMAN BINKLEY: Good morning, Mr. Ruedrich.

MR. RUEDRICH: Good morning. I'm Randy Ruedrich with Alaskans for Fair and Equitable Redistricting. I made a brief presentation yesterday and to avoid confusion, I think the best thing for me to do is to assume those comments were not made and start over since they were boxed very tightly.

I appreciate the work of the board in assembling the proclamation which had defects, accomplishments, and generally a map that not everybody liked very well. That is a huge indication that it's pretty good. If you -- if

every -- if a few people liked it a lot and a few people disliked it a lot, the Court would have given us many more opportunities to fix things. There's been a map that has had 27 House Districts redrawn because it was just poorly done. So you're to be commended for getting close.

I'm going to focus this morning on the Anchorage Senate District 6. In looking at East Anchorage and its neighboring northern area Eagle River and Chugiak, they have been paired in various ways for various reasons primarily because it's a numbers game. And the numbers are different when you're looking at the House and two House seats for a Senate seat versus Anchorage assembly seats. So what someone would like to have for a House seat not only doesn't relate very well to what they want for an Anchorage assembly seat --

CHAIRMAN BINKLEY: Randy, I hate to interrupt. Is there -- is there any chance you could pull that microphone a little bit closer?

MR. RUEDRICH: I'm sorry. I thought I was close enough.

CHAIRMAN BINKLEY: Well, it's really the sound is fairly poor, and the closer you can get it, the more helpful it will be for us.

MR. RUEDRICH: Okay. In the last decade it took three Anchorage House seats to create an assembly seat.

Look at one set of testimonies versus another is comparing apples and grapefruits. We're here today to talk about House Districts that have been accepted, reassembling them to the extent necessary to create one repair as directed by the Court with a minimum impact on the map.

I appreciate the fact that some people believe they're running for office already and if we change their districts, their world gets truly turned upside down. In view of that consideration, I have presented a map which the board received yesterday about 4 o'clock, 3 o'clock, something like that, which represents the Anchorage eight Senate seats, three of which will be Senate seat F, Districts 11 and 12; South Anchorage is not changed; Senate seat H in West Anchorage, Districts 15 and 16 is not changed; and Senate seat L, 23 and 24 the northern districts of the municipality are not changed. So that says we're working within a ten House seat remainder.

As I testified months ago, in November, South Eagle River could be paired with District 20, 21, or 9 in the current map. If you pair with 9, you're putting all the significant municipal uplands together. These are the road service areas, fire service areas that are in many cases mostly road service and snow removal issues are the common challenges in our uplands. This is not the first time this has been done.

It was done in 2001 by combining parts of this Senate district when the populations were lower in a single House seat while everything in Anchorage, the municipality, is socioeconomically integrated. Folks like to talk about better than, which I don't think exists, but House District in 2001 survived unchallenged after being redrawn post-court action. So we have the Eagle River Valley and related area combined with South Anchorage now in a Senate seat since they've grown big enough to each be a House seat.

This area will serve us well. And you make this change, House District 10 and 13 in South Anchorage forms Senate District G. This is the area that would be bifurcated essentially by Dimond Boulevard and is a (indiscernible) recapture of the Senate seat that exists today. At least 70 percent are the same folks.

MEMBER BORROMEO: Would you clarify which district you're talking about again? I'm sorry. Which district are you talking about there again?

MR. RUEDRICH: I was -- District 10, Oceanview, and District 13, Taku/Campbell for the most part. Okay?

MEMBER BORROMEO: Okay. Thank you.

MR. RUEDRICH: If we go immediately north of there, since we've taken 13, we cannot pair with 14 any longer, Senate District I pairs 14 with 17 in Central

Anchorage. These two districts were the historical residential development of the City of Anchorage and redevelopment has been a major recent consideration. There have been a number of new homes built on lots within hundreds of yards of my house replacing 70-year-old homes. So redevelopment is a key part of what we live with, and there is the benefit of sharing a senator with Spenard and if it goes over, into Midtown with the now north of -- south and north of Chester Creek up into the South Addition.

We then get to a district that, as you put it together, has a very unique situation. Many of us have talked about 18 as the U-Med district and has always ignored the fact that 19 is also a Med district. 19 is the home of the entire Regional Hospital complex. 18 is the Alaska Native Hospital and Providence. So we create Senate District J, 18 and 19, as an enhanced medical community with a lot of folks living around it that work for it and many people that live there have moved there to be closer to those health care facilities.

And finally, we have proposed to put House District 20 and 21 that lie along either side of Muldoon Road into Senate K. Already site Anchorage district combined the North Muldoon/Northeast Community Council area with area south of it.

I urge you to look at this. This only impacts five senators, not eight, and allows us to fix the problem that the Supreme Court has raised. I thank you for your time.

MEMBER BAHNKE: John, you're muted. You're still muted, Mr. Chairman. We can't hear you.

MR. SINGER: John, you're muted. Mr. Binkley.

MEMBER MARCUM: Peter probably has to unmute him.

CHAIRMAN BINKLEY: Don't know how that happened. Apologies. Okay. Melanie and then Nicole.

MEMBER BAHNKE: Thank you, Randy, for your testimony. I do have a question. One of the things that I read in the Court's decision was as far as Senate District K goes, the problem was with cracking Eagle River, and I don't know that your map solves that -- solution.

My question to you --

MR. RUEDRICH: I'm sorry. You're -- I'm sorry, Melanie. I cannot understand you. You're speaking a little bit too fast for the quality of transmission.

MEMBER BAHNKE: Okay. I'll try to slow it down. I was thanking you for offering your public testimony. One of the things I noted in the Court's ruling was the problem with District K, part of the problem is the

1 cracking of Eagle River, and I don't know how your map
2 addresses that. I don't -- I don't want an explanation
3 from you right now, but that's one issue I see.
4 The question I have for you is, what is the
5 opposition to pairing Eagle River with Eagle River from
6 your perspective? Why is that not a good pairing?
7 MR. RUEDRICH: I view the primary situation here
8 to pair 23 with 24 to keep the historic Eagle River
9 military significance, because without the military,
10 Eagle River would never have existed. Eagle River was
11 organized as a bedroom community for the military, for
12 off-base housing, and the intertie I think is extremely
13 important, and for that reason, I have not engaged in any
14 change in the pairing of 23 and 24.
15 MEMBER BAHNKE: Do you -- Mr. Chairman, may I
16 ask one more follow-up question?
17 CHAIRMAN BINKLEY: You bet. Go ahead, Melanie.
18 MEMBER BAHNKE: Okay. I just wanted to ask you
19 if you did read the Court's ruling that mentioned cracking
20 of Eagle River being problematic and we have to correct
21 that? Did you read that part of the ruling?
22 MR. RUEDRICH: Yes. And I didn't reach that
23 same conclusion.
24 CHAIRMAN BINKLEY: Okay. Let's see. Nicole.
25 MEMBER BORROMEO: Thank you. And thank you,

Randy, for continuing to stay engaged in the process. I learn something new every time you testify.

Can you repeat, to make sure that I'm tracking correctly, what suggestions that you are making? From my notes, you would like 22 with 9, 23 with 24, 18 with 19, and 20 with 21?

MR. RUEDRICH: Yes.

MEMBER BORROMEO: Okay. Well, I'm going to go out on a limb here and say I agree with you on at least half of (indiscernible). So progress is -- progress is being made.

MR. RUEDRICH: Thank you.

CHAIRMAN BINKLEY: Thank you, Nicole. And also the -- it came in a packet last night, both the map that Randy was referring to, as well as the text as well laying out what the districts are, which was helpful. Thank you. I guess that's it, Randy. Thank you.

Next is Yarrow Silvers from there in the Anchorage LAO office.

MEMBER BAHNKE: Mr. Chair, can I just bring to Nicole's attention her hand is still raised.

MEMBER BORROMEO: Thank you.

CHAIRMAN BINKLEY: Thanks, Melanie.

Good morning, Yarrow. Welcome back.

MS. SILVER: Good morning. Thank you.

Hi. My name is Yarrow Silvers. I am speaking for myself. However, the proposal that I am introducing is on behalf of the East Anchorage plaintiffs.

The Bahnke pairings respect communities and socioeconomic integration. They are not based on partisan data and they are informed by public testimony, as evidenced by their compact shapes, large areas of continuity, and robust, thoughtful public support they received, all of which have not been seen in the more partisan proposals which have relied on tiny sections of continuity, weird shapes, illogical or no justification, weak or one-sided socioeconomic considerations, and which have ignited strong, detailed public opposition from the people harmed by these pairings.

It is unfortunate that the Bahnke pairings were not chosen initially and that the board chose to ignore public testimony and rational logic to gerrymander the map instead. However, at this juncture, the Supreme Court has ordered that the board correct the constitutional errors and make other revisions to the proclamating plan resulting from or related to those changes.

In order to most closely follow the direction of the Court, I, along with the other East Anchorage plaintiffs, propose the following maximum preservation pairings which include four of the original pairings

adopted by Bethany Marcum as well as four (indiscernible) initially proposed by Melanie Bahnke in order to fix the constitutional errors.

Here is the maximum preservation proposal. Senate District B will be the board-adopted Marcum pairing, House District 9 and 10. Senate District F, board-adopted Marcum pairing, which would be Lower Hillside, District 11 and Far North Bicentennial Park, House District 12. Senate District G would be the original Marcum pairing, pairing 13 and 14, Gambell and Spenard. Senate District H would be the Marcum pairing, which would combine House District 15 and 16, Sand Lake, Campbell Lake, and the Anchorage Airport.

The pairings that would need to be adjusted in order to fix the constitutional errors that came from splitting Eagle River, from splitting Muldoon would be as follows. Senate District I, the Bahnke proposed pairing, which pairs House District 17 and House District 23. Senate District J, which would be the Bahnke-proposed pairing, which would combine House District 18 and 19, Mountain View, Airport Heights, and U-Med. Senate District K, which would pair House District 20 and 21 with North and South Muldoon. Senate District L, which would pair House District 22 and 24, Eagle River Valley and North Eagle River/Chugiak.

Thank you for considering this proposed plan which contains the minimum changes necessary to fix the constitutional errors and are logical, respect communities, and use changes which were introduced during the initial Senate Pairing process, enjoying broad public support. I sent this proposal with additional details in an e-mail on behalf of the East Anchorage plaintiffs. Thank you again for your consideration.

CHAIRMAN BINKLEY: Yarrow. Bethany, you had your hand up. And then Nicole.

MEMBER MARCUM: Yes. Thank you, Chairman.

I just would like to ask the public and others not to refer to the plans as the Marcum pairings or the Marcum plan. I put them out as proposals. They were voted on by a majority of the board. They're certainly not mine. I don't have any ownership of them any more than anyone else who supported those. So I would just ask that my name not be associated with those because they're -- as you remember, I had five different possible -- possibilities. So thank you.

CHAIRMAN BINKLEY: Thank you, Bethany. Nicole.

MEMBER BORROMEO: Thank you. Yarrow, again I appreciate you, just like Randy, for staying engaged in the entire process. I have read your letter of April 1 from your law firm, Birch, Horton, Bittner, with great

interest. And is it your position that the board does not have any authority beyond what you're suggesting as the maximum preservation plan?

MS. SILVERS: It -- I think it's a really slippery slope. I think if we go in and start trying to change too much, that, yes, I think that it does exceed the authority.

CHAIRMAN BINKLEY: Okay. Any -- let's see. One quick question, Yarrow. Just -- we had the presentation from Mr. Ruedrich and AFFER that actually pairs North and South Muldoon, House District 20 and 21 into one Senate District. Is that -- I know that that was really the -- seemed to be the crux of the complaint that was filed on your behalf and others by Attorney Holly Wells. Does that seem to satisfy that aspect of it?

MS. SILVERS: District 17 includes 2,000 residents of North Muldoon. It includes some of the lowest income and highest diversity census blocs in Anchorage, and I believe that, in looking at Muldoon, that pairing that section of Muldoon with Chugiak/North Eagle River, I -- I don't think it makes any sense, and I think it's harmful to the people that live there.

CHAIRMAN BINKLEY: I guess I'm confused, because I thought North Muldoon was District 20. Does that not encompass all of North Muldoon?

MS. SILVERS: No. There is the section right there --

CHAIRMAN BINKLEY: I see. So --

MS. SILVERS: -- and that's (indiscernible) --

CHAIRMAN BINKLEY: -- you would suggest --

MS. SILVERS: -- in Anchorage. It has some of the highest diversity. And then you also have, you know, Downtown and Government Hill.

CHAIRMAN BINKLEY: But I was thinking specific to your litigation. But you're not suggesting we change the House underlying plan to accommodate that portion of Muldoon that's now in 23 with --

MS. SILVERS: No.

CHAIRMAN BINKLEY: -- House District 20?

MS. SILVERS: I believe what the Court was quite clear that the House Districts are constitutional.

CHAIRMAN BINKLEY: Okay. So just to make -- so I'm clear, if the House Districts 20 and 21 were combined into one Senate District, that satisfies your concern about North and South Muldoon, given the -- you know, where we're at with the underlying House Districts?

MS. SILVERS: That would satisfy the concern about Districts 20 and 21. It would not satisfy the concern about Districts 22 and 24, Eagle River, which also needs to be combined as one.

CHAIRMAN BINKLEY: Okay. I think I get it, but I thought the litigation was specific to 20 and 21. But I see what you're saying. It wasn't -- it also included 23 and 22, that -- those two areas. Okay.

Melanie, go ahead.

MEMBER BAHNKE: Yes, I was going to follow along the same line of your question, Mr. Binkley, was in terms of the crux of the litigation, if we simply pair Muldoon with Muldoon, do you think that satisfies it, or do you feel like there was -- I think it was in the Court order that cracking of Muldoon was part of the (indiscernible) Senate District K. But I wanted to hear if you had any issues with cracking Muldoon.

MS. SILVERS: Well, Muldoon was cracked --

MEMBER BAHNKE: I mean cracking Eagle River. I'm sorry.

MS. SILVERS: Oh. Yes. I think that cracking Eagle River was a part of the issue, and the cracking of Eagle River, that was done to give Eagle River more representation. That was stated during the process. So when you're cracking a community to give it more representation, then it stands to reason that the communities that you're pairing it with are going to have less representation, and what we are going for here is equal representation. We're going for one-person,

one-vote principles.

And when you're cracking communities and you're gerrymandering and you're pairing them in a way that increases the representation of one community, that is not one-person, one-vote principles.

CHAIRMAN BINKLEY: Bethany.

MEMBER MARCUM: Yes, thank you, Mr. Chairman. I would just like to point out that the testifier has implied intent and she was directing that to me, and so I appreciate the opportunity to respond to that. That may have been the result that Eagle River would have had -- would have had two senators, but what has been left unsaid by many testifiers and by even folks on the board is that the same result that came about from the previous map would have allowed Eagle River to possibly have two senators would have allowed Muldoon to have possibly three senators.

As was just pointed out by the testifier on the map, Muldoon encompasses three separate districts, and the configurations of the Senate pairings would have allowed Muldoon to have three senators. Three voices in the senate as opposed to Eagle River having two. So I think that it's important to keep in mind a difference between intent and results. Thank you.

CHAIRMAN BINKLEY: Thank you. Nicole.

MEMBER BORROMEO: Thank you very much. Question to Yarrow that comes about really from Bethany's observation that Muldoon will potentially have three senators. Does Muldoon want three senators or does Muldoon want one senator and could be united into one Senate District?

MS. SILVERS: Muldoon wants one senator that can work for Muldoon, not three senators whose interests lie elsewhere.

CHAIRMAN BINKLEY: Okay. Just to make sure I'm clear, Yarrow. Part of Muldoon is in District 23, so regardless of -- it's not going to be -- if it's not combined -- if 20 and 21 are combined, then part of Muldoon is going to be in another district by virtue of the underlying House districts. Do I have that right?

MS. SILVERS: Sorry. I didn't hear you.

CHAIRMAN BINKLEY: Yeah.

MS. SILVERS: I don't know if it's possible to turn that up, because I'm having a hard time hearing the comments.

CHAIRMAN BINKLEY: Yeah. Looking at -- if we combine 20 and 21 into one Senate District, because of the underlying House districts, all of Muldoon is not going to be together in the same Senate District; is that correct?

MS. SILVERS: That's correct. It splits it into

1 two rather than three. However, it is -- would be well
2 represented in a North Anchorage District.
3 CHAIRMAN BINKLEY: Okay. Okay. Any other
4 questions or comments by board members? Let's move on.
5 And next is Tanner Amdur-Clark.
6 Tanner, good morning. Are you still with us?
7 MR. AMDUR-CLARK: Mr. Chairman, members of the
8 board, can you -- can you guys all hear me?
9 CHAIRMAN BINKLEY: We can. Thank you.
10 MR. AMDUR-CLARK: Excellent. This is Tanner
11 Amdur-Clark on behalf of the coalition of Doyon v. Alaska,
12 Ahtna, Fairbanks Native Association, and the Tanana Chiefs
13 Conference. And I want to be brief today.
14 First, I would just like to thank you all for
15 your continued diligence and the hard work that you've put
16 forward. Mr. Ruedrich, I think, said something very
17 neutral on an historical sense. When you compare what
18 this board has done with past -- past experiences, the
19 fact that you were able to put together a House map that
20 was -- that held as constitutional by the Court with one
21 small and, from our perspective, unfortunate detail in
22 Cantwell is really a testament to work that you did as a
23 board and I really want to thank you for that.
24 There's been some talk about the proposal for,
25 you know, fixing or changing and putting Cantwell into

District 30 instead of into District 36. We've had a chance to review the proposal that was put forward at the last meeting, and that proposal is fine from our perspective, just putting the district borders back along the -- contiguous with the borough boundaries (indiscernible) just fine.

We would urge you to make, especially on the House side, to make the minimal changes necessary to comply with the Court. The Court's decision, any additional changes made outside of that very small mapping task would open the board up to additional litigation, and you all have just experienced what that's like and I'd just urge the board not to go down that path.

So thank you very much. Happy to answer any questions that you might have.

CHAIRMAN BINKLEY: Thank you, Tanner. Any questions, Melanie?

MEMBER BAHNKE: Not a question for Tanner, but I recall that we had wanted to give Bethany a chance to compare her Cantwell solution to what we developed, and I have a question for Bethany.

Have you been able to compare that?

MEMBER MARCUM: Yes. So I'm not sure if Peter is on the line or not, but we worked together yesterday and what I had put together was identical in terms of the

actual borders and boundaries. Peter's deviations and populations were not correct because his matrix was not working. So we got that fixed. And once we did, the populations and deviations on the map that I had made changes to matched up with what Peter had done. And so that -- what you saw was the -- what resulted was the map that Peter sent to you last night that he and I had both put together and worked on to show those.

MEMBER BAHNKE: All right. Thank you. I just wanted to make sure you'd had an opportunity to do that, and thanks for your due diligence.

CHAIRMAN BINKLEY: Any questions for Tanner Amdur-Clark?

Tanner, thank you very much, and again, our thanks to you and to your coalition for your involvement. Much appreciated. I think it was tremendous work, helpful to the board, and we appreciate your commentary that, despite a couple of adjustments we need to make, overall, I couldn't be more proud of this board and what we were able to accomplish as well. And it's a shame it gets kind of lost in some of the acrimony of what are really a couple of small changes in the overall perspective of what we were able to accomplish, particularly from me personally being able to respect the ANCSA boundaries. That's, I think, something that there's going to be a

1 hallmark in the long run of this board, what we were able
2 to do. And again, I thank you and all your coalition
3 members for your participation in the process.
4 Nicole, I see your hand up. Did you have a
5 question for Tanner?
6 MEMBER BORROMEO: Just a -- just a short
7 follow-up if I could, and I -- I agree with John's
8 comments on your participation in the process on behalf of
9 your clients.
10 Does the Doyon coalition have a position on
11 splitting the two House districts from Eagle River into
12 two Senates -- two separate Senate Pairings, or is it your
13 position that 22 should be united with 24?
14 MR. AMDUR-CLARK: Our coalition has not -- not
15 taken a position on the Senate -- on how to fix the --
16 what the Court has decided on the Senate side. And we
17 didn't intervene in that case. I think we are -- we are
18 staying out of any commentary on the Senate side of
19 (indiscernible).
20 MEMBER BORROMEO: Thank you.
21 CHAIRMAN BINKLEY: Okay. Thank you.
22 MR. AMDUR-CLARK: Thank you.
23 CHAIRMAN BINKLEY: Okay. Let's go on there in
24 Anchorage to Celeste Hodge Growden.
25 MS. HODGE GROWDEN: Good morning.

CHAIRMAN BINKLEY: Good morning, Celeste.

MS. HODGE GROWDEN: So unfortunately, I'm going to have to rush and not be available for questions. I am late for a meeting. I did not think it would take over an hour to provide testimony. But yes, I'm Celeste Hodge Growden, president and CEO of the Alaska Black Caucus, an organization that champions the lives of Black people in the BIPOC community in the areas of health, economics, education, and justice.

I'm also here today representing the NAACP, the largest and oldest civil rights organization in the world, as the former president and now current vice president of this organization. Unfortunately, yes, I'm having to testify yet again.

First let me say I totally agree with the observation made earlier of badgering testifiers. I'm not sure what that's about, but it really needs to stop. We call in to get our comments on the record. To have to hear the debates between the board or debating callers isn't right, and it causes callers to have to wait.

Today I'm calling to support the pairing of House Districts 20 and House District 21 in Senate District K. I'm not even sure how this current pairing occurred, but one thing I am sure of, it's been far too long where there has been a history of federal, state, and

1 local officials using the redistricting process as a
2 mechanism for excluding voters of color.
3 We saw this unjust pairing happen with the late
4 Senator Bettye Davis. It was incredibly challenging to
5 manage for many reasons. It was wrong then and it's wrong
6 now. These schemes most often occur when legislative
7 bodies or redistricting commissions believe they can
8 ignore the interests of voters of color when communities
9 of color and the groups that represent them are not
10 involved in the redistricting process.
11 Unfortunately, as an earlier caller shared, for
12 many reasons groups of color, they aren't able to testify
13 at 10:00 a.m. on a weekday because they can't take time
14 off from work. They can't break away on a Saturday
15 because they must attend to the needs of their families.
16 However, I'm a different story. Retired and spend my time
17 standing in the gap, utilizing my voice for our BIPOC
18 community.
19 I urge you today to do the right thing. Correct
20 the error of Senate Pairing for District K by pairing
21 House Districts 20 and 21. Thank you.
22 CHAIRMAN BINKLEY: Thank you, Celeste.
23 Questions or comments? Okay.
24 Moving to George Martinez. Are you still with
25 us, George?

MR. MARTINEZ: Yes. Yes, good morning. Good afternoon.

CHAIRMAN BINKLEY: Good morning.

MR. MARTINEZ: Almost. All right. My name is George Martinez. I am one of the East Anchorage plaintiffs and speaking on behalf of myself, and I want to acknowledge the written proposal that was submitted for maximum preservation and straightforward remedy.

But today I wanted to speak -- and I highlight that in my previous testimony I offered calls for expediency, fairness, and responsiveness to the Court's decision in favor of doing the right thing. But I forgot to offer my congratulations as well. We made history.

Now, people offered a historical perspective, and I also have heard many references to fixing the error that was identified by the Supreme Court. But that error is significant and it's historic. That error is the result of partisan gerrymandering, political gerrymandering that is already happening for what I believe has been the first time in Alaskan history that the Supreme Court found unconstitutional political gerrymandering, a direct violation of equal protection, the principle of one-person, one-vote, the right to political representation under the law for East Anchorage residents.

The Court further ruled that that violation was intentional to dilute East Anchorage representation in favor of disproportionately increasing representation for Eagle River. This was the categorization of the Superior Court. So despite the characterizations of a remedy being political gerrymandering, the gerrymander has happened and now we're here to fix that violation and unconstitutional action.

So moving forward, I want to be real clear, we will continue to be here, because that violation of the equal protection of our rights under the Alaska Constitution is a historic ruling. Your remedy should be aligned to those values first. I want to hear first how do we remedy the equal protection violation for the minority majority district of East Anchorage?

I've listened to discussions and I haven't heard that clarity come out from the majority on the board and even from counsel. Ample time has been given to talk about the public participation, the secret nature of the process that was also identified. But those things related to due process and the public meetings requirements were part of the design to dilute the representation. So the equal representation of East Anchorage is what is most important to my family, to my neighbors, and to our community.

So I just want to leave with this. It was an unambiguous ruling to fix plain and simply the violations for East Anchorage and then the necessary additional things that need to happen to make that core change happen. So as a nonpartisan in this process, I remind, political gerrymandering was already found. The time for the gerrymandering has to stop now and let's do the right thing for East Anchorage.

I support what we submitted in writing, but I'm -- verbally will say 20 and 21 makes sense what -- for Anchorage and for East Anchorage. Muldoon deserves representation, equal representation, and let's get back to the business, let's move forward, and let's keep the limited scope of what the -- of what the constitution requires as identified by the Supreme Court as the remedy to fix the equal protection violation of a minority majority vision. Thank you.

CHAIRMAN BINKLEY: Okay. Thank you. Questions for George? Okay.

Next is Michael Ryan from North Pole.

MR. RYAN: Hi. This is Mike Ryan. Can you hear me okay?

CHAIRMAN BINKLEY: Yes, we can, Mike. Go ahead.

MR. RYAN: Yeah. I just wanted to go on record that I oppose the Senate minority plan for the Bahnke map.

I just believe that it's politically motivated and would lose two Senate seats because of it. Thank you so much for your time.

CHAIRMAN BINKLEY: Thank you, Mike.

Questions for Mike? Nicole, it looks like you've got a question.

MEMBER BORROMEO: Thank you. Mike, which two Senate seats are going to be lost under the Bahnke pairings? Is he still on, Yolan (ph)?

UNIDENTIFIED SPEAKER: He may have dropped off.

CHAIRMAN BINKLEY: It looks like he's dropped off, Nicole.

Let's go on to Senator Begich in Anchorage.

MR. BEGICH: Hello and --

CHAIRMAN BINKLEY: Good morning, Senator.

MR. BEGICH: Good morning. How are you?

CHAIRMAN BINKLEY: I'll well. Thanks.

MR. BEGICH: I want to thank the board for the opportunity to testify, and also thank you for addressing these issues in a timely manner.

I want to first correct what I keep hearing, and I want to point out that, based on some of the comments that have been made, there's some relationship being made probably in the kind of a mass e-mail or something to that nature that is equating the Senate minority map, which was

1 a map that the board approved and adopted and no -- and
2 then didn't really provide much more consideration to, and
3 the final map that's been referred to as the Bahnke map.
4 These maps are not connected. They have underlying
5 differences in House.
6 And I want to be really clear with you,
7 Mr. Chairman and members of the board, I've had no
8 communication directly with Member Bahnke throughout this
9 process, in particular not about her map, despite
10 assertions to the contrary. I personally resent it. The
11 map that I developed with members of not just the Senate
12 minority but the Senate majority was the map that we hoped
13 would have further consideration and didn't, nor am I
14 asking for its consideration now.
15 I want to get right to the point of the matter,
16 which is what the Court found, which is that the Hickel
17 process and other processes were designed to prevent
18 gerrymandering, but as George Martinez just mentioned, the
19 fact of the matter is, the Court -- the Court recognizes
20 that in fact there is a standard for political
21 gerrymandering now, and that that standard should be
22 adhered to in the least -- and you should repair the maps
23 in the least disruptive way possible.
24 I just want to quote a little bit from the
25 Superior Court's decision, but the Supreme Court has

1 remanded to the Superior Court, and I think it's important
2 for you as a board to look at the Superior Court's
3 decision. They have upheld the -- the Supreme Court has
4 upheld that decision and that's what you should be focused
5 on. The Supreme Court, at page 65, indicated that
6 overwhelming public testimony was against splitting and
7 combining Eagle River and Muldoon. Itself cites that.
8 Further, it is clear that the -- to the Court
9 that the vast majority of public comments were in favor of
10 keeping Eagle River and Muldoon, both communities of
11 interest, together in their own respective Senate seats.
12 I think it's important for you to hear that. Because that
13 implies that 22 and 24, the two Eagle River-located House
14 districts, regardless of the comment of Mr. Ruedrich
15 earlier and an additional map that's been provided, those
16 two House seats should be combined in a Senate seat, and
17 the two Muldoon seats should be combined in a Senate seat.
18 Those two corrections to the map will complete your work
19 in terms of what the Supreme Court has seen and reverse
20 the clear political gerrymandering that has occurred in
21 this process.
22 Now, Mr. Chairman, just -- and members of the
23 board, I would cite also the Superior Court point -- I'd
24 point at page 70 where they say the Court finds that the
25 board intentionally discriminated against residents of

1 East Anchorage in favor of Eagle River further
2 acknowledging the two separate entities that must be
3 combined as to remedy this issue.
4 So with that, Mr. Chairman, I'm available to
5 answer questions. I'm a little ill today, so unable to be
6 perhaps as clear as I'd like to be. But happy to answer
7 questions. I certainly would ask that you all take into
8 consideration any more verbal or written comments that
9 start with the same identical phrase that somehow the
10 Senate minority and the Bahnke map are the same thing.
11 They are not. And if you're hearing that, likely that is
12 political processes going forward and you should be
13 wary of them given the direction that the Court has
14 provided you.
15 CHAIRMAN BINKLEY: Okay. Thank you, Senator
16 Begich.
17 Questions from board members? Just a quick
18 comment, Senator Begich. It may be that -- and I agree
19 with you. A lot of these comments I think on both sides
20 are, you know, typically blasted out to a large audience,
21 and sometimes they're taken -- copied and pasted and put
22 in messages, and it's hard to distinguish which are
23 thoughtful and come by the process or otherwise. But
24 they're all important to us, and I think we have to treat
25 them as such, even if they say the same thing over and

1 over again on whichever side of the issue it is. So from
2 my perspective, I still pay attention to those.
3 And the confusion may have come -- I know you're
4 aware that during the discovery process in court, text
5 messages that went between yourself and Member Borromeo
6 during our deliberations when you were suggesting Senate
7 pairings may be the genesis for the confusion between the
8 minority -- Senate minority plan, in quotes, and the
9 Bahnke plan. So that's just speculation, but that may be
10 where it came from.
11 MR. BEGICH: Well, Mr. Chairman, thank you
12 for giving me the opportunity to address that as well by
13 bringing it up.
14 CHAIRMAN BINKLEY: (Indiscernible)
15 MR. BEGICH: Let me be clear about one thing.
16 The suggestions and in the text messages that were
17 presented in court are quite clear that the suggestions I
18 made for planning -- for various types of pairings were
19 actually rejected by Ms. Bahnke and -- I assume Ms. Bahnke
20 and Ms. Borromeo. They were not actually accepted, nor
21 were virtually any recommendations I ever made in any of
22 those text messages.
23 Unlike other members of the board, I was
24 appreciative that Ms. Borromeo maintained her text
25 messages so that they could be reviewed. My first contact

1 with Ms. Borromeo outside of public testimony in this
2 process occurred after publicly testifying in late
3 October. So any assertions to the contrary are false.
4 And I would just call your attention to the
5 both-siderism, Mr. Chairman, of saying that comments
6 about -- that Saturday by comparing the Senate minority
7 map with the Bahnke map when, A, in the court record
8 itself it shows that those suggestions made by the Senate
9 minority were rejected eventually in whatever form the
10 Bahnke map took; and B, that are false on their face,
11 should be ignored by this board because they are in fact
12 false comments. So I'm -- I would encourage you -- and I
13 may sound a bit passionate about this because I frankly --
14 I despise being abused by this process. So thank you,
15 Mr. Chairman.
16 CHAIRMAN BINKLEY: Thank you, Senator Begich.
17 We appreciate your participation throughout this. And
18 it's going to have the opportunity to clear the air on
19 that sort of thing, so I'm glad you gave us that
20 perspective.
21 Melanie, you've got your hand up.
22 MEMBER BAHNKE: Yeah. I have a request. This
23 is the second time that I can recall that this is
24 happening where somehow Nicole and I are being
25 interchanged or considered one in the same. I don't see

1 how text messages that were directed to Nicole have
2 anything to do with me. There was another time previously
3 during the meeting where a comment that Nicole had made
4 was attributed to me, and although we're both Alaska
5 Native and undeclared, we're not one in the same. We're
6 board members in our own right. So please don't infer
7 any -- don't try to lump us together, Mr. Chair.
8 CHAIRMAN BINKLEY: Well, no, I appreciate that,
9 Melanie. And I certainly wasn't. I think Senator Begich
10 was referring to other people who were testifying that
11 were combining the Senate minority or confusing the Senate
12 minority plan with the Bahnke plan. So that's all that I
13 was referring to. But I certainly don't -- I know you're
14 two intelligent, bright, and articulate women and separate
15 in your thought processes and where you come down on
16 issues. So I respect that, and I appreciate that.
17 Okay. Next person is Ann Brown. Oh, it says
18 unavailable now. I don't know if they've dropped offline.
19 Would that be the indication, I guess, Peter? It looks
20 like the next two are dropped off line.
21 The next one I see that is still on is Mike
22 Robbins. Mike, are you still with us?
23 MR. ROBBINS: I am, sir. Thank you,
24 Mr. Chairman and distinguished members of the board. My
25 name is Mike Robbins and I'm representing myself this

1 morning. I would like to testify in support of a revised
2 redistricting plan that supports districts with similar
3 socioeconomic profiles, bringing together neighborhoods
4 that share the most common values and demographics. Under
5 the plan I ask you to consider these items.
6 First of all, District 10 and 13, Bayshore and
7 Taku, should be aligned into a single Senate District
8 which is very similar to the way the area is aligned now.
9 Districts 11 and 12, O'Malley and Abbott Loop, should be
10 combined, as was declared by the board in November.
11 Districts 14 and 17, Midtown, Spenard, and Downtown,
12 should be combined, as they are similar in their business
13 characteristics with restaurants and offices and the
14 evidence -- the residents of the area that support those.
15 Districts 15 and 18, Sand Lake and Airport, should be
16 combined. This was declared by the board in November as
17 well and it should be kept.
18 Districts 18 and 19, Mountain View and Airport
19 Heights, should be paired as the areas are shared
20 diversity and socioeconomic linkages. I'd also like to
21 recommend for Districts 20 and 21, North and South
22 Muldoon, they're aligned on the same roadway. They share
23 common byway, neighborhoods, dynamics, and they should be
24 combined into one Senate seat.
25 Districts 22 and 9, Eagle River and South

Hillside, they've previously been combined to make a single senate seat. These two areas share similar voter demographics and should also be combined. For Districts 23 and 24, JBER and Chugiak, being combined because of the high number of military members who choose to live along the Glenn Highway closer to the bases and North Anchorage, creating a strong socioeconomic relationship within the district.

In closing, I just want to say that I request that the board not adopt the Bahnke plan. It's not balanced and fair but blatantly partisan by design. I ask that you take my recommendations and create a redirecting plan that establishes a fair Senate pairing for Anchorage. Thank you for your time and listening to my testimony.

CHAIRMAN BINKLEY: Thank you, Mike. I appreciate that. I missed one. I was taking notes on your pairings. After House District 15 being paired 6 -- with 18, excuse me, what was the next one that you had mentioned?

MR. ROBBINS: I had mentioned 15 and 16 being paired.

CHAIRMAN BINKLEY: 15 and 16.

MEMBER MARCUM: That's what I had.

CHAIRMAN BINKLEY: And what was the next one?

MR. ROBBINS: Sand Lake and Airport. Districts

18 and 19, Mountain View and Airport Heights.

CHAIRMAN BINKLEY: Okay. Got that. And then 20 and 21?

MR. ROBBINS: 20/21; 22 and 9; and 23 and 24.

CHAIRMAN BINKLEY: Okay. Got it. Okay. Questions, comments from board members?

Nicole, you've got your hand up.

MEMBER BORROMEO: I do. Thank you. And Mike, thanks for calling in. Your justification for pairing District 22 and 29 is similar voter demographics. Can you elaborate on that, please?

MR. ROBBINS: 22 and 29? I don't believe I said --

MEMBER BORROMEO: 22 and 9. 22 and 9 you said have similar voter demographics.

MR. ROBBINS: Sure. I can elaborate by saying that the voters in those districts have similar income levels, similar employment levels, similar family sizes, and so their interests and the things that their families do and the things that they care about are very similar in nature. It would be wrong to pair people who have five members in their family with single people. So I think that the demographics of those two areas mirror each other and that they should be combined.

MEMBER BORROMEO: Thank you.

CHAIRMAN BINKLEY: Okay. Thank you.
Alex Baker.
MR. BAKER: Can you hear me okay?
CHAIRMAN BINKLEY: Yep, we can hear you, Alex. Go ahead, please.
MR. BAKER: All right. Thank you, Mr. Chairman. Alex Baker. I'm calling in from Anchorage. I'm a resident of Downtown (indiscernible). I'm calling in support of the pairing between District (indiscernible) --
CHAIRMAN BINKLEY: Alex, I hate to interrupt you, but I'm having a difficult time hearing you. If you could speak up a bit, that would be helpful.
MR. BAKER: Is this better?
CHAIRMAN BINKLEY: Yes, much better. Thank you.
MR. BAKER: I'll start from the beginning real quick. I'm a resident of Downtown. That's new House District 17. I'm calling in support of the Senate Pairing between House District 17 and House District 23. Government Hill and Downtown share the same Anchorage assembly member, soon to be two members. As a resident of Downtown, I go to Government Hill a couple times a week, usually for the Anchorage Curling Club. Quick plug there.
When I'm there, I curl and drink beer. Some people come from base all the time. Sometimes they'll stop and pick up some food from one of the businesses in

Downtown, Government Hill -- and I'll run into people from base -- those neighborhoods are pretty integrated. A lot of people come from base over the bridge into Downtown.

So I would just urge you to think of 23 and 17 as really a continuation of the same neighborhood. You know, when you look at the border between 17 and 23 in Downtown, it is somewhat arbitrary to split Downtown in such a way to send 49th State Brewing all the way up to Chugiak if you were to pair the other way. So to summarize, 17 and 23 make the most sense, in my eyes.

I also want to testify on one process concern, and that is the frequency of updates to written testimony. I went to go check what my neighbors and fellow community members were putting on the written record, and it hasn't been updated, it looked like, since April 2nd. To your credit, you have done a lot of good work in the last couple days. But the public testimony, you know, hasn't been updated in a few days, so, you know, there is not that transparency for myself and others to see what's out there.

I know you're considering a few things in Eagle River and South Anchorage, and, you know, I think it is in the public interest to know what is out there on the public record. So I would just urge you all -- I know Mr. Torkelson is doing the work of multiple people -- put

the updates at the end of every day so that, as you move forward in this process, everyone knows what's out there and the public is in a position where they can call and testify in an up-to-date manner. Thank you.

CHAIRMAN BINKLEY: Okay. Thank you, Alex. And just to that, with your last point, Peter just put up on the screen, it looks like the website has the testimony received through last evening, April 4, on the website. I don't know if you can see this since you're on Zoom. But it shows April 3rd testimony and then April 4th testimony, I believe. Is that what's showing on the screen, Peter?

MR. TORKELSON: Yeah. Just so we have a meeting info tab on the website, and that does get updated as I can get to it. But the public notice system has the packet for the coming down, and that's going to have the most pertinent information that meeting -- about that meeting. So there's more information on the public notice system faster, but we will try and keep that public -- the (indiscernible) website is usually about a day behind you.

MR. BAKER: Okay. Thank you very much. I appreciate all the work you're doing, Mr. Torkelson. I know you're doing the work of a few people. So thank you.

MR. TORKELSON: No problem. Yeah, it's out there. Thanks.

CHAIRMAN BINKLEY: And Melanie, go ahead.

You've got a question?

MEMBER BAHNKE: Not a question for the testifier, but for you, Mr. Chairman. How many more testifiers do we have to go? I'm wondering if we can take a short break if we have a lot more left.

CHAIRMAN BINKLEY: We don't. We have -- I see one, two, three, four, five, six, seven. So I think we should power through and try and get it done if you can to hold off for a few minutes.

MEMBER BAHNKE: Yep.

CHAIRMAN BINKLEY: Okay. And just -- I thank you Alex for that plug on curling, too, as a Fairbanksan and my wife's family, Persingers, and they're involved in curling in Fairbanks as well. So I understand your comments.

Fred Brown from Anchorage. Fred, are you online?

MR. BROWN: Yeah. This is Fred Brown, Mr. Chairman. Can you hear me all right?

CHAIRMAN BINKLEY: Yes, we can. Go ahead, Fred.

MR. BROWN: Thank you. Mr. Chairman, since moving to Anchorage about four years ago, I have been elected the chair of my local homeowners association in Far View Place in South Anchorage in District 9, and I'll focus my comments today specifically to the far east side

1 of Anchorage, the pairing of Districts 22 and 9, and this
2 is in part to follow up on some of the questions that were
3 discussed earlier.
4 First, however, I want to congratulate you all
5 again for such a high level of success in getting so much
6 of your regional work adopted. And if there are tweaks
7 that need to be accomplished, I would recommend that
8 pairing of 22 and 9 be adopted. Additional reasons that
9 could be provided beyond those that were earlier cited are
10 the fact that we do supply and support our own road
11 service areas throughout that far east side of Anchorage
12 up in the foothills and the slopes of the Chugach
13 mountain.
14 Additionally, we share in common the risk of
15 fire and the need for fire protection. And I say this
16 because, even in my neighborhood, although I'm speaking as
17 a personal representative and not on behalf of the
18 homeowners association, our homeowners association has
19 been concerned about the fact that we have one access
20 road, ingress and egress into our area, and the area
21 continues to grow. There are 28 more lots being
22 subdivided. So we will have at least 100 or so lots using
23 that one road for access, and so, again, we share not only
24 a concern about road maintenance but also the concern
25 about fire protection during fire season.

So with that, Mr. Chairman, I'll just conclude by remarking that, from our point of view, the maps that were described by Mr. Ruedrich would satisfy our concerns to the fullest extent there are options available.

Thank you for allowing me to testify.

CHAIRMAN BINKLEY: Thank you, Fred. Questions from board members? Okay.

Next is Jamie Rodriguez? Sorry. I don't --

MEMBER BORROMEO: I have my hand up. So I --

CHAIRMAN BINKLEY: I didn't see it for some reason. Go ahead, Nicole.

MEMBER BORROMEO: Thank you. Fred, you mentioned you both have your own road service areas, and I appreciate that commonality. Is there an actual road that connects Districts 22 and 9?

MR. BROWN: From my area there is not. Again, I moved down from Fairbanks about four years ago, but to my knowledge, there is not a road directly connecting the two, but what we do have in common is the need to maintain our own roads and again, maintain our roads through our service areas and also maintain our fire protection capabilities.

MEMBER BORROMEO: Thank you.

CHAIRMAN BINKLEY: Okay. Thank you. Bethany.

MEMBER MARCUM: Yes. Thank you, Mr. Chairman.

I wanted to ask about the -- I've heard quite a few people reference the having to pass through or is there a direct road through, and I guess I'm a little confused about that argument. It's not particularly compelling to me, and so I wanted to ask Mr. Brown about, when you need to contact your legislator, you know, do you feel like most members of the public know how to get ahold of their legislator? Do they feel like they need to drive to another district to get to their Senator or how do you go about contacting your legislators?

MR. BROWN: Through the Chair, in this post-COVID era in which we've all learned to use Zoom and engage in Teams meetings more often than not, as you all know, not only do we use telephones, we also are able to contact through videoconferencing, and we all have a long experience of contacting our legislators while they're in Juneau. So to your point, I believe it's not difficult to contact our legislator, or they don't come (indiscernible) an office very long.

MEMBER MARCUM: Thank you.

CHAIRMAN BINKLEY: Okay. Thank you. Nicole, your hand is still up.

MEMBER BORROMEO: Thank you. Just for the purpose of correcting the record, my question was relating to if they shared a common road since road service was a

primary justification for linking the two. Thank you.

CHAIRMAN BINKLEY: Thank you. Moving along. Jamie Rodriguez.

MS. RODRIGUEZ: Good morning. Can you hear me?

CHAIRMAN BINKLEY: Yes, we can, Jamie. Go ahead.

MS. RODRIGUEZ: Okay. Thank you. Just real quick before I start, there is no road between 9 and 22, other than the main roads, and lots of us are dying to get out and meet.

So anyway, I am calling to say no to 9 and 22 pairing. Number one, under obvious -- under Alaska law there are requirements that districts be continuous -- contiguous, I mean, connect relatively socially, economically integrated, and as near as possible to the ideal possible, unquote.

The Northeast Anchorage pairing was rejected by the courts as being a wild overreach. Of those requirements the board then listened to a proposed replacement later in the day yesterday, which, if adopted, would repeat the very same overreach, only worse (indiscernible) members. The replacement proposal which would attach Southeast Anchorage's House District 9 to Eagle River's House District 22, essentially accomplishing that same goal of capturing also politically -- it makes

it political during (indiscernible) capturing another Senate seat for Eagle River to replace the Northeast Anchorage plan. Egregious? Yes. But even more so.

And it's ridiculous. And here's why. Let's talk numbers as they affect the two districts. The driving distance between Eagle River and Southeast Anchorage is 27 miles. This is -- this is approximate but very close. I rounded up or down as needed. It's very close. The driving distance between Eagle River and House District 9's Girdwood is 67 miles. The driving distant between Eagle River and House District 9's Portage is 78 miles, an insanely long distance to get to the other end.

(Indiscernible) urban House District? Yes, yes. The driving distance between Eagle River and House District 9's Whittier is 87 miles. That includes scheduling one's time to get through the terminal. 87 miles. Let that sink in for a moment. That will be a record. We're an urban area. Even down to Girdwood we're urban. And that is ridiculous. We can understand it up on the North Slope all over the place where people live far apart and so forth, but not in town.

So depending on the route taken, also one must cross through five to six unrelated House Districts to get from Eagle River to Southeast Anchorage, and that's again depending on the road taken. If the pairing in Northeast

1 Anchorage was found to be unfair and in violation of the
2 state redistricting rules, which have been thrown out,
3 which got that thrown out -- the Court threw it out -- in
4 how it would -- and then how it would be fair to pair
5 Eagle River with Southeast Anchorage with even greater
6 driving distances, in this case through busy city traffic
7 streets, it's not fair.
8 This is a brazen assault to the people of both
9 House District 22 and House District 9. This is not --
10 somebody said it yesterday. This is not about politics --
11 the politics of those testifying. This is about fairness
12 in a fight against gerrymandering and a potential
13 disenfranchisement of people who get caught in that.
14 This is a demand to respect election law.
15 Alaskan's election laws are respected as amongst the most
16 fair in the country. So they should not be under assault.
17 I urge the Redistricting Board to do its job fairly and
18 correctly as outlined by law and fairly for all of the
19 people of Alaska, no matter what or if they have a
20 political affiliation.
21 Please, please, please, you guys being fair can
22 stop this horrible stuff that's happening in a wonderful,
23 beautiful state where, up until a few years ago, everybody
24 got along. And this has to stop. And you know what?
25 Right now it's in your hands, and it's an opportunity for

you guys to stop it. And there may be just a little give and take in all of that. You're not going to get the exact map you want, but we need to make it fair and then it will be really close. So it should be equally fair, no matter what district you're living in and no matter what party affiliation you are. So please --

CHAIRMAN BINKLEY: Thank you, Jamie. I think you'll find unanimous consent on the board members on that.

Questions for Jamie?

CHAIRMAN BINKLEY: Okay. We're going to move on to Dan Saddler. Dan, are you still on the line?

MR. SADDLER: Yes, Mr. Chairman, I am. I assume you can hear me okay.

CHAIRMAN BINKLEY: We can. Go ahead.

MR. SADDLER: Very good. This is Dan Saddler, resident of Eagle River, and I want to comment specifically on the Eagle River Senate District Pairings.

And Mr. Chairman, first I guess it's important to state that I strongly oppose the so-called Bahnke plan. The reason is, to adopt this plan in a hurried process that gives the public only a very limited ability to review it, analyze it, and comment on it would frankly be an abuse of the redistricting process.

The law establishes a five-member board and

1 charges you collectively with the task of drawing a map
2 that balances the multitude of big factors. It's a big
3 job, but it's also conducted in public view, and the
4 majority rules. By contrast, this so-called Bahnke plan
5 seems to be the product of planning by a subset of the
6 five-member board in a process that's largely been hidden
7 from public view.
8 I've been watching the process the last couple
9 of days. We've seen what appears to be a coordinated
10 effort to ramrod this plan through by virtue of the sheer
11 weight of public comments, sometimes the same person
12 commenting a dozen or more times. That in itself is a
13 perversion of the one-person, one-vote standard that
14 should be at the heart of a fair redistricting process.
15 I'll note that the Supreme Court found the
16 board's plan, the first proclamation, to be correct,
17 appropriate, and defensible in all but two specific
18 instances. And the Court's finding of that issue with the
19 Eagle River pairings does not in any way provide carte
20 blanche to redraw the lines of other districts that,
21 again, the Supreme Court found proper in all regards.
22 Okay. That said, I do want to offer my support
23 for a simple fix to address the Eagle River pairings
24 issue, and that would be to adopt the revised district map
25 that links House District 9 with House District 22 that's

1 offered by the Alaskans for a Fair and Equitable
2 Redistricting.
3 And briefly, here's why. Residents of these
4 districts of -- their lives are characterized by their
5 life on the foothills and the upper slopes of the Chugach
6 mountains. That means they share a lot of common
7 interests. While lots of the rest of Anchorage residents
8 rely on local or state road maintenance, people in these
9 districts rely on their local road service boards to
10 provide for maintenance of their roads.
11 I guess it's necessary here to note that one of
12 the reasons for maintaining roads in a LRSA, or anywhere,
13 is to link you to other roads outside your district. It's
14 not -- you know, roads are not point-to-point like a
15 railroad track in the fact that there's not a single
16 point-to-point connection between two elements of a
17 district does not obviate the likelihood of that being
18 good. You drive on one road to get to other roads.
19 I guess its also necessary to note that the
20 distance between different sections of a district is also
21 irrelevant within a single municipality. I'll note that
22 rural districts, there may be hundreds of miles between
23 pockets of residents within the same district which have
24 been found perfectly appropriate.
25 You know, residents of District 9 and 22 face a

lot of similar living conditions and hazards. They live on the urban one at the interface. It means they face the risk of wildfires and of bears getting into their houses and threatening their household and their families. They face the challenge of less reliable utility service, extremes of weather, wind, and snow, as the recent avalanche on the Hiland Road dramatically demonstrates.

Again, it should go without saying these two districts are socially, economically integrated simply by virtue of being within the Municipality of Anchorage. And they are also contiguous. And they are joined in the uplands of the Chugach mountains.

And I'd note that this is a standard that has already been found valid in earlier maps approved by previous districts that link an Eagle River Valley House District across the Chugach mountains to an adjoining House District to the south. So that argument holds no water because the law has already allowed for it.

I think my time has probably run out. So in summary, please reject this so-called Bahnke plan and approve a commonsense district map that links Districts 9 and 22 in a single Senate District. Thank you, Mr. Chairman.

CHAIRMAN BINKLEY: Thank you, Dan. Questions or comments? Okay.

CERTIFIED TRANSCRIPT

ALASKA REDISTRICTING BOARD

BOARD MEETING

APRIL 6, 2022

Members Present:

John Binkley, Chair of the Board

Melanie Bahnke, Board Member

Nicole Borromeo, Board Member

Bethany Marcum, Board Member

Budd Simpson, Board Member

Peter Torkelson, Executive Director

Matt Singer, Legal Counsel

1 you by reshuffling every pairing in Anchorage and
2 being accused of a totally political activity. Go
3 with what you got, accept the 9 and the 22, and
4 declare victory.
5 CHAIR BINKLEY: Okay. Thank you, Frank.
6 Questions for Frank? Thanks again.
7 Let's go to Ray Craig, in Anchorage also.
8 MR. CRAIG: Okay. Mr. Chairman, can you
9 hear me okay?
10 CHAIR BINKLEY: Yes, we can hear you.
11 MR. CRAIG: All right. My name is Ray
12 Craig, long-time resident of Anchorage also.
13 I support Alaskans for Fair and Equitable
14 Redistricting's proposed Anchorage Senate pairings.
15 The Supreme Court ruled that Senate District K, HD 21
16 and 22, should be revisited. AFFER pairs 22 with 9,
17 creating Senate District E for the Anchorage --
18 eastern Anchorage Municipality uplands.
19 Local service areas and snow management are
20 key common upland issues in both these House
21 districts. The 2001 map combined major parts of this
22 Senate district in a single House district, so, as
23 has been referenced earlier, this is repeating
24 history in that former single House district.
25 Three other Anchorage Senate districts have

1 revised pairings to facilitate this Court-required
2 action. Four Anchorage districts are unchanged.
3 The alternative Bahnke pairings disrupt all
4 eight Anchorage Senate pairings, and the Supreme
5 Court decision, in my opinion, does not justify this
6 gross redistricting map disruption.
7 So in conclusion, I support the proposed
8 AFFER Anchorage Senate map for Supreme Court
9 compliance. Thank you.
10 CHAIR BINKLEY: Thank you. Questions for
11 Ray?
12 Nicole in Anchorage, go ahead.
13 MEMBER BORROMEO: Thank you, Ray. Besides
14 for the road maintenance issues, what other
15 similarities are there between Districts 9 and 22
16 that you'd like to put on the record?
17 MR. CRAIG: Well, I think the real estate,
18 the socioeconomic has more uniformity than with other
19 districts in the low ones. Further down the
20 Hillside, would be one.
21 Culturally, just in the settings of those
22 neighborhoods, and certainly, as was pointed out
23 earlier, these folks are taking care of their own
24 maintenance rather than relying on a bigger
25 government Anchorage municipality road -- road

maintenance structure.

MEMBER BORROMEO: Thank you, Ray. I have a follow-up on that, because I --

CHAIR BINKLEY: Go ahead, Nicole.

MEMBER BORROMEO: -- live in -- thank you.

Follow-up. I live in a district that is maintained, as that word gets loosely used most winters, by the Municipality of Anchorage.

Does Eagle River and Hillside share a uniform road maintenance crew? Is that what makes them a natural pairing, in your mind?

MR. CRAIG: No. It's more the structure of local road service districts rather than the top down bigger government approach within the Anchorage road service entity.

MEMBER BORROMEO: Okay. Thank you for that clarification, Ray.

CHAIR BINKLEY: Well done. Thank you, Ray. Appreciate it.

We're going to go online to, let's see, Steve Strait -- or no, no, excuse me. Ellen Jaimes was on the line ahead, was right after Leon. So I apologize for both.

Ellen, are you with us?

MS. JAIMES: Hi, yes.

MEMBER BAHNKE: Okay.

CHAIR BINKLEY: Okay. Thank you, Ellen.

Let's move on to Steve Strait.

MR. STRAIT: Good morning, members of the board, chairman. Steve Strait is my name, long-time Alaskan resident.

I'm going to speak -- I'm going to speak in favor of joining Districts 22 -- pairing 22 with 9. That would be East Anchorage (indiscernible). So I believe that's the AFFER proposal. I'm not sure on that. But I do believe those two districts should be paired.

And here's why. Well, obviously, we're all here for the same reason, is the State Supreme Court made a ruling. But beyond that, you, as a board, are struggling with this, to adopt a plan that will pass Court muster.

I support this district, the -- the Hillside mountainous areas of Anchorage. Having grown up on the Hillside back in the day -- which, funny enough, I mean, it was outhouses then. But still, without laughing, still, what's common between 22 and 9 now, somebody asked the question, I'll try to list off a few of these commonalities, is septic systems. When you get up -- when you get up the elevation a little

1 bit, you've got a lot of things in common, in my
2 opinion, as far as pairing a Senate district here.
3 One is -- let's just talk about the first
4 issue right now, and that's snow. We've just gone
5 through a major event in Eagle River. Snow is a
6 huge -- a bigger issue on these Hillside districts,
7 the elevated areas, than they are in the lowlands,
8 Municipality Anchorage (indiscernible). So you've
9 got that issue in the winter.
10 In the summer the major issue, which
11 actually we don't talk about much anymore, is the --
12 the disaster zone that both of these districts are in
13 when it comes to fire. In the summer, there's a huge
14 area -- we've got a lot of burned-out trees here, and
15 it's been an issue for the last 15, 20 years, the
16 spruce.
17 And if a fire should get going in either one
18 of these districts, the State's going to be -- entity
19 is going to be hellbent to try to shut it down. Why?
20 Well, there's no hydrants out there in many of these
21 areas. These are water wells that supply the area
22 for -- both 9 and 22, in large part. So you have
23 water wells. So that means to get a fire put out
24 you're going to have to have two assets that have got
25 to get in there, one, a fire truck that have water

trucks that carry water up these roads to put out a fire. Small to start with, of course.

Or aviation assets. Let's talk about that. With a water truck going up these roads, one thing they have similar, 22 and 9, is they are non-standard roads. These are winding, narrow roads that go through neighborhoods that predate the City code or have been exempt from City code.

So water trucks going up these mountains -- this is a fireman's nightmare, going up these trails to put a fire out, when you've got traffic trying to evacuate and get the hell out of the homes up in these hills. You have traffic going both ways on one lane. It's virtually -- it's just a disaster waiting to happen.

Now, the second (indiscernible) is aviation. With aviation you can't -- it's difficult to do a water drop in a mountain area, especially if you've got heat coming off the fire. You've got -- you've just got all kinds of turbulence issues. So for that alone I think it makes sense to pair these two.

But beyond that, just moving on, they're both on septic systems in large part in both of these districts. They are not on the main City water system, in large part.

So there's -- that answered the question on -- on what they have similar. So I -- I speak in support of joining, pairing up, House District 21 and 22.

I think that that concludes my remarks. I'd be glad to -- oh, and the road service area was the same here. These people pay for their own road contractors, unlike the city.

Thanks. I'll take any questions. Thank you.

CHAIR BINKLEY: Okay. Thank you.

I see two questions, Nicole and Melanie.

MEMBER BORROMEO: Thanks, Steve. At the end of your testimony you mentioned 21 and 22. That's the district that the Court ruled was unconstitutional. Did you mean what you said in the beginning, 22 and 9?

MR. STRAIT: My -- my correction on that. Thank you for pointing that out. 22 and 9 are the two House districts I would like to see paired up in one Senate district.

MEMBER BORROMEO: Fantastic. You offered some specific examples, and I appreciate it because I'm learning a lot more about the commonalities between 22 and 9.

Can you speak to any perhaps experiences that they share in common by areas that they frequent? And by that I mean do they have common parks you know about, or stores, clinics, community centers, or schools?

MR. STRAIT: Much like most of Anchorage, parks are pretty much neighborhood parks all over Anchorage. I don't know -- I think the park -- the largest park there would be Bicentennial Park, which is shared, I believe, between both districts. If not, that's a State-owned park. I'm not sure if you're referring to Municipal or State.

But to a park -- to a hiker, somebody skiing across country, political boundaries are really not an issue. You just go up in the high country and you just go from one area to the next, regardless of parks or City boundaries or (indiscernible) boundaries, constructed boundaries.

So it's -- it's a great area for recreational users to share both sides. They travel from South Anchorage up into -- from 9 into 22 and vice versa. It's a wonderful mountain trek, summer and winter, bicycles, walking, or skiing.

MEMBER BORROMEO: Thank you.

CHAIR BINKLEY: Okay. Melanie.

MEMBER BAHNKE: Yes. Thank you, Mr. Chair.

All of the things that you said that 22 and 9 have in common with each other, are those also things that Eagle River and Eagle River have in common with each other, 22 and 24?

MR. STRAIT: To the questioner -- to the person, I cannot speak to that. I could, but I'm just not prepared to, in the sense that I wasn't prepared for that question. I'd have to go check with my friends in Eagle River and get more detail on it. I'm just speaking specifically now.

If you'd like me to talk about that, I could, I suppose, but I'd just as soon talk also about southeast Anchorage, if that's where we're going, or southwest Anchorage.

But 22 and 9 is what I'm referring here. Thank you so much.

CHAIR BINKLEY: Thank you. Any further questions for Steve?

That was very enlightening and in depth and appreciated. Like Nicole, we're learning more and more about these two districts and their commonalities, so it's much appreciated, Steve.

MR. STRAIT: Thank you.

CHAIR BINKLEY: Okay. Moving on, we have

minimalist approach that I would certainly prefer.

So I think if we get down to the two remaining choices, there's plenty to talk about there and -- you know, but by the time we talk it through we could end up some other kind of hybrid or something, too. So I'm -- I speak in favor of withdrawing option 1.

CHAIR BINKLEY: Melanie, is your hand back up?

MEMBER BAHNKE: Yeah. I just wanted to thank the person who called in earlier who had very wise words to not let perfect be the enemy of good.

CHAIR BINKLEY: And I'm also supportive of the motion, as well. I appreciate you recognizing that, Nicole.

I think there are more surgical options. I think both option 2 and 3 bravo demonstrate that. So I appreciate you simplifying it, narrowing it down, and I think that'll expedite our debate on it, and also help form public opinion, as well. So thank you.

Any further discussion? Is there any objection to the motion?

If there's no objection to the motion, the motion is adopted, and we now have before us two

plans, option 2 and option 3 bravo.

Okay. That takes care of item 6.

Board member comments. Why don't we do that before we look for a motion to adjourn?

Nicole, I see your hand up. I don't know if that's from before or not.

MEMBER BORROMEO: It's not.

CHAIR BINKLEY: Okay. Okay. If there's no comments -- oh, it's not. Sorry.

MEMBER BORROMEO: I have a comment. Thanks.

And, in fact, I want to piggyback on what you just observed, that withdrawing option 1 does streamline the process and enabled the board to move a lot quicker.

This week the board put on -- put a proposed correction on the table for Cantwell. We did that Monday. It sat out for public comment for more than enough time to elicit public comment, and we took action today.

So what I'd like to propose going forward is that since we have two options out, that they remain out for public comment Thursday and Friday, and that the board take action on these plans on Saturday.

There's no need, in my opinion, to continue to belabor the process into next week. We've got two

ALASKA REDISTRICTING BOARD
WEBSITE RESPONSE

Date: April 6, 2022, 8:47 am

First Name: **Elyce**

Last Name: **Santerre**

Group Affiliation, if applicable:

Email or Phone Contact: [redacted]

Your ZIP Code: **99567**

Issue of Concern (Please provide map name if applicable): **Senate pairings, Chugiak and the bases**

Public Comment: **I hadn't commented previously because I didn't think Chugiak had a dog in the fight about whether south Eagle River paired with South Anchorage (although I have to say, that seems to make sense culturally). I didn't realize that the other alternative being proposed was not to pair them with another section of Muldoon, or with the bases, but to take the bases away from pairing with us and pairing them with a downtown Anchorage district. That's just blatant gerrymandering. The bases have historically leaned conservative, but with low turnout. Democrat planners apparently can't stand the thought of them being paired with another conservative district, never mind the close cultural links between the bases and all the military retirees and off-base personnel in Eagle River/Chugiak. They're trying to nab an "extra" liberal senator for Anchorage, at the cost of the greater Eagle River/Chugiak area. I thought such concerns weren't allowed? I thought decisions were supposed to be made based on cultural affinity and contiguous geography? I and many of my neighbors work or worked for years on the bases. I still shop there. I don't want to see them "hijacked" for a political agenda. That's just not right. I'd testify in person, but I'm home sick and don't want to bring my coughing and sneezing out in public.**

*** Court Reporter not present for proceedings ***

VIDEOCONFERENCE

MEETING OF THE ALASKA REDISTRICTING BOARD

Thursday, April 7, 2022

Anchorage Legislative Information Office
1500 West Benson Boulevard
Anchorage, Alaska 99503

CERTIFIED TRANSCRIPT

two contiguous House districts.

When you have to drive through seven other House districts to get to Eagle River, is that the most contiguous pairing as practicable, in your mind?

MS. SAUNDERS: (Indiscernible) really.

BOARD MEMBER NICOLE BORROMEO: Thank you.

CHAIRMAN JOHN BINKLEY: Okay. Any further questions?

Thanks again, Cindy.

The next person in the queue, Suzanne Fischetti (as spoken). Suzanne, are you still on?

MS. FISCHETTI: Yes, I am. Thank you.

CHAIRMAN JOHN BINKLEY: Yes. Go ahead. Go ahead. Good afternoon.

MS. FISCHETTI: All right. Thank you so much for listening again, and I hope you guys can make a decision soon, because as we can see, as it goes further, there's more confusion. It's not getting any better for anybody to try to figure this out.

But I do support a Chugach Mountain district as laid out in Map 3B. When you look at the map, it's clear that the rest of Anchorage is cut into little blocks, but Districts 22 and 9 are the two large districts with thousands of acres of parks and mountains. There are none others like these.

The Upper Hillside of Anchorage has been combined with Eagle River Valley in the past, both as a House and a Senate pairing. That's because there are legitimate, logical reasons to do so. That is just as true today as it was in the past, maybe even more so because parts of Anchorage have become even more urbanized. Those in the outer areas, like Eagle River Valley and Hillside, have chosen for -- a more suburban experience, surrounded by mountains and wildlife instead of the city life. That's why bringing together Districts 22 and 9 makes sense, and I urge you to choose Map 3 which does this.

I've also recently looked at the maps online, and I can see all of Anchorage, from Girdwood to the Knik River, and the big districts are 9, 22, 23, and 24. It's obvious that these are the four districts that share the most area of topography, and thus, they should be paired together due to related needs.

Maps that carve away portions of the military base from its primary district would also be a mistake. JBER belongs with JBER. That means Districts 23 and 24 belong together, as shown in the map called 3B. That's the one to support if you care about our military. You've already broken up JBER into separate House districts. We owe it to the

1 military to put the base back together by pairing
2 Districts 23 and 24, which makes the base whole again.
3 And I do agree that there's a lot of
4 confusion, because the Anchorage Assembly district --
5 redistricting got a lot of people testifying, you
6 know, keep their Assembly district separate, which
7 made sense. And now they're struggling, because now
8 they're trying to come back and say, "Well, now we
9 have to change because we see this as a different
10 scenario. It is not the same as the Assembly
11 districts," and that's where you're going to see a lot
12 of people that right now are even afraid to testify
13 because of this situation. And, unfortunately, I
14 think the last speaker was one of those people that --
15 separated the two.
16 Thank you so much.
17 CHAIRMAN JOHN BINKLEY: Thank you, Suzanne.
18 Nicole, it looks like you've got a question.
19 BOARD MEMBER NICOLE BORROMEO: Thank you, Susan,
20 for continuing to call in. I understand that you were
21 involved in the municipality's redistricting, and thank
22 you for your efforts there as well.
23 What do you say to Rabbit Creek Community
24 Council's resolution that, quote, "Travel from
25 Hillside to Eagle River requires traversing several

BOARD MEMBER NICOLE BORROMEO: John, there's somebody else in the queue online that you can move to if -- if you'd like, and Yarrow said she'd like that.

CHAIRMAN JOHN BINKLEY: You're not ready yet, Yarrow?

BOARD MEMBER NICOLE BORROMEO: She'd like to go after the person online, she said.

CHAIRMAN JOHN BINKLEY: Okay. Judy Eledge is online. And we've got somebody there in the room that would desire to go after you, Judy. Are you ready to testify at this point?

MS. ELEDGE: Yes, I am.

CHAIRMAN JOHN BINKLEY: Okay. Good afternoon. Welcome back.

MS. ELEDGE: Good afternoon. My name is -- hi, how are you today? I hope you're all having a beautiful day. I'm Judy Eledge, and I'm calling to testify in favor of the Map 3B, and I want to list some of my reasons. I've done (indiscernible) research, and I -- the Supreme Court asked the Board to revise Senate District K, and I think this map does so.

The 3B map makes the obvious logical pairing -- pairing of the two more rural and sparsely populated areas that both are 9 and 22. I did testify yesterday that I had lived in both of those areas, and so they are

very similar, and we have been represented together before. I -- I just see that District 22 is the best match for District 9, and they share a very long common boundary, and they're very contiguous -- contiguous districts.

I also believe that they have similar road service, snow removal, and they have that in common, and they were joined in a House district in 20- -- I think it was 2001, and mostly higher-price, single-family homes make up those communities.

And I just -- I choose -- I don't like Option 2, because I believe the military voters should be paired with -- should not be -- should be paired with Downtown Anchorage -- do not believe that they should be paired with Downtown Anchorage. I think it would seriously diminish their representation.

And so, once again, I'm calling in favor of Map 3B, just because I think that they share a lot of the common -- same commonalities, and I have lived in both of those districts, and I would have no -- even though it may not be my perfect choice, it most certainly would be the most logical one if I was still living there.

Thank you so much for letting me testify.

CHAIRMAN JOHN BINKLEY: Thank you, Judy.

ALASKA REDISTRICTING BOARD
WEBSITE RESPONSE

Jodi Taylor [redacted]

Thu 4/7/2022 12:17 PM

Redistricting Board,

Let's get a balanced, fair shake on the senate seats, plan 3B offers that. Let's move forward in a common sense fashion, ER should be paired w South Anchorage (zoning similarities, demographics, and like minded on issues).

Thanks,

Jodi

ALASKA REDISTRICTING BOARD
WEBSITE RESPONSE

Steve Carhart [redacted]

Thu 4/7/2022 7:27 AM

Dear Committee

This is a note to support Senate district K which included districts 9 and 22 South Anchorage and Eagle River

They do have a continuous boundary. One of the largest of any Senate seats. There is a community that looks to overlap both 9 and 22. Stuckagain.
Someone said that South Anchorage was a well-off community and Eagle River not so much. Another one of your Rich person's bad progressive stories. There are many connections between these areas as raised by the testimony. Fire, water systems, lot size, roads, or lack of roads, and recreation. Income, come on.

The reasons presented for not using these combinations was exactly what you did with the old District 8 now 30. A fast growing area around Big Lake is attached with included areas not linked by roads. Large distances between communities. The district has one of the largest population rankings in the state. Areas without a common cultural link. Some subsistence, some commuters, and clearly no connections between most of the communities in the new District 30. Blatant gerrymandering by the committee for District 30.

There seems to be a do only as the Big Ol lawyer Scott Kendal tells you to do. He has an agenda that he uses the threat of expensive lawsuits to include his whims.

I ask that you relook at this pairing before final submission.

Thanks for your time. Steve

ALASKA REDISTRICTING BOARD
WEBSITE RESPONSE

Date: April 8, 2022, 12:02 pm

First Name: **Melissa**

Last Name: **Bell**

Group Affiliation, if applicable:

Email or Phone Contact: [redacted]

Your ZIP Code: **99587**

Issue of Concern (Please provide map name if applicable): **Senate Redistricting**

Public Comment: **I am in support of option 3B as a Girdwood property owner.**

Simpson Texts

AT&T 12:04 PM 100%

JB
John >

Mon, Mar 28, 10:49 AM

Can I call you later?

Yes any time.

Peter is calling you now and I will try a little later. Thanks

Mon, Mar 28, 1:10 PM

Any time is still ok for me.

Sorry, Budd.
On another call now.
Will call as soon as I can.
Thanks

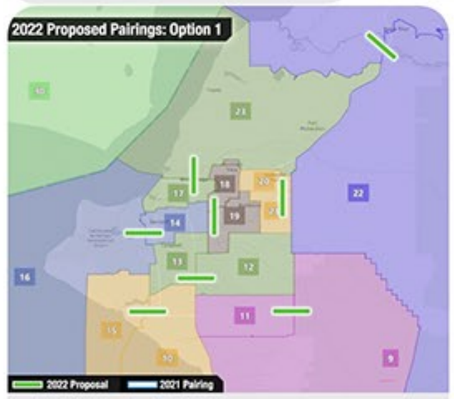
Wed, Apr 6, 7:09 PM

Happened to see this.

iMessage

AT&T 12:05 PM 100%

JB
John >



'Bahnke map' is identical map Sen. Tom Begich texted to Nicole Borromeo in November
alaskalandmine.com

Hmm.

Magical coincidence?

iMessage

AT&T 12:08 PM 100%

JB
John >

Of course. Ask Peter to send you the 3B map that I asked for this afternoon. I think it is more complete and informative.

Ok. Thanks

Wed, Apr 13, 12:35 PM

I was wrong.... The community adjacent to Eagle River is Chugiak.

The Mountains and park to the east are the Chugach mountains

👍🏻

iMessage

AT&T 12:09 PM 100%

JB
John >

I was wrong.... The community adjacent to Eagle River is Chugiak.

The Mountains and park to the east are the Chugach mountains

👍🏻

Is Chugiak more properly 23 or 24?

I mean 22 or 24.

Read 4/13/22

It is in 24. Also Peters Creek and Eklutna are in 24.

iMessage

AT&T 12:12 PM 99%

BM
Bethany >

Thu, Dec 2, 4:50 AM

Sent

Mon, Dec 6, 10:31 AM

You are joining this meeting now, right?

Fri, Apr 8, 9:56 AM

Maybe try restarting?

Mon, Apr 11, 2:37 PM

Hi Budd, I hope your travels went well. Can you give me a call when you have a moment? Thank you

Text Message

AT&T 12:11 PM 99%

NB
Nicole >

Wed, Feb 16, 4:35 PM

Hi, Budd. I'm wondering if you have time for a 10 minute call later today? Thanks for considering.

—nb

Tue, Apr 12, 9:31 AM

Good morning. Are you coming up for the hearings this week?

Tue, Apr 12, 12:34 PM

Hi Nicole. I'm going to Zoom for these.

Delivered

iMessage

AT&T 12:37 PM 93%

PS
Paulette >

adn.com

Wed, Apr 13, 1:47 PM

Good job

How long did I go on that?

Kinda long
But you made up for all the time you kept quiet

John doing well

Is Matt pushing something now?

I don't think so. Bethany doing well too.

iMessage

CERTIFIED TRANSCRIPT

ALASKA REDISTRICTING BOARD

BOARD MEETING

APRIL 9, 2022

Members Present:

John Binkley, Chair of the Board

Melanie Bahnke, Board Member

Nicole Borromeo, Board Member

Bethany Marcum, Board Member

Budd Simpson, Board Member

Peter Torkelson, Executive Director

Matt Singer, Legal Counsel

CHAIR BINKLEY: Thank you, Melanie.

Any other questions for Denny?

Okay. Next we have, I believe off-net, Jason Warfield.

MR. WARFIELD: Yeah, I'm here. I'm here.

CHAIR BINKLEY: Okay. Go ahead. (Indiscernible.)

MR. WARFIELD: Thank you. So my name is Jason Warfield. I've lived in Anchorage a little over 40 years.

First, I'd like to thank you all for your service to the community. You have a tough job, and I know how challenging it can be to -- and thankless, for that matter, to be on a volunteer-appointed board. Thankfully this only has to happen, you know, what, every decade?

Next I'd like to speak briefly about redistricting, and specifically map 3B. There seems to be a lot of pushback joining Districts 22 and 9, and some point to the fact that the Hillside just spoke out against it, the municipal reapportionment committee was making that case and taking part of the Hillside and throwing it into municipal District 2. In a nutshell, this is why it's completely different.

Throwing a portion of District 6, about

12,000 people, into municipal District 2 would cause them to be far underrepresented due to the population disparity. I don't have the population numbers in front of me, but I know it wouldn't be an equal pairing.

In map 3B, the district pairings -- while not optimal, nobody likes change -- represent the most fair map on the table in my opinion. The two districts share a 35-mile border and are demographically similar.

This is the argument that was made by the municipal reapportionment committee, you know, when they were trying to put 6 and 2. The glaring differences in pairing these two similar districts is that both have a very similar population and would be equally represented by their state senator.

This map also puts JBER with Eagle River -- the Eagle River district instead of lumping it in downtown. And while this is purely anecdotal, I spent decades in the automotive industry here in Anchorage, and the vast majority of our military clients lived in Eagle River or on the Base itself and not in the downtown district.

What is not anecdotal is that the majority -- that a majority of middle and high school

children from the Bases attend school in Eagle River and not downtown.

In closing, you know, I respectfully request that you support map 3B. And thank you again for your service to the community.

CHAIR BINKLEY: Okay. Thank you, Jason.

Questions? Melanie, you've got a question for Jason?

MEMBER BAHNKE: Yeah. Thank you, Jason, for your testimony.

I was confused, because you were talking about District 6 and 2. Are these districts from the municipal reapportionment that you're referring to?

MR. WARFIELD: That's right, yeah. District 6 in South Anchorage, and District 2 is Eagle River.

MEMBER BAHNKE: Okay. All right. Thank you for that clarification.

MR. WARFIELD: Uh-huh.

CHAIR BINKLEY: Thank you. Nicole.

MEMBER BORROMEO: Thank you, Jason. As I look at the testimony, a lot of it has been coming in related to the municipality's reapportionment process. And while that is not mandatory authority for us to follow, it is persuasive.

And so the initial conversation related to the district that I used to represent, and indicated, you know, I've heard -- I've used the former Massachusetts governor, Gerry. His name has been used a lot over the last couple of days. Of course, he's the guy that created salamander in Massachusetts.

And -- but yet if you look at the district that I came from already, you'd have to make that same argument with just the House district, because why would you go and carve out -- you go out and carve Nunaka Valley, which has never been a part of that district, when right south of it was an area that was in it, at least when I first represented it. You had the Reflection Lake area.

And to argue that East Anchorage was all the same, you can't do that. I think you're kind of -- as we go into the conversation today, the same thing applies.

What I'm not hearing is I'm not hearing a lot of dialogue about JBER and the -- our military personnel. And I think they've been left out of the conversation that I've heard. That's what's compelled me to come in. They do not have enough for their own Senate district, but they are more closely

1 tied to Eagle River and East Anchorage than any other
2 part of Anchorage.
3 As East Anchorage at this point is no longer
4 on the table, based on both of the maps, based on the
5 conversation that we've heard related to trying to
6 pair that District 20 and 21, I believe the two are
7 left with the only option to make sure that our
8 military personnel are taken care of, to make sure
9 that the people that are not -- not going to --
10 they're not going to be as engaged in this process,
11 is you're going to have to keep them in the Senate
12 district paired with Eagle River.
13 Eagle River High School would not exist --
14 this is a fact. It would not exist if it were not
15 for our military. It wouldn't be there. There are
16 whole hallways at Chugiak High School that are empty.
17 If we did not have the military, Eagle River High
18 School could fit in Chugiak High School. You have to
19 tie those two together because they have the closest
20 socioeconomic situation.
21 And then you also have to consider when
22 you're going to put them on the ballot, because we
23 see higher turnout as well from our military. It
24 comes during that time frame when we have a
25 presidential year, so you have to -- that's

1 another -- I know it's separate, but when you get to
2 that point I think any district that includes our
3 military, you have to consider when that Senate
4 district comes up.
5 That automatically pairs you with -- well,
6 then you do have to put -- you do have to put the
7 second Eagle River district somewhere else. And as
8 the Courts' (indiscernible) process, and engagement
9 here has said, it can't be East Anchorage, well,
10 really your only other option is going to be another
11 district very similar to it that's going to allow for
12 someone from either one of those districts to have
13 just as good of a chance of representing that area.
14 I've heard -- I've heard here said that it's
15 a long way to drive, that people won't show up. But
16 the reality is that if you only went in and carved a
17 small portion of Eagle River out and paired it
18 with -- with the Hillside or vice versa, you might be
19 able to make that case or that argument.
20 But the fact that you're going to have a
21 whole district that is both in Eagle River as well as
22 in the other, I think you will find that the person
23 that lives in whichever district that is the senator,
24 you -- they will probably spend a lot more time
25 trying to prove to the other district that they are

1 thinking about them.
2 It's what I saw actually with Cathy Giessel
3 when she represented my district. She lived in --
4 she lived in the Hillside, but she spent a lot of
5 time coming to my district because she wanted to make
6 sure they did not feel that way. Why? Because if
7 you don't take that into consideration, you won't be
8 a senator. Because they will reject -- there will be
9 a rejection of you.
10 So I think it's important to -- as you're
11 looking at these maps, to go back and consider our
12 military. And then when you do that, the only one
13 that you can pair it with, because you've taken East
14 Anchorage off the table with all of the process, is
15 Eagle River. And then the dominoes start to fall.
16 And so that is what makes -- makes 3B really
17 the only option that you have if you want to consider
18 a key group that I have not heard testify from. It's
19 all been Anchorage centric, it's all been Eagle
20 River, it's been the Hillside, East Anchorage. But
21 you're probably not going to have those military
22 personnel come here, because that's just -- this
23 isn't going to be on their radar. It's just the
24 reality.
25 So to take care of them, you're going to

you've done and the rest of the group. I know it's been a long haul, and good luck with the rest of your deliberations.

CHAIR BINKLEY: Thank you very much, Miles. And thank you for your service, too, with the military and for the state over many, many decades. It's much appreciated.

And, yes, I do know Ship Creek and Government Hill area well. I've got a great picture of my grandfather's tent city storefront in 1915 down in Ship Creek, and it's what I treasure. So thank you for that.

Moving along next is Representative Dan Saddler. Dan, are you with us? I'm not sure if you're off-net or you're on net (indiscernible) office.

REPRESENTATIVE SADDLER: Thank you very much. I won't go through the can you hear me now, can you hear me now. So if you can, again, for the record, Mr. Chairman, this is Dan Saddler from Eagle River.

I would like to add my voice to the many of those who have called this week supporting map 3B. And I hope the map numbers haven't changed overnight, but the task before you is to remedy the previous

Eagle River pairings, and it looks to me like map 3B, that pairs Districts 9 and 22 together in a single Senate district, best accomplishes that.

Here's why. I guess the standards require that district pairings be socioeconomically and geographically integrated. District 22 includes Eagle River Valley, which encompasses a semi-rural area characterized by people living on or near the Chugach Mountains.

District 9 Anchorage encompasses a semi-rural area, also characterized by people living on or near the Chugach Mountains.

The standard requires that the Senate pairings be contiguous, and I've heard people say that the distance between Districts 9 and 22 are somehow disqualifying. At the risk of being disrespectful, I would remind everybody Alaska is a big state and Anchorage is a big municipality. House districts and Senate pairings reflect that size and spread.

The idea that absence of a single road linking the two Districts 22 and 9 just does not pass muster. We no longer mush our dog teams across an Iditarod trail that goes through the Chugach Mountains. We now drive cars on our roads, which,

incidentally, the people in 9 and 22 pay for themselves to their own road service areas, as opposed to other parts of Anchorage.

The implication that a senator's access to constituents is limited by the short drive does not hold water in the modern age. Senators have access to their constituents by telephone, by mail, by teleconference, (indiscernible), by e-mail, and by the internet, which they've invented.

Even before the age of the internet, Senate pairings linked Eagle River with South Anchorage. It was appropriate then, it's appropriate now. That's called precedent. The idea that something is no longer good because it's old is -- just does not make sense to me.

I want to register my opposition to the House -- to option 2 that would link 23, which is the (indiscernible) side of JBER, and District 17, which is Government Hill and downtown.

I represented District 18 in the State House in my first term, which linked these two areas, and I can tell you, members of the board, there are significant differences between the population. They have different lifestyles.

One is settled homeowners, like Miles Baker

just testified, versus transient, that rotate every couple of years through the Base. There's different homeownership factors, versus privately owned homes versus government-issued on-Base housing.

The children of these people go to different schools, Ursa Major and Minor versus Government Hill Elementary. And I need to say, the idea that there is travel across the big fence is just not accurate. While military personnel can leave Base and go to town, citizens cannot get past the armed guards to get on Base unless they have a legitimate reason, you have a pass or have a sponsor. It is (indiscernible) easier to drive from Eagle River to South Anchorage.

Option 3B, again, better reflects the common interest between these districts. District 23 has the highest percentage of veterans and significant number of active duty families. They've got dependent or veteran DOD passes to get them Base access. So they go to work on Base, they shop at the PX, they go to Elmendorf hospital for their healthcare. These people share locational, cultural, and economic values, and would be well represented by a single senator.

I would offer a couple other -- well, I'm not going to go there.

I would just state -- I would caution anyone against characterizing the motives of board members. I choose to believe that you all operate in good faith. Call me naive, but I do.

And by the same token, I would caution board members from inferring any partisan intent on the part of testifiers. The people who testify are due the same respect and presumption of fairness and nonpartisanship that you yourselves are due.

So to summarize, Mr. Chairman, please oppose map 2 and support map 3B.

And I regret I can't hang on for the cross-examination. I've got a flat tire I need to go get to. So thank you (indiscernible), and good luck with your decision. Take care.

CHAIR BINKLEY: Thank you, Representative Saddler.

Nicole, go ahead.

MEMBER BORROMEO: Is he still on the line or did he hang up?

CHAIR BINKLEY: He indicated he had to attend to a flat tire on the side of the road he was working on, so I don't think he's on the line, Nicole.

MEMBER BORROMEO: Okay.

ALASKA REDISTRICTING BOARD
WEBSITE RESPONSE

Date: April 9, 2022, 11:54 am

First Name: **Bernice**

Last Name: **Rhornton**

Group Affiliation, if applicable:

Email or Phone Contact: [redacted]

Your ZIP Code: **99577**

Issue of Concern (Please provide map name if applicable): **3B**

Public Comment: **Please support 3B for our redistricting map. The plan should be balanced and fair and accurately represent the people of Anchorage and Eagle River. This process needs to be fair to all not just a small group of individuals. As a resident of Eagle River we as a community deserve to be heard and request you support 3B for our redistricting map.**

Thank you!

ALASKA REDISTRICTING BOARD
WEBSITE RESPONSE

Date: April 9, 2022, 11:49 am

First Name: **Crystal**

Last Name: **Kennedy**

Group Affiliation, if applicable:

Email or Phone Contact: [redacted]

Your ZIP Code: **99577**

Issue of Concern (Please provide map name if applicable): **Support of 3B and Opposed to Option 2**

Public Comment: **Option 2 is one of the most egregious attempts to minimize representation in the Chugiak Eagle River area ever devised. For at least the past 40 years, as the community of Chugiak Eagle River has grown, the area has been represented by two senators. For almost three of those decades the community was represented in these seats by people who lived in either Chugiak, Peters Creek or Eagle River specifically. With Option 2, all of the Chugiak Eagle River area becomes encased in one senate district and essentially the entire area (MOA's District 2) will have one senator.**

The Chugiak Eagle River area was recently acknowledged by the Municipality of Anchorage's own reapportionment plan as a compact and cohesive community by which it maintained its individuality and identity as a whole community. This recognized community is now being threatened with a significant decrease in representation in the Alaska State Senate that it has never been threatened with before should Option 2 be adopted. For over 50 years the community has jointly shared some of its representation with either Anchorage or with the Mat-Su Borough thereby allowing two senators to represent the entire area. To allow the reduction of that representation by 50% is unprecedented and unconscionable.

Option 3B, though not ideal, at least maintains Chugiak Eagle River's historical and current levels of representation in the Senate. Please be very co nscious of the damage that could be inflicted, a precedence that would be undone, and the history that would be ignored with Option 2. Instead, please support the fairness and continuation of the level of representation that this community has experienced and relied on and was apparently, at least up till now, entitled to by supporting Option 3B. Thank you!

Crystal Kennedy

CERTIFIED TRANSCRIPT

ALASKA REDISTRICTING BOARD

BOARD MEETING

APRIL 13, 2022

Anchorage Legislative Information Office
1500 West Benson Boulevard
Anchorage, Alaska

Members Present:
John Binkley, Chair of the Board (via Zoom)
Melanie Bahnke, Board Member
Nicole Borromeo, Board Member
Bethany Marcum, Board Member (via Zoom)
Budd Simpson, Board Member (via Zoom)
Peter Torkelson, Executive Director
Matt Singer, Legal Counsel
Jeanette Starr, Court Reporter

CHAIR BINKLEY: Okay. Yeah, I think, Nicole, are you willing to amend your motion, just for sticking to the motion itself and allowing debate at this point? And then we can certainly -- it's available to you at any time to call the question to try and stop debate.

MEMBER BORROMEO: Yes. I'm not trying to stop debate. I'm sorry that it got confused.

I would like to move option No. 2 and entertain a vote on that after discussion of the board. Thank you.

CHAIR BINKLEY: Okay. So the motion is to adopt option 2.

And, Melanie, you're okay with seconding that motion?

MEMBER BAHNKE: Yes, Mr. Chairman.

CHAIR BINKLEY: Okay. The motion is before us to adopt option 2. Debate on the motion?

And, Melanie, you've got your hand up, and then Budd.

MEMBER BAHNKE: I would defer to Budd. Let him go first since -- oh, he's got his hand down now.

Okay. And Budd --

CHAIR BINKLEY: Okay. Go ahead, Melanie.

MEMBER BAHNKE: If Budd doesn't have

1 anything to offer, I'll go ahead.
2 First of all, I want to thank all of the
3 Alaskans who called in to testify and provide us with
4 perspectives and those who submitted proposed Senate
5 pairings.
6 Looking back to November, the alternative
7 compromise map, if you will, that I had developed
8 actually had also split Eagle River.
9 And based on all of the new information from
10 testimony and being able to have time to review
11 proposed Senate pairings, I now realize that -- that
12 splitting of Eagle River would have been flawed.
13 So I'm grateful, again, for the opportunity
14 for public comment and time to evaluate the options.
15 The splitting of Eagle River, option 3B, is
16 not the most contiguous, as it splits the community
17 of Eagle River, a community of interest, in half,
18 literally by a street, and creates a Senate district
19 with the mountain range, wilderness, and unpopulated
20 areas in between.
21 I don't disagree that there are things in
22 common between Eagle River and Hillside and Eagle
23 River and JBER. We heard from a lot of folks that
24 there are actually a lot of things in common.
25 But when I look at -- if I looked at it as a

1 Venn diagram, I would have Eagle River and Eagle
2 River with the most overlap, in terms of contiguity,
3 compactness, and socioeconomic integration.
4 And one part of Eagle River has some overlap
5 with Hillside, and one part of Eagle River has some
6 overlap with JBER, but, overwhelmingly, when you look
7 at the transportation corridors, the number of Senate
8 districts you have to travel through to get from one
9 part of a Senate district to another, I looked at the
10 constitution and the constitution requires us to
11 consider contiguity.
12 In fact, Judge Matthews of the Supreme Court
13 [sic] used the analogy of connecting Girdwood and
14 downtown as a false contiguity, and our attorney's
15 response was that was also the board's position. So
16 that was back when we were before the Supreme Court.
17 Because it uses links that are unpopulated.
18 Also under record -- under the record,
19 Member Simpson had also -- when referring to
20 Southeast he had said the part that connects the
21 north part of that to the southern part basically has
22 almost no people in it, so it just -- it's basically
23 a fiction in my mind.
24 Now, mind you, that was referring to
25 Southeast, but when I look at the 3B pairings, I

1 think that also applies there.
2 The constitution says each Senate district
3 shall be composed as near as practicable of two
4 continuous House Districts. Consideration may be
5 given to local government boundaries, drainage, and
6 other geographic features shall be used in boundaries
7 wherever possible.
8 From the Superior Court ruling, on page 27
9 of the 171 document, the Court has defined the
10 contiguity criterion to require territory which is
11 bordering or touching, or more specifically that
12 every part of the district is reachable from every
13 other part without crossing the district boundary,
14 Hickel vs. Southeast.
15 But in light of Alaska's size and numerous
16 archipelagos, the Court noted that a contiguous
17 district may contain some amount of open sea, within
18 reason, and subject to the other Section 6 criteria.
19 The Alaska Supreme Court has defined a
20 contiguous territory as one which is bordering or
21 touching. The Court determined that a district may
22 be defined as contiguous if every part of the
23 district is reachable from every other part without
24 crossing the district boundary, i.e., the district is
25 not divided into two or more discrete pieces.

The Court acknowledges that Alaska is a unique state with many islands and massive coastline. This reality means that without limitations on the definition of contiguous, a coastal district could be considered contiguous with any other coastal district by reason of sharing the open sea.

For example, District 7, covering the Aleutian Islands, could be permissibly paired in a Southeast district despite being separated by the Gulf of Alaska.

In Kenai, the Supreme Court noted the anomalous result and determined that contiguity could not be separated from the concept of compactness when crafting Senate districts.

In my mind, option 2 is therefore both most contiguous and compact comparatively with the alternative that we have.

Peter, can you please pull up the map that shows the mountains and the transportation corridors?

MR. TORKELSON: Yes. I'll have it up shortly.

MEMBER BAHNKE: While he's doing that, I also want to speak to equal rights. So in my mind, equal rights does not mean more rights for some. It doesn't mean maximal rights at the expense of others.

The other thing that I'm concerned about with the Supreme Court's findings and the remand from the Superior Court to us was to correct the constitutional deficiencies in the map that was adopted in November. It specifically noted partisan gerrymandering, as intent was stated on the record and also reflected in the outcome.

This time perhaps the intent has not been verbally stated, but the outcome is the same. This is still gerrymandering, just in a different way, in my mind, because the intent to separate Eagle River to give it more representation, which was stated in November, is still being considered in option 3B.

Just going back also to compactness and how the Courts have said that contiguity is related to compactness, the Supreme Court had defined compact territory. Compactness is defined as having a small perimeter in relation to the area encompassed, such that bizarre designs do not result.

The Court has provided some examples that may violate this criterion, such as corridors of land that extend to include a populated area or appendages attached to otherwise compact areas.

When you look at the maps, there is literally a mountain range separating the two House

1 districts that are being proposed to be paired in
2 option 3B. And when you look at how you get from one
3 part of the proposed Senate district to the other,
4 you see how many other districts you have to cross in
5 order to get from one to the other.
6 I believe that the Court sent this back to
7 us to correct it, not to find a new way to continue
8 to try to give Eagle River more representation. And
9 so that's why, Mr. Chair, I will be voting in favor
10 of option 2. Thank you.
11 CHAIR BINKLEY: Okay. Thank you.
12 Nicole, go ahead.
13 MEMBER BORROMEO: Thank you. I don't have
14 any comments at this time, but questions. And I
15 realize that we're doing this over Zoom.
16 If there are any questions or concerns from
17 either you, Bethany, or Budd as to the strength of
18 article -- of option 2 compared to option 3, I'd like
19 to engage in some of that discussion.
20 CHAIR BINKLEY: So you have a question --
21 MEMBER BORROMEO: Yeah.
22 CHAIR BINKLEY: -- for one of us?
23 MEMBER BORROMEO: I do have a question, yes,
24 for you and Bethany. Because I've been listening to
25 the public hearings and reading the testimony, and in

my mind you have both continued to champion map 3B. And I'm trying to find at this point, what is the rationale for splitting Eagle River?

CHAIR BINKLEY: Well, I think really, you know, the motion was made to adopt version 2, and now we're having debate on that motion. So it's not really a general discussion. It's individual board members stating where they stand on the motion that is before us. So it's more of a debate on where people stand on the motion itself.

So, you know, when I express where I'm going to stand on this motion, you know, I'll address some of those things, and I would imagine other members would, as well. I don't necessarily want to do it in a manner that it's a questioning back and forth.

MEMBER BORROMEO: That's -- that's fine. The inference then is that I'm left to create the connections versus hearing it from you and to try and come up with your rationale. And I'd much rather hear it from you, if -- if you're willing to put it on the record, as to -- as to why Eagle River has to be in two separate Senate seats.

And I'm not just saying you personally, but Bethany, as well, has expressed, again, strong support for map B3. I'm not sure where Budd lies at

1 this point, so I'll welcome everybody into the
2 discussion.
3 CHAIR BINKLEY: Yeah. Again, I think we
4 should just debate where we stand on the motion. And
5 members don't have to. They don't have to express
6 why they're going to vote the way they do, but that's
7 the appropriate time to do it.
8 But it's -- really, I think we're beyond the
9 point of discussing it. I think we're to the point
10 of answering the question that is before us, which is
11 the motion, do we support version 2 or not.
12 Let's see. Budd, you had your hand up, and
13 then Melanie.
14 MEMBER SIMPSON: Thank you, Mr. Chair. I --
15 I might as well jump in to my general comments,
16 because whether you're for or against one of the
17 options necessarily informs what happens with the
18 other option. So, in my mind, the discussion is kind
19 of linked between the two.
20 And, you know, I haven't weighed in as much
21 as some members have up to now, my sense being that
22 these hearings were opportunities for the public to
23 talk and not us to kind of take up the time and talk
24 over them.
25 So in that context, as Melanie said, I

1 really would like to thank everyone who participated
2 over the past several months, and especially in the
3 last couple of weeks or few days. I'm sure, like the
4 rest of you, I've gone through and read the written
5 testimony and the transcripts of the oral testimony
6 and have tried my best to keep up to speed on all of
7 that and to take into consideration what -- what
8 everybody said.
9 I do note that, you know, for many people
10 testifying in a public context out loud on video or
11 in person is really difficult and daunting for kind
12 of most civilians, regular folks, so I appreciate
13 that a lot of people did take the opportunity to
14 submit written testimony, as well. I know there's
15 been some discussion of the importance of written
16 versus in-person. I don't see a difference in that
17 personally, so I just want to let the people that
18 submitted written testimony know that I consider that
19 as important as somebody who came in person.
20 So that brings us to where we are now. We
21 are addressing the matters that were sent to us on --
22 on remand after the original pairings were
23 challenged, and then appealed, and then remanded. So
24 at this point we have two specific tasks.
25 And, happily, I think we have taken care of

1 the first one, which was the Cantwell appendage,
2 so-called. The board had a straightforward solution
3 to that. It was resolved, I will say, almost with
4 consensus, Mr. Chair. And I think it's not
5 necessarily -- necessary to beat that to death or
6 anything. We could move on to the real issue before
7 us today, which is the pairing for Senate District K.
8 That was the other specific remand item.
9 Now, when this first came up, the testimony
10 was very adamant that we address what became option
11 No. 1, which had been before the board and the public
12 now for several months, had been thought about,
13 considered, and all of that. But I, at least, urged
14 the board to take a little more time, think about
15 that, get some testimony -- new testimony.
16 And in the end -- well, at the -- in the
17 beginning, the public testimony definitely favored
18 that option No. 1, at least in terms of a plurality.
19 While we're not necessarily following what the --
20 most testimony supports, it was notable that there
21 was a lot of support for option 1.
22 And had we gone with that, we basically
23 would have adopted a Senate pairing that went way
24 beyond our charge given to us by the Court and our
25 constitutional duties, because it would have involved

1 re-pairing and renumbering the entire Anchorage
2 Municipality, you know, changing all eight districts.
3 And on reflection and after hearing some
4 testimony and advice, we determined not to do that.
5 And after thinking about it, the board actually did
6 vote unanimously to remove option 1 from further
7 consideration. So that -- the board doesn't always
8 act in -- in opposing factions or whatever. The
9 board often -- often works toward a single goal, and
10 there was an example where we all agreed on what
11 would be the right thing to do.
12 So having -- having removed that from
13 consideration, we then received three other options
14 for Senate pairings. The first, the East Anchorage
15 plaintiffs offered one that -- you know, they had
16 prevailed in their challenge of our pairing of Senate
17 District K, and so they brought what became option
18 No. 2 to resolve the District K problem.
19 And then AFFER, which was another -- another
20 group or individual that had participated extensively
21 from the beginning, brought forth another option,
22 which became option 3. And then -- then subsequently
23 modified that a little bit, which is how we got to
24 3B, and that also was the option that Board Member
25 Marcum came up with.

1 There also was a third option presented by a
2 member of the public. That option involved the
3 necessity -- to make it work, you had to change a
4 House district. We were not prepared as a board
5 overall to get into changing House districts, and so
6 rather than confuse ourselves and the public by
7 having a third option that at least some of us felt
8 we just weren't going to actually entertain, we
9 dropped that from consideration, as well, and leaving
10 us with the two that are before us now.
11 Interestingly, too, in my mind, between
12 option 2 and 3B, there actually are a number of
13 things in common. We tend to look at this as, you
14 know, two extreme issues, but there actually a bunch
15 of common features.
16 Both -- both option 2 and 3B only change
17 four districts. And that seems -- that seems like a
18 reasonable number. The fact that both independently
19 came up with a solution that changes four districts,
20 to me, tends to lend validity or credibility to that
21 level of change, so I appreciate that.
22 Also, both chose to deal with Senate
23 District K in exactly the same way. They joined
24 House Districts 20 and 21, which, again, was probably
25 the simplest and most obvious solution to the mandate

1 of the Court and the District K problem.
2 They also -- if I'm correct, both options
3 leave in place the pairings of Districts 11 and 12,
4 and 15 and 16. So there's a number -- number of
5 things that are the same in both versions.
6 Obviously, then, the board is faced with the
7 hard decision of what happens with the four House
8 districts that are affected by 20/21 pairing, those
9 being the Eagle River/Chugiak districts, the South
10 Anchorage/Hillside, the JBER, or military district,
11 and downtown.
12 So that's a lot of preface. Like I said, I
13 haven't done a lot of talking until now, so you have
14 to bear with me as I tee this up then to kind of move
15 forward.
16 The differences then going through that
17 analysis is whether we pair Districts 17 and 14, that
18 would be downtown and the military district, or 23
19 and 24, which you could call military and Chugiak.
20 So how you decide those two options then
21 pretty much drives what happens with the Eagle River
22 District 22 and the south side of Chugiak, and it
23 starts narrowing it down. You have the -- when you
24 make a decision, you have fewer other options to
25 choose from as you go forward.

So on the -- as far as the motion before us on option No. 2, I personally find the pairing of 23 and 24, being the military with Chugiak, to be the more compelling version or solution.

I think pairing the military bases with downtown overlooks JBER as a significant community of interest, and I think that, in itself, could expose us to a constitutional challenge from that constituency.

We heard a lot of testimony about interactions between Eagle River, Chugiak, and JBER, that that area has essentially developed as a bedroom community for -- for the military families. They send their kids to middle school and high school there. I'm sure there are exceptions to that, but, again, I felt the overall weight of that testimony was compelling toward that pairing.

So I've -- I've heard the argument made repeatedly that under the Court ruling Eagle River/Chugiak has to be paired with Eagle River, but that's actually not what the Court said. The Court -- the Court decreed that the way Eagle River was placed in the proclamation version was done at the expense of Muldoon. "At the expense of Muldoon" was the key to that part of the decision or the

1 order.
2 The order directed us to reconfigure Senate
3 District K. It didn't say anything about L --
4 District L, although the East Anchorage plaintiffs
5 had expressly asked for that as part of their relief.
6 And the Court did not grant the relief requested
7 regarding District L. They told us -- or rather it,
8 the Court, told us to repair the problematic aspect
9 of District K, and both we and -- well, both versions
10 offered by the board make that repair.
11 And so that should be sufficient to meet
12 the -- both the exact language and the intent or the
13 sense of what the Court was concerned about. If --
14 if Eagle River is paired together or split, either
15 way does not happen at the expense of Muldoon because
16 Muldoon is taken care of under -- under both
17 versions. Yeah. So that -- that issue is
18 eliminated.
19 As far as the pairing, I don't think there's
20 any real advantage to the Eagle River districts, in
21 terms of splitting them or combining them. The House
22 district is the same. It would -- you know, those
23 House districts were approved by both levels of the
24 Court. They are, you know, all within the
25 municipality. They all contain approximately the

1 same number of people. And when you -- whichever two
2 you pair for a Senate district, there's going to be
3 37 or -- 36 or 37,000 people in it, and they all get
4 a vote, and they're all going to have a senator and a
5 representative.
6 So the other point is that Districts 23 and
7 24 is a pairing that is already in place, and so
8 under option 3B, that isn't changed. So if there are
9 folks out there who have already thought about
10 running or not running or whatever, that stays in
11 place, and it's just one less thing to be changed.
12 So that brings us to the pairing of 22 and
13 9. There's been a lot of testimony and discussion
14 about that, again, on both -- both sides. When you
15 make the pairings that are described for JBER and
16 Eagle River, it leaves 22 as -- you know, with no
17 place else to go really except 9. And so that -- you
18 know, that just kind of flows naturally from that
19 other decision regarding 23 and 24.
20 So the House districts have been settled.
21 No one complained about those. The most discussion
22 in that has been about contiguity and the concept of
23 "as nearly as practicable" has been discussed.
24 The concept of nearly as practicable, I
25 think, has been misconstrued a lot of the time in

1 those discussions. You know, practicable just
2 basically means possible or able to be done, capable
3 of being done. The way it's used in the Alaska
4 constitution is actually not to say that as near as
5 practicable means you have to have the best pairing.
6 It's stated as an exception to the contiguity rule,
7 where it is not practicable to have the two House
8 districts paired together because they don't touch
9 and there isn't another way to do it.
10 So as nearly as practicable was always
11 intended as an exception to the contiguity rule, not
12 an enhancement of the contiguity rule that you had to
13 find the best, most compact, whatever.
14 The pairing of House districts to create a
15 Senate district is not the same rule as you have for
16 the creation of a compact, contiguous, and
17 socioeconomically integrated House district. It's a
18 different thing. And while we have sought to find
19 pairings that have some reasonable rational
20 relationship, it's a different standard than what
21 applies to the creation of a House district.
22 And there's nothing wrong with the pairing
23 of 9 and 22. They have -- they are contiguous. You
24 look at the map, they have a lengthy, maybe 35-mile,
25 border that is shared. They consist of two districts

that are, I think, socioeconomically and demographically similar in many ways. And, of course, they are -- like the other House districts, they are included in the Municipality of Anchorage, and therefore are legally socioeconomically integrated based on precedent.

The -- the other thing that a lot of people mentioned was that you have to drive out of the district to go from one side of it to the other. The concept of transportation contiguity has been debunked as a constitutional requirement. It's just not so. It doesn't matter. The contiguity question is essentially a visual, I have said before, binary question. You can look at the map. Something is either contiguous or not. These are contiguous. They touch.

We've heard the concept of false contiguity brought up, and I think my name has been invoked in that context. The false contiguity that I have referred to was in the proposed pairing that the community of Skagway had favored, and they had drawn a connection, you know, through the water, where nobody was, and they went around the main part of Juneau in order to connect themselves with the downtown area.

I considered that a false contiguity. It was not compact and, in fact, our -- the board's proposal for that district did end up prevailing, and that false contiguity was rejected.

So, yeah, the upshot is that Districts 22 and 9 have 35 miles or so of real, hard, on-the-map contiguity.

To kind of wrap up, I want to briefly address the charges of partisan gerrymandering that have been tossed around with some frequency throughout this process.

The final day of testimony, on Saturday, two Republican senators and a member from Governor Dunleavy's administration spoke out against option 3B.

And I can note here that I am an appointee of the governor's and yet I find myself kind of lining up in favor of option 3, even though somebody from that office apparently has -- thinks the other one is a better idea.

If the board's option 3 is some kind of naked partisan attempt to gerrymander the map to protect Republicans, as some have claimed, then why is it that Republican Senators Lora Reinbold and Roger Holland have testified so vehemently against

it? Apparently they feel that something in option 3 harms them in some way. But if it does, that fact obviously clearly goes against the argument that any of the drafters of option 3 made any effort to protect or enhance Republican seats or interests.

So having considered all of that, I have -- I believe that if there's anything partisan in either of these two maps, the most partisan is the proposed pairing of JBER and downtown. I believe this would diminish the voice of our valued Alaska military personnel. I can't support that, and I am, just to be clear, going to be voting for option 3B.

Thank you, Mr. Chair.

CHAIR BINKLEY: Thank you, Budd.

Let's see. Nicole, you haven't had a chance to weigh in on the debate. And then I see, Melanie, you've got your hand up, as well.

Why don't we go to Nicole, and then maybe we should go to all the members first for an opportunity to state where they're at, and then, Melanie, maybe come back for a second round. Are you okay with that?

MEMBER BAHNKE: Yes, Mr. Chairman, I am.

CHAIR BINKLEY: Okay. Nicole, you have the floor.

MEMBER BAHNKE: Do you want me to take my hand down until that happens or --

MEMBER BORROMEO: Thank you very much.

CHAIR BINKLEY: No, that's fine.

MEMBER BORROMEO: Are we ready? Okay.

Well, I appreciate Budd for being brave enough to at least put some rationale on the record for the board to respond to. I don't think it's going to come as a surprise that, unfortunately, I disagree with pretty much all of it.

Our job when it comes to Senate pairings is to follow the constitution. The constitution is pretty dang clear, when you look at Article VI, Section 6, and it says we shall pair districts that are as contiguous as practicable.

Now, Budd spent some time talking about it's not an enhancement or an exception, yada, yada, yada. But, again, in 2022 the most practicable means of traveling between these districts is via car. Nobody is walking over the Chugach Mountains. In fact, it's totally impassable for large parts of the year. These are significantly elder populations that live in these districts, and for us to expect that they are going to hike over the Chugach range to get from Eagle River down to Whittier is just ridiculous.

It's 87 miles, nonetheless.

It then falls to us, as a board, to put some rationale on the record for splitting Eagle River. And, again, I hate to point it out, but we weren't just accused of public -- of partisan gerrymandering last time. In fact, we were found guilty, not once, but twice, by the Superior Court, and that decision was unanimously confirmed by the Supreme Court.

I appreciate that Budd thinks that, you know, this is being done to protect Republicans, whatever that means. In fact, what we're doing here as a board is we are co-signing the Republican parties' cannibalization of themselves.

They've got a problem with Senator Holland because he won't move certain bills out of his committee, and Senator Reinbold is a loose cannon and they can't control her. So the best option is, instead of taking them out in broad daylight at the polls, they are going to come in through the dark of night, under the redistricting cloak, to pair them against each other.

Again, when we were found guilty of gerrymandering the first time around, it was bad enough because we were hurting poor minority voters. Now Budd expects us to believe that it's okay so long

as we're going after the rich white voters.

The intent is the same. Bethany's intent has not changed. She said in November she put these pairings on the record so Eagle River could have more representation. Voila, Eagle River is still getting more representation.

So back to the law. And who picked me on their bingo card for being the strict constitutionalist here, but here we are, back to the law. And we need to look at what the Court is going to do when they get this case back again, which they will.

Page 56, Judge Matthews is instructing what the Court is going to do when they look at this new pairing that once again splits Eagle River. Quote, "The Court employs a neutral factors test to assess the legitimacy of the Board's purpose in creating a Senate district. The Board's purpose would be illegitimate if it diluted the power of certain voters 'systematically by reducing their senate representation below their relative strength in the state's population.'"

So going back to the census data, which we may not have looked at for some time, Eagle River is about 7 percent of the state's population. But yet,

under this new plan we are going to give them 20 percent of the Senate. It makes no sense, no sense whatsoever.

So when the Court's going to look at why we did this, they are going to look at, one, our process in making the decision, which has been delayed. And I know nobody wants to talk about it, but as soon as the Supreme Court released its decision I have been calling for a public meeting. I've been saying: Let's go. I'm ready. We need to get this done. June 1 is coming up.

I hear back: Oh, no, we've already noticed it for April 2nd. We can't possibly change it. But we assumed the decision was going to come out on April 1st, so I don't know why we had to burn an entire week off the clock, but we did.

The Court's also going to look at the substance of the decision. I haven't heard anything in the rationale that has bolstered splitting Eagle River. Instead, Budd says things like: Well, last time we split Eagle River it came at the expense of South Muldoon, and we're not doing that this time. Well, it's coming at the expense of South Anchorage. Is that any better? It's not better.

Budd also says there's no advantage to Eagle

1 River. I disagree. Eagle River is now going to have
2 two senators. How is that not an advantage?
3 And the fact that the districts are already
4 in place and that they've been paired together in the
5 past, again, we are on a redistricting board.
6 Redistricting. We come here every ten years to
7 redistrict, based on the census data.
8 But I'm not going to go hard in the paint
9 anymore, because I have exhausted myself in trying to
10 get you three to look at the constitution, to apply
11 the constitution, and you are not willing to do that.
12 So instead, I am going to call on the courts
13 to please exercise your Article VI, Section 11
14 powers. Do not send this back to us when you find it
15 invalid, which you will. Draw the boundaries
16 yourself.
17 This board will continue to gerrymander. We
18 will continue to hurt voters. We will go ahead and
19 pick different districts next time so that Eagle
20 River remains split. Don't send it back. We are
21 defunct. We are derelict in our duties.
22 I apologize to the state of Alaska. This
23 has been an incredible frustrating and expensive
24 process. But if you send it back to us, Judge
25 Matthews, I guarantee there is just going to be more

1 slow rolling to blow the June 1 deadline.
2 Thank you.
3 CHAIR BINKLEY: Okay. Thank you, Nicole.
4 Bethany, did you want to make a statement
5 about the motion before us?
6 MEMBER MARCUM: Yes. Thank you,
7 Mr. Chairman. I will make a statement about the
8 motion to support proposal 2.
9 So I'm very uncomfortable with proposal 2,
10 and that's primarily because it moves District 23,
11 JBER, from its current pairing with District 24 by
12 linking it with downtown, which is District 17.
13 Downtown has almost nothing in common with
14 the military base. It absolutely makes the least
15 sense of any possible pairing for District 23, JBER.
16 Downtown is the arts, right? It's tourism,
17 it's lots of professional services, and that is not
18 what makes up JBER. So I really fear that a
19 District 17 and District 23 pairing could be
20 viewed -- could be viewed as, like, an intentional
21 action to break up the military community.
22 The military, JBER, is absolutely a
23 community of interest, I think. And so I think that,
24 you know, choosing option 2, which would pair
25 District 17 with District 23, could be seen as an

intentional attempt to try to break up that community of interest.

So I support keeping the existing proclamation pairing of District 23, JBER, with District 24, JBER, Chugiak, Eagle River, Peters Creek. And since proposal 2 doesn't maintain this pairing, I will not be supporting proposal 2.

Thank you, Mr. Chairman.

CHAIR BINKLEY: Thank you, Bethany.

Maybe I'll just make a quick statement and state my position on the motion, and then we'll go to a second round.

And, Melanie, if you want to make another statement, and then, Nicole, I see your hand is back up again, as well.

Just like Melanie mentioned, and I think Budd, as well, incredible really the outpouring of public testimony on this issue. It shows to me that Alaskans are engaged. They want to participate in this. They care about it. It's important to them.

We had, I believe, seven different public hearings on this. We heard directly from over a hundred Anchorage residents, over 300 pieces of written testimony that's come in, and it's just a -- it's really heartening to see Alaskans engaged in

1 this and caring about it.
2 It's not easy, because everybody can't be
3 satisfied in it. We've boiled this down to two
4 different options, and people are supportive or
5 opposing one or the other.
6 But when we step back it's really our task,
7 on remand from the courts, to replace Senate
8 District K.
9 The Senate -- or the Superior Court was
10 concerned about us pairing District 22 and 21, and
11 it's heartening really to see that both of these
12 proposals solve that problem.
13 And I don't necessarily read into the Court
14 order that it requires us to pair those two Muldoon
15 House districts that we have together, but I think it
16 really is noteworthy that we've -- in both options,
17 that's really how we come together to solve that part
18 of the problem that the East Anchorage plaintiffs
19 brought forward in the litigation.
20 We've heard both from people who would
21 prefer that District 22 and District 24 be paired
22 together. Those people explained very articulately
23 how they believe that Eagle River, Chugiak, Peters
24 Creek, and those areas to the north, Eklutna and
25 other parts of those districts, are closely tied

1 together to each other. And I think that's valid. I
2 think those are valid points.
3 But I think, as Budd pointed out earlier,
4 the two Republican senators, a former Republican
5 representative that I served with back in the '80s,
6 who was from that area, knows it well, and former
7 Republican Senate president, all testified to that,
8 to pair those. And that -- you know, particularly
9 the Senate president, Senator Giessel, who I admire
10 and respect greatly, have known her all my life and I
11 think highly of her, she testified that those two
12 should be combined.
13 So I think, as Budd opined, it's certainly
14 not political, because there are factions within the
15 Republican party that are on both sides of that
16 issue, and I think legitimately. So I understand the
17 logic of that position, and I've looked at that very
18 carefully.
19 Budd mentioned another member of the
20 administration who I've known for many, many years,
21 and I've reached out to him to call him to ask his
22 opinion about that, because he also supported 22 and
23 24 being together, and I was -- or 23 and 24. And so
24 I was very interested in what his thought process was
25 with that, and also pairing 23 -- excuse me, not

1 23 -- 22 and 24 and 23 and 17, the JBER and downtown.
2 So I take it seriously, and I think that those are
3 legitimate beliefs by people.
4 But we've already heard that there are
5 significant similarities between District 22, Eagle
6 River, and District 9, the Hillside. And we heard
7 many, many people testify that both Eagle River and
8 the Upper Hillside in Anchorage are generally more
9 rural parts of the municipality. They have larger
10 lot sizes, mostly single-family homes.
11 Many of these areas, it was indicated in
12 testimony, are served by road service districts,
13 which is different than the other more core areas of
14 the municipality. They share the Chugach Mountains
15 and the Chugach State Park, which are really defining
16 geographic features.
17 And these people, it was also testified that
18 they're close to the mountains. They deal with
19 wildlife closer to their homes. There are higher
20 snow loads that they deal with in the mountains, and
21 also wildfire dangers, as well, that they share.
22 So I can also appreciate that these
23 similarities really could be important to a senator.
24 I've had the privilege of being a senator, so I
25 understand how, from that perspective, you look at

1 different parts of your district, and I believe that
2 a senator could well represent those two House
3 districts and understand the priorities of their
4 constituents in those two different -- or those two
5 House districts that are connected there.
6 And when you look at Anchorage, it's -- you
7 know, visually, when you look at all of our House
8 districts, it's made up mostly of smaller, compact,
9 tightly populated urban districts, with a handful of
10 the much larger, much more rural districts in the
11 outskirts of the municipality.
12 And I think District 22 and District 9 are
13 both those large, more rural, and share a really
14 long, physical border. And that, to me, makes them
15 contiguous, as pointed out by everybody, that's
16 required by our constitution.
17 I also understand that the Eagle River
18 Valley and the Upper Hillside -- I think there was
19 some testimony, many people testified to this, were
20 formerly in a single Anchorage House district. So --
21 and that was adjudicated by the courts and found to
22 be compact, contiguous, and socioeconomically
23 integrated, which is a much higher standard than
24 we're really looking at for Senate districts that
25 must be contiguous.

And other points have been made that I just want to reiterate really are about JBER in District 23. And that's what I found one of the most compelling, as well, was that JBER physically extends into District -- from District 23 into District 24. And maybe if the underlying House districts had have been different, that could have been drawn differently. But the fact is, they do extend into there.

And it seems to be -- it's not disputed, or it seems to be undisputed, that there are really a great deal of active and retired military that reside in District 24, Chugiak, Peters Creek, the Eklutna area, and have that connection to 23.

There's also a direct, of course, highway connection between those two districts along the Glenn Highway, with gates into the military bases at the Arctic Valley and closer to town. And also Arctic Valley itself, recreational area with golf courses, hiking, skiing, all the sorts of things that are common to both.

We've also heard interesting testimony connecting JBER to North Muldoon. And I think that's -- that's got legitimacy. And I can see -- and I might have been comfortable when we were

1 looking at the House districts of -- or even the
2 Senate pairings of connecting that direction. But
3 that really wasn't an option that was presented to
4 us, and we really didn't have an opportunity. It was
5 just the two different pairings that we looked at,
6 two different options to vet that with the public.
7 I don't find it compelling, the idea of JBER
8 with downtown Anchorage. For 13 years I had an
9 office in downtown Anchorage with the Alaska Cruise
10 Association. I've owned a condo in that district,
11 still do. I've also been involved with the Alaska
12 Railroad for many, many years and have familiarity
13 with the railroad infrastructure in that area.
14 And in my experience the downtown area that
15 is part of District 17 is primarily defined by -- I
16 think, Bethany, you pointed out some of that --
17 professional service, attorneys, accountants, those
18 sorts of things. Tourism is very big in downtown
19 Anchorage.
20 The arts, of course we have the performing
21 arts center down in that area, shopping,
22 entertainment, all those sorts of things. And also
23 it has professional offices and professionals who
24 live close by in that area. There are also large
25 hotels down there, restaurants, convention centers,

1 all of the things that I mentioned, as well.
2 So I just don't see in my own experience an
3 enormous connection between those areas and the
4 military population on JBER, as opposed to the
5 military and JBER to the -- JBER to the military
6 bedroom communities to the north.
7 I understand that the Court has found
8 that -- Eagle River to be a community of interest,
9 but I think the testimony has also established very
10 clearly that the military community is also a
11 community of interest, and I don't believe that we
12 should be trading one community of interest for the
13 other.
14 Several citizens have told us about how
15 retired military in District 24 go to District 23 to
16 shop on base, to get medical services there. We
17 heard testimony that -- even from a former legislator
18 in that area that the Eagle River High School would
19 probably not even exist if it were not for the large
20 military community that helps populate that -- that
21 school.
22 So it seems to me that if a community of
23 interest means anything, that a large group of people
24 who, say, share the same employer, they serve the
25 same common purpose, fortunately for us, in defending

our nation. They share the same uniform. They reside in close proximity, as I mentioned before the same medical care, they shop in the same places. That would fit the definition of a community of interest.

And I'm convinced that there are two overlapping communities of interest in north and northeast part of Anchorage, one that encompasses our military community, and then the one that encompasses Eagle River and Chugiak neighborhoods. But both are valid and important to the people in those communities, but there is not a way for us to put all of those interests into a single Senate district.

We've also heard concerns that putting the more conservative or swing district of the military base with downtown would drown out the military voters. That really echos a concern that the Superior Court, I think, had in its decision about regional partisanship. I think they use that phrase, "regional partisanship."

And in the two districts that really made up Senate District K, I think we need to be very cautious that such a pairing wouldn't invite -- I think as other people have suggested, really invite a further legal challenge that would delay this

1 process.
2 So we've opted not to study the election
3 returns or the election data. That was a decision we
4 made together, so we have to take that testimony on
5 the face value, without really looking at the data
6 ourselves.
7 But if we are to take the Court's advice to
8 heart, I believe we have multiple options. I think
9 it is better to stay away from something that raises
10 such a concern, and that's the case that I would
11 state with 3B. I've not heard any criticism of
12 option 3B for pairing districts with drastically
13 different voting patterns together.
14 Ultimately, I found that both option 2, I
15 believe, and option 3 are valid approaches. I
16 respectfully disagree with the notion that one plan
17 is right and the other plan is wrong, or that for --
18 people who prefer one plan have good motives, and
19 maybe the people who prefer another plan have bad
20 motives.
21 I would rather think that it's a hard
22 choice. It's made all the more difficult by the
23 tremendous amount of very compelling and competing
24 information and testimony that we've received in the
25 last week or week and a half. And I -- I really

1 believe that we've got two good options before us,
2 and there are likely other options that we could have
3 also looked at. But when I weigh the two, it's --
4 for me, I'm more comfortable with option 3B, and
5 that's what I plan to support this afternoon.
6 Melanie, and then Nicole.
7 MEMBER BAHNKE: Thank you, Mr. Chair.
8 I do appreciate the three of you actually
9 putting some kind of rationale for us to digest in
10 terms of how you're planning to vote on this motion.
11 One of the things I failed to mention
12 earlier, that we have also considered as part of this
13 process, is the expert testimony of Dr. Hensel. And
14 there's been some conversation around socioeconomic
15 integration throughout this process, and I just want
16 to point you to that testimony that recognized Eagle
17 River and Eagle River as a community of interest.
18 The option 3B, what option 3B has in common
19 with the proposed maps from November -- and I'll read
20 from the Superior Court ruling. This is another
21 concern of mine.
22 So it says, "While the Court does not make
23 this finding lightly, it does find evidence of
24 secretive procedures evident in the Board's
25 consideration and deliberation of the Anchorage

1 irrelevant. You have something --
2 MEMBER BORROMEO: It's --
3 CHAIR BINKLEY: -- to speak to the motion?
4 MEMBER BORROMEO: It's not irrelevant.
5 CHAIR BINKLEY: I mean, we can go on all day
6 about -- we can go on all day about who said what or
7 who thought they overheard somebody.
8 There's a motion before us. If there's no
9 further debate on the motion, I think we should vote
10 on the motion.
11 Peter, could you call the roll, please?
12 MR. TORKELSON: So the motion before the
13 board is to adopt --
14 MEMBER SIMPSON: Restate the motion, to be
15 clear.
16 MR. TORKELSON: Thank you. The motion
17 before the board is to adopt Anchorage Senate
18 pairings option 3B, 3 bravo. And I'll call the roll
19 now.
20 Member Bahnke?
21 MEMBER BAHNKE: No.
22 MR. TORKELSON: Member Borromeo?
23 MEMBER BORROMEO: No. It's still a partisan
24 gerrymander to give Eagle River more power.
25 MR. TORKELSON: Member Marcum?

MEMBER MARCUM: Member Marcum votes yes in support of option 3B.

MR. TORKELSON: Member Simpson?

MEMBER SIMPSON: Yes.

MR. TORKELSON: Member Binkley?

CHAIR BINKLEY: Yes.

MR. TORKELSON: By a vote of three to two, the motion carries.

CHAIR BINKLEY: Okay. On the agenda next is the potential adoption of revised proclamation. And I believe that, Peter, between you and Eric, the demographer, and counsel, you've drafted a couple of different proclamations in anticipation of either passing option 2 or passing option 3B. Do I have that correct?

MR. TORKELSON: We have a single proclamation. We did model the different Senate truncation scenarios, and able to inform the board about that if that's the board's desire.

CHAIR BINKLEY: Thank you. Okay. So this -- the proc- -- let's see. That's the process report. Okay.

So the proclamation -- amended proclamation of redistricting would just include, then, that we had passed option 3B?

ALASKA REDISTRICTING BOARD
WEBSITE RESPONSE

Date: April 13, 2022, 12:41 pm

First Name: **Steven**

Last Name: **Todd**

Group Affiliation, if applicable:

Email or Phone Contact: [redacted]

Your ZIP Code: **99567**

Issue of Concern (Please provide map name if applicable):

Public Comment: **I am a resident of Chugiak-Eagle River in the Peters Creek neighborhood, 99567. I am also a veteran of the U.S. Military. As a proud citizen of this country, and resident of Alaska, I'm sure to vote. But I'm not deeply involved in the political processes. I've never held office in any political party. I was prohibited from doing so while I was on active duty. Now that I'm a veteran, I could, but it's not how I choose to use my free time. I guess you could say I'm just a normal voter. However, I felt compelled to call today to testify because I was made aware of something which greatly disturbs me. I saw that proposal #2 is being considered which would link together the JBER military base with the neighborhoods in downtown Anchorage for a state Senate seat.**

I cannot think of any combination which would be more disrespectful to us as veterans. Active duty operations are 24/7 while in state, being sent TDY out of state for training, and long deployments overseas, makes it tough for military members to get ballots mailed in on time. But we do our best, because it is yet another way that we serve our communities, state and country.

Downtown Anchorage is a world away from JBER. Downtown is comprised of mostly white collar workers with very high incomes worried about which restaurant to dine out. JBER is middle to low income families clipping coupons to buy groceries at the commissary, or even sometimes taking out payday loans in order to fill the gas tank. There is ju st no justification for combining these distinct and separate communities. In my twenty plus years living in Eagle River and Chugiak, the majority of my neighbors have been active duty and veterans.

I see there is another better alternative senate plan, 3B, which is based upon logic. I am one of thousands of veterans and military members who live in Eagle River-Chugiak, Peters Creek is the only reasonable pairing for JBER is with my district, #24. This is simply pairing the military in district 23 with the military in district 24. Choosing to separate us by sticking us with a district that is widely different than us would be a great disservice.

I urge you to reject the disjointed proposal, #2, and instead support the alternative plan, #3B. Thank you.

2022 Proposed Revisions

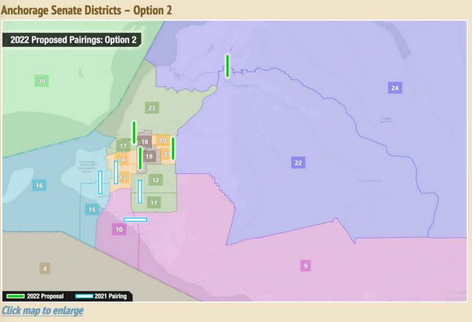
UPDATE: The Board adopted a revised proclamation plan on April 13, 2022 >

During public hearings on April 4, 5 and 6, 2022 the Board unanimously adopted two proposed Senate district revisions to the 2021 Proclamation Plan which will be the subject of public feedback and discussion at future meetings.

Anchorage Senate District K Options

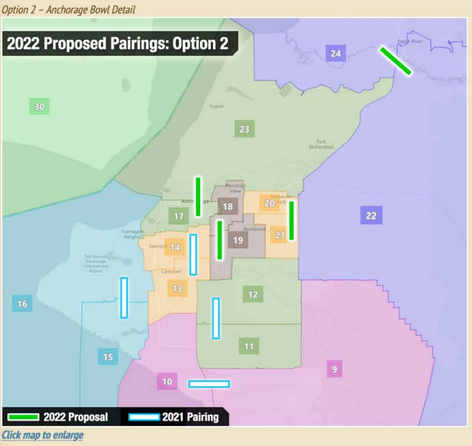
The following two proposed Anchorage Senate maps – Option 2 and Option 3B – were unanimously adopted as proposed plans for public review and discussion during hearings on April 5 & 6, 2022. Option #1, which was previously adopted for discussion, was removed from consideration by unanimous consent during a public hearing on April 6, 2022.

Anchorage Senate Districts – Option 2



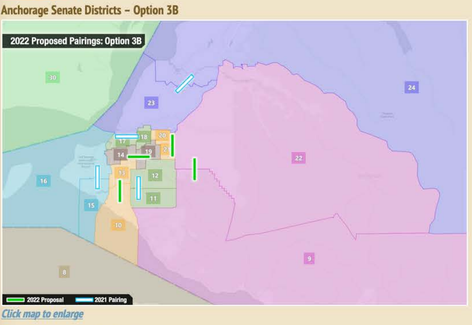
Click map to enlarge

Option 2 – Anchorage Bowl Detail



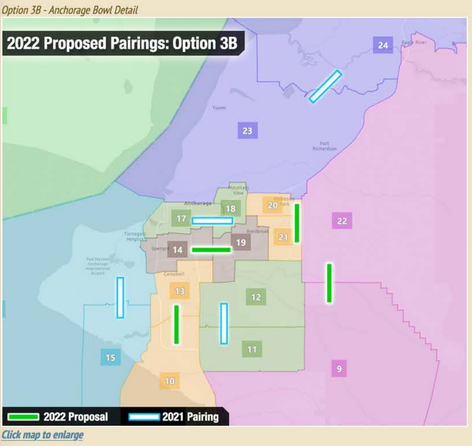
Click map to enlarge

Anchorage Senate Districts – Option 3B



Click map to enlarge

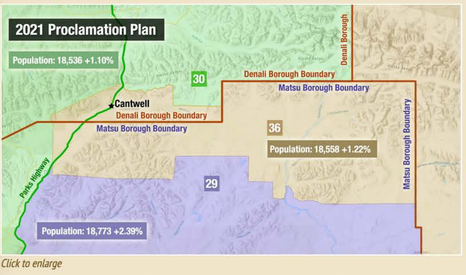
Option 3B - Anchorage Bowl Detail



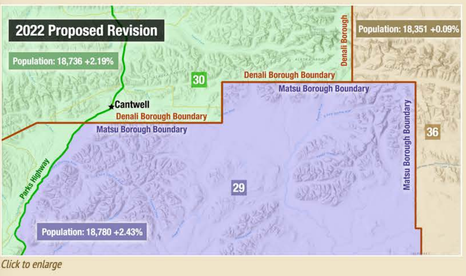
Click map to enlarge

Cantwell Revision

These graphics illustrate the original 2021 Cantwell assignment to District 36. The second graphic illustrates the revisions to Districts 29, 30 and 36 adopted by unanimous consent of the Board during a public hearing on April 6, 2022. This changes was made in response to the Alaska Supreme Court order of March 25, 2022. *Click map images to enlarge*



Click to enlarge



Click to enlarge

Additional Resources

- 2021 Proclamation Plan >

Alaska Redistricting Board P.O. Box 240147 Anchorage, Alaska 99524 907.563.0390

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the	)	
	)	
2021 REDISTRICTING PLAN.	)	Case No. 3AN-21-08869CI
	)	

ORDER FOLLOWING REMAND FROM THE ALASKA SUPREME COURT

On Friday, March 25, 2022, the Alaska Supreme Court issued a Summary Order addressing four Petitions for Review of this Court's Findings of Fact and Conclusions of Law dated February 15, 2022. Consistent with the Supreme Court's Remand to this Court, and Article VI, Section 11 of the Alaska Constitution, this matter is hereby remanded to the Alaska Redistricting Board: 1) To correct the Constitutional errors identified by this Court and the Supreme court in Senate District K; 2) To redraw House District 36 to remove the "Cantwell Appendage"; and 3) To make other revisions to the proclamation plan resulting or related to these changes.

In light of the expedited nature of this proceeding, this Court is retaining jurisdiction to address any further issues arising from the Board's corrections or related issues in a timely manner. Otherwise, jurisdiction is returned to the Board to make the necessary corrections. The Board shall submit a status update to the Court by April 15, 2022.

IT IS SO ORDERED.

DATED at Anchorage, Alaska this 30th day of March, 2022.

Thomas A. Matthews
Superior Court Judge

I certify that 3/30/22 a copy of this Order
was sent to the following:

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B Taylor	btaylor@schwabe.com
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Judicial Assistant

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the 2021 REDISTRICTING PLAN.	)))))	Case No.: 3AN-21-08869 CI

COMPLAINT AND EXPEDITED APPLICATION TO COMPEL CORRECTION OF ERRORS IN REDISTRICTING

Plaintiffs Louis Theiss, Ken Waugh, and Jennifer Wingard ("Girdwood Plaintiffs") allege the following:

PARTIES

1. Plaintiff Louis Theiss is a resident of House District 9 and Senate District E, as designated by the April 13, 2022, proclamation of the Board, and a qualified voter of the State of Alaska.

2. Plaintiff Ken Waugh is a resident of House District 9 and Senate District E, as designated by the April 13, 2022, proclamation of the Board, and a qualified voter of the State of Alaska.

3. Plaintiff Jennifer Wingard is a resident of House District 9 and Senate District E, as designated by the April 13, 2022, proclamation of the Board, and a qualified voter of the State of Alaska.

4. Defendant Alaska Redistricting Board is an entity established by article VI, section 8 of the Alaska Constitution.

ASHBURN & MASON P.C.
LAWYERS
1227 WEST 9TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
TEL 907.276.4331 • FAX 907.277.8235

5. This is a civil action concerning the establishment, protection, or enforcement of a right under the Alaska Constitution or United States Constitution within the meaning of AS 09.60.010(c).

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to article VI, section 11 of the Alaska Constitution.

7. Venue is proper in the Third Judicial District under Civil Rule 3 because Plaintiffs reside, and Defendant is headquartered, in this district.

GENERAL ALLEGATIONS

8. The Board is responsible for periodically redistricting the Alaska House of Representatives and the Alaska Senate, following the completion of the decennial United States Census. The Board adopts a proposed plan or plans, considers public testimony, and then adopts a final plan in accordance with the requirements of article VI of the Alaska Constitution, Title 15 of the Alaska Statutes, and precedent from the Alaska Supreme Court. Among other criteria, Senate districts must be "composed as near as practicable of two contiguous house districts." Additionally, "[c]onsideration may be given to local government boundaries[,]" and "[d]rainage and other geographic features shall be used in describing boundaries wherever possible."

9. On November 10, 2021, the Board issued a Final Proclamation of Redistricting ("2021 Proclamation") that adopted a final redistricting plan ("2021 Plan").

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The 2021 Plan included a Statewide Map and, among others, a map of the Anchorage area that included the Senate pairings for the Anchorage house districts.

10. The 2021 Proclamation was challenged by several plaintiff groups, and those challenges were consolidated into 3AN-21-08869 CI. The plaintiff group known as the "East Anchorage Plaintiffs" challenged Senate District K, which was composed of the South Muldoon and Eagle River Valley House Districts. The East Anchorage Plaintiffs alleged, among other defects, that the pairing of South Muldoon with Eagle River Valley was an unconstitutional gerrymander because it split two communities of interest (Muldoon and Eagle River), each of which could have supported its own Senate district, with the goal of increasing Eagle River's representation.

11. This Court took evidence on all challenges at trial and issued *Findings of Fact and Conclusions of Law* on February 16, 2022. As relevant to this Complaint, it concluded that the Senate District K pairing was an unconstitutional gerrymander. It found that Eagle River and Muldoon were each "communities of interest," and that there was no reason to split them and pair an Eagle River district with a Muldoon district—except as a means to enhance the influence of Eagle River in the senate by giving it de facto control over two senate seats. The Court's finding was supported by the statement of Board Member Bethany Marcum that pairing the two Eagle River house districts with urban districts in Anchorage would give Eagle River "more representation." The Court found that districting to benefit a particular geographic area, at the expense of the fair representation of other areas, was an unconstitutional gerrymander. The Court ordered a

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remand to the Board, directing it to "craft a pairing that complies with Alaska's Equal Protection Clause."

12. The Alaska Redistricting Board and four of the plaintiff groups in this action sought review of this Court's ruling in the Alaska Supreme Court. On March 18, 2022, the Alaska Supreme Court held oral argument and on March 25, 2022, it issued an interim order regarding the five petitions with a formal opinion to follow. As relevant to this Complaint, the Court affirmed the "superior court's determination that the Board's Senate K pairing of house districts constituted an unconstitutional political gerrymander violating equal protection under the Alaska Constitution," and affirmed the superior court's remand order to correct that constitutional error. The Alaska Supreme Court remanded the matter to this Court to effectuate its ruling, and this Court remanded to the Board, retaining jurisdiction to address any further issues.

13. On remand, the Board set an extensive schedule of public meetings, insisting that it could not merely implement the courts' directives, but instead had to listen to additional public testimony before taking action.

14. Early in the remand proceedings, there was a motion to adopt the Anchorage senate pairings that had been proposed by Board Member Bahnke, which were the only other pairings that the Board had formally considered before it adopted the pairing that was ultimately held to be an unconstitutional gerrymander, and which had effectively received this Court's stamp of approval. The motion failed, with certain Board members stating they now wished to consider other alternatives and hear from the public.

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15. The Board subsequently considered three pairings. While all of the pairings preserved Muldoon in one senate district, they did not all keep Eagle River in one Senate district. Plan 1 represented the pairings proposed by Member Bahnke before the unconstitutional pairings were adopted. Plan 2 consolidated the Eagle River community of interest into one senate district and kept neighboring communities through the Municipality of Anchorage such as Girdwood and South Anchorage together. Plan 3B again split the Eagle River community of interest, pairing South Eagle River (House District 24) with Ship Creek/Government Hill/JBER/Northeast Anchorage (House District 23) into Senate District L, and pairing South Eagle River (now House District 10) with South Anchorage/Girdwood/Whittier (House District 9) into Senate District E. True and correct copies of these plans are attached as Exhibit 1 (Plan 1), Exhibit 2 (Plan 2), and Exhibit 3 (Plan 3B).

16. On April 6, 2022, the Board rejected Plan 1 and adopted Plans 2 and 3B for consideration. The Board incorrectly interpreted the Court's order as holding only the fracturing of the Muldoon community to be unconstitutional, and disregarded this Court's express ruling that it was unconstitutional for the Board to "split Eagle River districts to give Eagle River the opportunity for more representation[.]"

17. The Board received extensive public testimony regarding the two plans. The weight of the testimony favored Plan 2. There was also substantial testimony in favor of Plan 1 by members of the public who may not have fully understood the Board's process on remand but advocated for a single Eagle River Senate district. Many

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individuals testified that the Board should follow the directives from the Court on remand and pair the two Eagle River districts together.

18. There was substantial public testimony against 3B's proposed pairing of Eagle River with South Anchorage, Girdwood, and Whittier. Some of the testimony emphasized the geography, explaining that the areas are separated by a mountain range and hundreds of square miles of uninhabited territory in Chugach State Park. Many testifiers pointed out that the Board would be creating a senate district out of two house districts that were, for all practical purposes, separated by several other intervening Senate districts.

19. Other members of the public, including Girdwood residents, emphasized the inappropriateness of pairing Girdwood with an Eagle River district. They testified that the pairing made no sense, was untenable, that the two areas were politically, culturally, and economically different, and that the pairing would benefit Eagle River only while depriving Girdwood of its voice. They also testified Girdwood was naturally connected to South Anchorage—that residents of those areas lived, shopped, and recreated together in a way that Girdwood and Eagle River did not. While the Board received a handful of comments advocating for a Girdwood-Eagle River pairing, those comments were cursory, providing little to no factual rationale for their support; where factual detail was provided, it relied on vague similarities such as "fire danger" and "bears."

20. On April 5, 2022, the Girdwood Board of Supervisors ("GBOS") passed a resolution in support of Plan 1 and Plan 2, and against Plan 3. The resolution explained

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that the pairing of Girdwood with Eagle River in Plan 3 "does not combine communities of similar interests, nor in any meaningful sense are the house districts contiguous, requiring traversing the width of the roadless Chugach Mountain Range to get from the northern to southern communities." A true and correct copy of the resolution, which was submitted to the Board, is attached as Exhibit 4.

21. On April 12, the Anchorage Assembly passed a resolution in support of Plan 2 and against Plan 3, stating that Plan 2 involved "highly contiguous pairings that maintain communities of interest, keeping neighbors with neighbors," and noting that during the recent municipal reapportionment process, "residents from Eagle River, South Anchorage and Girdwood spoke out overwhelmingly against proposals that would combine these communities with scores of comments opposing the combination[.]" The resolution further commented that "Option 3B offers pairings with only second-class contiguity that connects Chugiak with Government Hill and Downtown, Eagle River with Girdwood, Portage, and Whittier which all have substantial geographic barriers including the Chugach Front Range Mountains, the federally secured borders of JBER, and in some cases hours of highway time[.]" A true and correct copy of this resolution, which was provided to the Board, is attached as Exhibit 5.

22. On April 13, after public testimony had concluded, the Board discussed the plans. The alleged justification for again giving Eagle River two Senate districts in Plan 3B, in spite of the Court's ruling that Eagle River was a community of interest that should be kept together, was that because some members of the military lived in Eagle River,

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House District 24 needed to be paired with House District 23, which the pro-3B Board members newly termed the "Military District." The pro-3B Board members attempted to draw tenuous connections between House District 9 and 10, such as their size and somewhat more rural character. Members Nicole Borromeo and Melanie Bahnke strenuously objected to Plan 3B as yet another partisan gerrymander designed to give Eagle River two senators, to the detriment of other communities of interest and contrary to the weight of the public testimony. Over their objections, the Board voted to adopt Plan 3B, with Members Budd Simpson, John Binkley, and Bethany Marcum voting in favor and Members Borromeo and Bahnke against.

23. The Board subsequently issued an Amended Proclamation of Redistricting ("2022 Proclamation"), which paired House District 10 (Eagle River) with House District 9 (South Girdwood/Whittier/South Anchorage), and House District 23 (Ship Creek/Government Hill/JBER/Northeast Anchorage) with House District 24 (Eagle River). The Board submitted a copy of the 2022 Proclamation to the Court together with its status report on April 15, 2022. True and correct copies of the Proclamation's Anchorage and Eagle River Senate pairing maps are attached as Exhibit 6.

COUNT I
VIOLATION OF REDISTRICTING CRITERIA

24. Plaintiffs incorporate all preceding allegations into this Count.

25. Article VI, section 6 of the Alaska Constitution provides that "[e]ach senate district shall be composed as near as practicable of two contiguous house districts.

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Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible."

26. Senate districts are also required to incorporate a measure of compactness.

27. By pairing Eagle River with South Anchorage, Girdwood, and Whittier, the Board ignored geographic features, compactness, and true contiguity, instead favoring a "false contiguity" and a sprawling district over other pairings that would have been more practicably contiguous and compact, in violation of article VI, section 6.

COUNT II
VIOLATION OF EQUAL PROTECTION

28. Plaintiffs incorporate all preceding allegations into this Count.

29. Article I, section 1 of the Alaska Constitution provides that all persons are equal and entitled to equal rights, opportunities, and protection under the law.

30. Senate District E in the 2022 Proclamation denies Girdwood voters, and other voters in their House district, their right to an equally powerful and geographically effective vote and ignores the demographic, economic, political, and geographic differences between the Eagle River and Girdwood communities. In addition, Senate District E is not relatively compact, incorporating disparate communities of interest by stretching across hundreds of square miles of uninhabited state park. This violates the equal protection clause of the Alaska Constitution.

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31. The Board's creation of two separate Eagle River Senate districts constitutes unlawful political gerrymandering. It intentionally increases majority Senate districts while reducing the voting power of residents in House Districts 9 (South Anchorage/Girdwood/Whittier) and 23 (Ship Creek/Government Hill/JBER/Northeast Anchorage), and the Anchorage districts with which these districts would have been paired but for irrational decision-making and the resulting unlawful gerrymandering.

REQUEST FOR RELIEF

Plaintiffs accordingly request that the Court enter an order:

1. Declaring that Senate District E of the 2022 Proclamation violates the Alaska Constitution and is invalid;

2. Compelling the Board to adopt Plan 2, pairing House District 9 with House District 13 and House District 10 with House District 24; or, alternatively, Plan 1, pairing House District 9 with House District 11 and House District 10 with House District 24;

3. Awarding Plaintiffs their costs and reasonable attorney's fees; and

4. Providing any other relief that justice may require.

ASHBURN & MASON, P.C.
Attorneys for Louis Theiss, Ken Waugh, and Jennifer Wingard

DATED: April 25, 2022

By: s/*Eva R. Gardner*
Eva R. Gardner
Alaska Bar No. 1305017
Michael S. Schechter
Alaska Bar No. 1405044
Ben J. Farkash
Alaska Bar No. 1911095

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CERTIFICATE OF SERVICE

On April 25, 2022, a copy of the foregoing was served by e-mail on:

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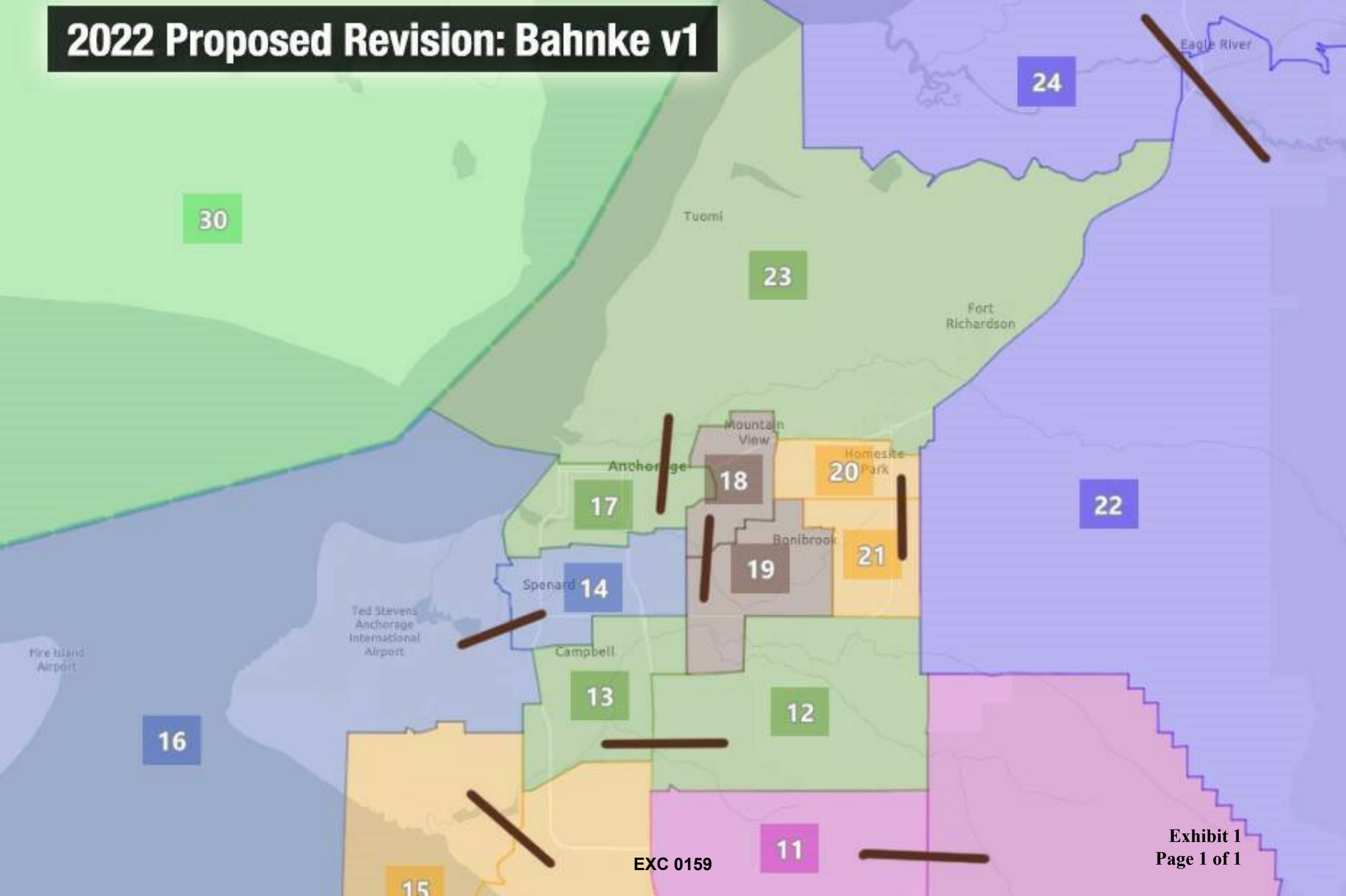
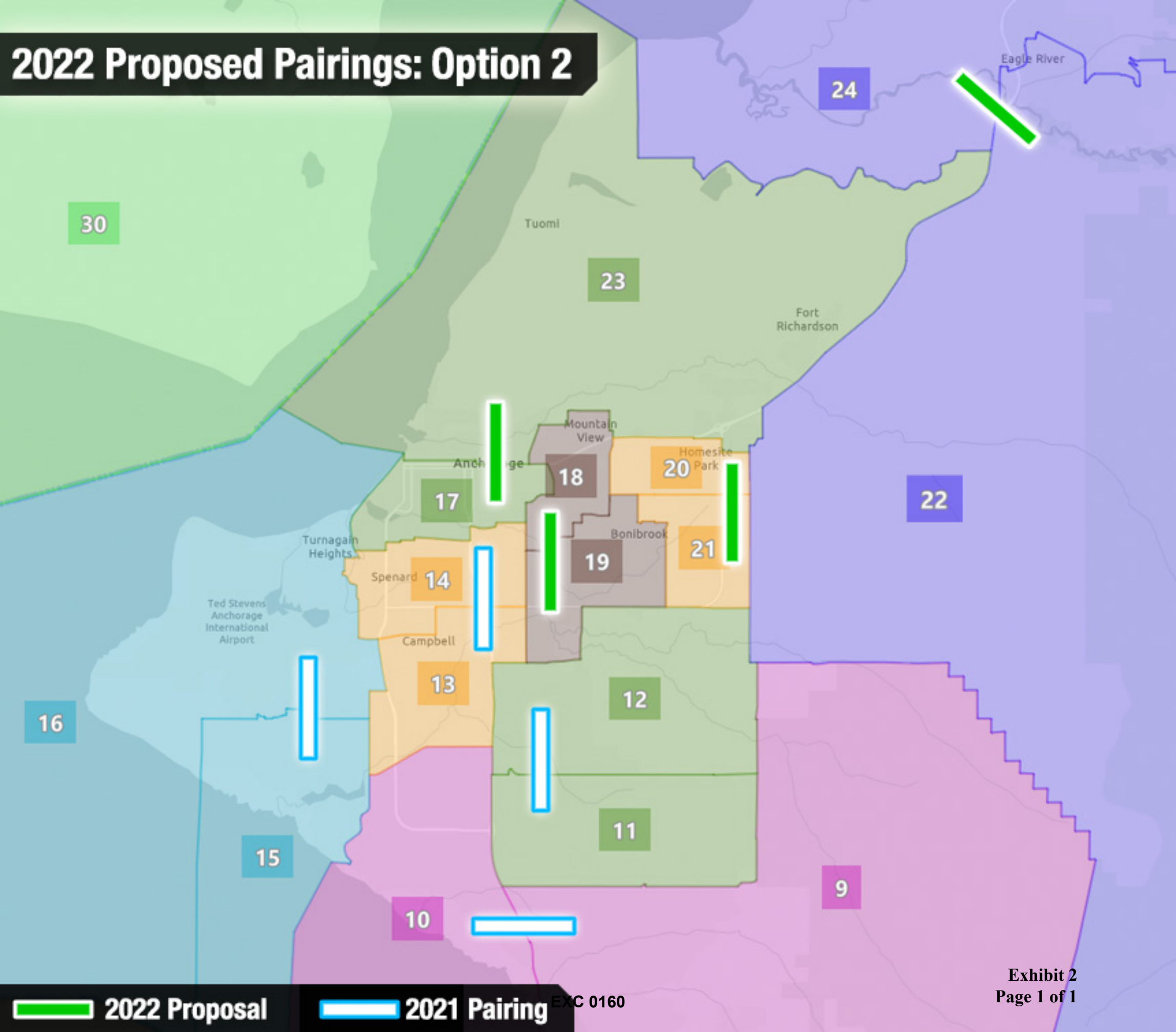
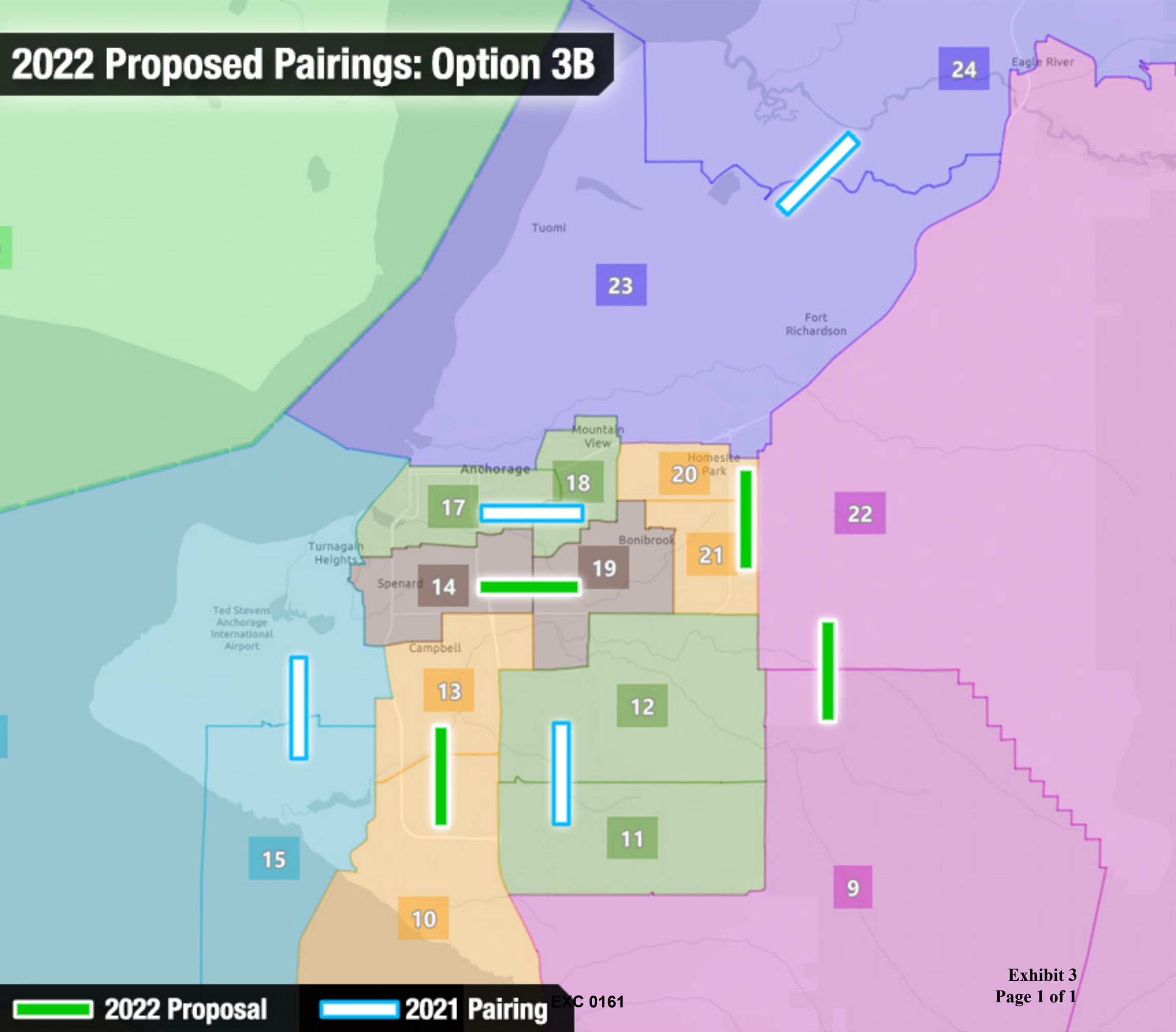
2022 Proposed Revision: Bahnke v1



2022 Proposed Pairings: Option 2



2022 Proposed Pairings: Option 3B



Municipality of Anchorage

P.O Box 390
Girdwood, Alaska 99587
http://www.muni.org/gbos
David Bronson, Mayor

GIRDWOOD VALLEY SERVICE AREA BOARD OF SUPERVISORS
Mike Edgington and Briana Sullivan, Co-Chairs
Jennifer Wingard, Amanda Sassi, Guy Wade

Resolution 2022-08

Of the Girdwood Board of Supervisors

A RESOLUTION IN SUPPORT OF THE ALASKA REDISTRICTING BOARD SENATE PAIRING MAPS 1 OR 2, AND OPPOSITION TO SENATE PAIRING MAP 3 OR ANY SIMILAR PROPOSED PAIRINGS WHICH COMBINE EAGLE RIVER AND GIRDWOOD

WHEREAS, the Girdwood Board of Supervisors (GBOS) is the duly elected Anchorage municipal board representing the residents and tax payers of Girdwood Valley Service Area in the provision of multiple local services, and is also recognized under AMC 22.40.035 as representing the Girdwood community in an equivalent capacity to a Community Council; and

WHEREAS, the Alaska Redistricting Board issued a 2021 Proclamation of Redistricting on November 10, 2021; and

WHEREAS, several legal challenges were filed to the 2021 Proclamation and, after rulings by the Superior and Supreme Courts, the Alaska Redistricting Board is now reconsidering senate pairings for the Anchorage area; and

WHEREAS, GBOS reviewed the proposed senate pairing plans (Maps 1, 2 & 3), which were the Alaska Redistricting Board's adopted draft senate pairing plans as of April 5th 2022; and

WHEREAS, maps 1 & 2 maps combine the geographically contiguous and culturally & socio-economically coherent communities of the Hillside, South Anchorage and Turnagain Arm/Girdwood/Whittier into senate seats; and

WHEREAS, map 3, or any similar map which combines Turnagain Arm/Girdwood with Eagle River, does not combine communities of similar interests, nor in any meaningful sense are the house districts contiguous, requiring traversing the width of the roadless Chugach Mountain Range to get from the northern to southern communities.

THEREFORE, the Girdwood Board of Supervisors supports the senate pairings represented by maps 1 or 2, and opposes the senate pairings represented by map 3, or any similar proposal that combines Eagle River with South Anchorage/Hillside/Turnagain Arm/Girdwood.

Passed and approved by a vote of 5 in favor to 0 against this 5th day of April 2022.

Mike Edgington, GBOS Co-Chair

Briana Sullivan, GBOS Co-Chair

Municipal Clerk's Office
Approved
Date: April 12, 2022
Mayoral veto was overridden on 4-14-22

Submitted by: Assembly Chair LaFrance and Assembly Vice Chair Constant
Reviewed by: Assembly Counsel
For reading: April 12, 2022

ANCHORAGE, ALASKA
AR No. 2022-112(S)

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING ANCHORAGE SENATE DISTRICTS REVISION OPTION #2 BEFORE THE ALASKA REDISTRICTING BOARD THAT PAIRS HOUSE DISTRICT 17 WITH 23, AND HOUSE DISTRICT 22 WITH 24.

WHEREAS, Alaska State Redistricting happens once a decade, concluding with the Alaska Redistricting Board (ARB) adopting a Final Proclamation of Redistricting (Proclamation) affecting communities for a decade; and

WHEREAS, the adoption of the Proclamation on November 10, 2021, triggered a Charter provision requiring the Anchorage Assembly to determine whether it was malapportioned and also triggered a Charter amendment passed by voters in 2020 directing the Assembly to add a 12th member. On November 23, 2021, with the passage of AR 2021-382 the Assembly declared itself malapportioned and began the reapportionment process; and

WHEREAS, the Assembly conducted extensive public outreach and recorded substantial public testimony between November 23, 2021 and March 23, 2022, concluding when Anchorage Ordinance AO 2022-37 (S-1), As Amended, was approved containing the new apportionment map; and

WHEREAS, in a legal challenge to the 2021 Redistricting Proclamation the Alaska Superior Court in Case No. 3AN-21-08869CI found that the Alaska Redistricting Board's pairing of House Districts 21 and 22 into Senate District K is unconstitutional and that this pairing must be changed on remand to the ARB; and

WHEREAS, the Alaska Supreme Court on March 25, 2022 affirmed the superior court's determination that "the Board's Senate K pairing of house districts constituted an unconstitutional political gerrymander violating equal protection under the Alaska Constitution" and the remand to the ARB to correct it; and

WHEREAS, on remand, the Alaska Redistricting Board adopted proposed revisions to the 2021 Proclamation Plan Anchorage Senate District K (https://www.akredistrict.org/2022-proposed-revisions/), and as of April 8, 2022, Options 2 and Option 3B remain for its consideration; and

WHEREAS, Proposed Option 3B joins south Eagle River with South Anchorage, Girdwood, Turnagain Arm including Portage, and even beyond the borders of the Municipality into Whittier in the Chugach Census Block; and

WHEREAS, during the recent Municipality of Anchorage Reapportionment process, residents from Eagle River, South Anchorage and Girdwood spoke out overwhelmingly against proposals that would combine these communities with scores of comments opposing the combination; and

WHEREAS, the Alaska Redistricting Board should not contemplate a pairing of House districts like presented in Option 3B, that combine**s** geographically and demographically

distinct areas and simply shifts the constitutional infirmity into other areas **and provides only second-class contiguity**; and

WHEREAS, the Anchorage Reapportionment Committee heard from five community councils and scores of individuals regarding their opposition to grouping Eagle River and South Anchorage on the basis that these are distinctly different regions with few shared communities of interest; and

WHEREAS, the Alaska Redistricting Board's Proposed Anchorage Senate Districts Option 2 combines House District 23 which is the Joint Base Elmendorf-Richardson**, Government Hill and downtown Anchorage** area with House District 17 **which is the main [~~covering the~~]** downtown area; and House District 22, the south Eagle River area, with House District 24, the north Eagle River area; and

WHEREAS, the record demonstrates that a plan is possible which adopts all highly contiguous pairings that maintain communities of interest, keeping neighbors with neighbors, including Government Hill and North Downtown Anchorage with South Downtown Anchorage, Chugiak with Eagle River, and South Anchorage with Southwest Anchorage in Option 2; and

WHEREAS, Option 3B offers pairings with only second-class contiguity that connects Chugiak with Government Hill and Downtown, Eagle River with Girdwood, Portage, and Whittier which all have substantial geographic barriers including the Chugach Front Range Mountains, the federally secured borders of JBER, and in some cases hours of highway time; and

WHEREAS, the Assembly has heard no constitutional arguments that are persuasive in justifying the breaking up of natural contiguous communities of interest that can stand in the face of the overwhelming public testimony it received to the contrary; and

WHEREAS, Option 2 more closely joins neighboring communities of**[~~f~~]** common interest that interact through direct road access to shop, work, and play in their respective areas, in clear compliance with the Superior Court's Constitutional directives to respect natural boundaries where possible in describing boundaries (e.g. drainages and mountain ranges), and the testimony from communities of interest, while maintaining contiguity and compactness in drawing such district lines;

NOW, THEREFORE, **BE IT RESOLVED THAT** the Anchorage Municipal Assembly supports the Alaska Redistricting Board's Proposed Anchorage Senate Districts Option 2 which pairs House Districts 17 and 23 to form one Senate district, and House Districts 22 and 24 to form another Senate district.

PASSED AND APPROVED by the Anchorage Assembly this 12th day of April, 2022.

Chair

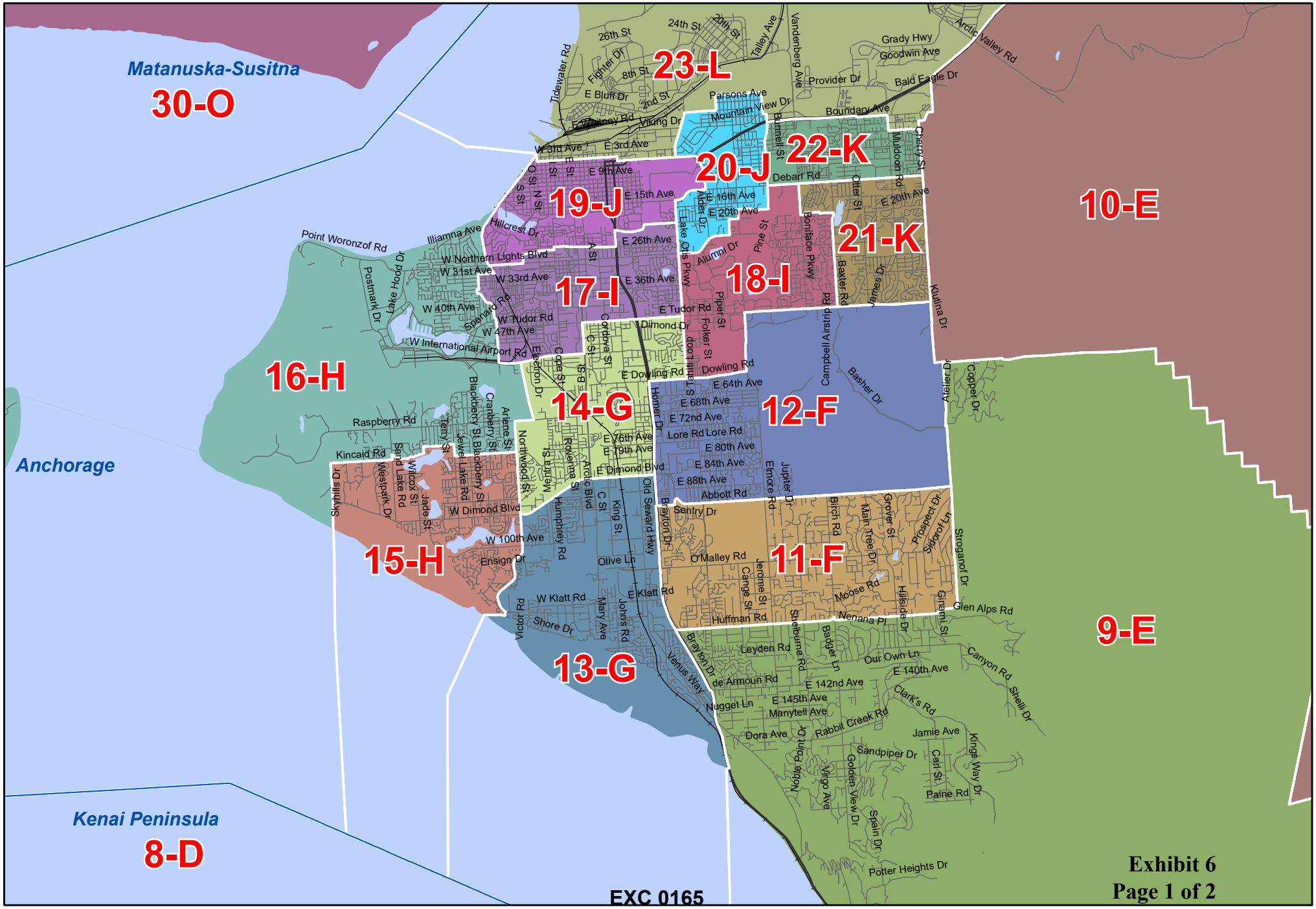
ATTEST:

Jennifer Veneklasen

Municipal Clerk

April 2022 Board Proclamation Anchorage

Redistricting Plan Adopted by the Alaska Redistricting Board 04/13/2022



EXC 0165

Based on 2020 Census Geography and 2020 PL94-171 Data; Map Gallery link: www.akredistrict.org/maps

April 2022 Board Proclamation Eagle River

Redistricting Plan Adopted by the Alaska Redistricting Board 04/13/2022

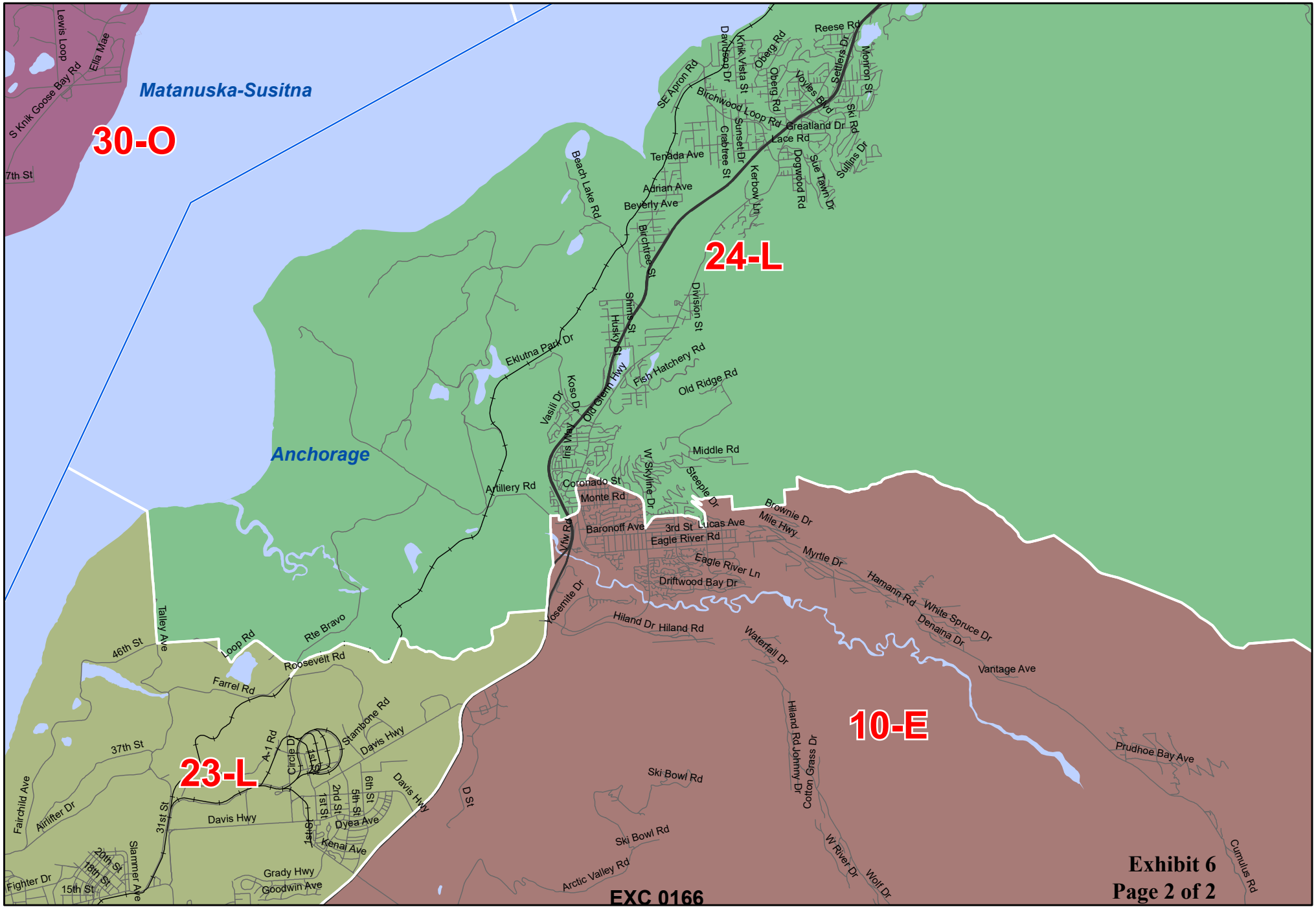


Exhibit 6
Page 2 of 2

EXC 0166

Based on 2020 Census Geography and 2020 PL94-171 Data; Map Gallery link: www.akredistrict.org/maps

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the	)	
	)	
2021 Redistricting Plan.	)	
	)	
_____	)	Case No. 3AN-21-08869CI

ALASKA REDISTRICTING BOARD'S ANSWER TO GIRDWOOD PLAINTIFFS' COMPLAINT AND EXPEDITED APPLICATION TO COMPEL CORRECTION OF ERRORS IN REDISTRICTING

Defendant Alaska Redistricting Board (the "Board"), by and through its counsel, Schwabe, Williamson & Wyatt, P.C., hereby answers Plaintiffs Louis Theiss, Ken Waugh and Jennifer Wigard's (collectively "Girdwood Plaintiffs") Complaint and Expedited Application to Compel Correction of Errors in Redistricting dated April 25, 2022 ("Complaint"), as follows:

PARTIES

1. The Board lacks sufficient information to admit or deny the allegations in Paragraph 1 of the Complaint and so it is denied.

2. The Board lacks sufficient information to admit or deny the allegations in Paragraph 2 of the Complaint and so it is denied.

3. The Board lacks sufficient information to admit or deny the allegations in Paragraph 3 of the Complaint and so it is denied.

4. The Board admits the allegation in Paragraph 4 of the Complaint.

SCHWABE, WILLIAMSON & WYATT, P.C.
420 L Street, Suite 400
Anchorage, AK 99501
Telephone: (907) 339-7125

5. Paragraph 5 of the Complaint is a conclusion of law to which no answer is required, and is denied.

JURISDICTION AND VENUE

6. The Board admits the allegation in Paragraph 6 of the Complaint.

7. The Board admits the allegation in Paragraph 7 of the Complaint.

GENERAL ALLEGATIONS

8. The Board admits it is responsible for adopting a redistricting plan and that the requirements for redistricting are established in Article VI of the Alaska Constitution, and denies any allegation in Paragraph 8 of the Complaint inconsistent with what is stated plainly in the Constitution.

9. The Board admits the allegations in Paragraph 9 of the Complaint.

10. The Board admits that there were five legal challenges filed against the November Proclamation Plan, that those challenges were consolidated into 3AN-21-08869CI, and that the East Anchorage Plaintiffs' claims are set forth in their complaint, and otherwise denies the allegations in Paragraph 10.

11. The Board admits that the Court issued Findings of Fact and Conclusions of Law dated February 15, 2022 and that the Court found Senate District K to be unconstitutional. The Findings of Fact and Conclusions of Law speak for themselves, and the Board denies the remaining allegations in Paragraph 11 that seek to paraphrase, recast, or misconstrue the prior decision of the Court. For example, the Court expressly noted that there was justification provided for uniting the Chugiak/North Eagle River

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House District and the JBER House District. Findings of Fact & Conclusions of Law, Page 67.

12. The Board admits the allegations in Paragraph 12 of the Complaint.

13. The Board admits that it followed the requirements of Section 10 of Article VI, including by inviting the public to offer proposed Anchorage senate pairings, by allowing the public to testify with regard to proposed plans, and by considering public testimony before making a final decision, and that the Board would have invited further legal challenge had it done what is inferred in Paragraph 13 and merely "implemented the court's directives" without any public process. The Board denies the remaining allegations of Paragraph 13.

14. The Board denies the allegations in Paragraph 14 of the Complaint.

15. The Board admits that during the remand process, it considered four options for pairings, including the three described in Paragraph 15 and one additional proposal offered by a member of the public. The Board admits that Exhibits 1, 2 and 3 to the Complaint accurately depict the three options portrayed on those pages. Each of the options speaks for itself and the Board denies the other characterizations and allegations in Paragraph 15 of the Complaint.

16. The Board admits that it unanimously withdrew Option 1 from consideration because the Members felt that it exceeded the Court's remand order and the Board's authority on remand in that it made numerous senate district changes that

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were not necessitated by the remand order. The Board denies the remaining allegations in Paragraph 16 of the Complaint.

17. The Board admits that it received extensive public testimony and that there was substantial support for both Option 2 and Option 3B. It is not clear what the Complaint means with the phrase "weight of the testimony" and that sentence is denied. The Board did not count testimony but instead listened and read all testimony and considered the testimony as it made its decision. The testimony speaks for itself and all public comment and testimony is included in the record on remand, and the remaining allegations in Paragraph 17 are denied.

18. The Board admits that there was testimony in support of and against both Option 2 and Option 3B, and that the public comment and testimony speaks for itself. Some members of the public claimed that pairing the South Hillside/Girdwood with South Eagle River would create a senate district separated by several house districts, while others testified that the two districts shared a 35-mile long contiguous boundary. The Board denies the remaining allegations of Paragraph 18.

19. The Board admits that there was testimony in support of and against both options presented to it by the public, and that the testimony and public comment speaks for itself and is part of the record on remand. The remaining allegations of Paragraph 19 are denied.

20. The Board admits that the Girdwood Board of Supervisors appears to have adopted a resolution, that the resolution is attached to the Complaint as Exhibit 4,

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and that the resolution speaks for itself, and otherwise denies the allegations in Paragraph 20 of the Complaint.

21. The Board admits that the Assembly passed the referenced resolution on April 12 and that the Mayor vetoed the resolution on April 13, such that it was nullified unless the Assembly voted to override the Mayor's veto. The Board is not aware that the resolution was subsequently adopted over the Mayor's veto, and so denies the remaining allegations in Paragraph 21.

22. The Board admits that it deliberated on April 13 and that each member explained his or her thinking with regard to the options under consideration. Those statements are recorded in transcripts that are part of the record on remand and are the best evidence of the rationale offered by each member for his or her vote. The Board admits that it discussed the military connections between the Chugiak/North Eagle River house district and the JBER house district, as was reflected in testimony from several members of the public. The Board also discussed the many similarities and connections between what is now labeled House District 10 (South Eagle River) and House District 9 (South Hillside/Girdwood), including the geography, lot sizes, rural character, concerns for snow, wildfire, wildlife, road and fire service districts, and other shared concerns, as well as the contiguity of the two districts that share a 35-mile border. The Board admits that Paragraph 22 accurately states the members who voted in favor and against Option 3B, and that Member Borromeo and Member Bahnke

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objected for various reasons that they stated on the record. The Board denies the remaining allegations in Paragraph 22.

23. The Board admits the allegations in Paragraph 23.

COUNT I
VIOLATION OF REDISTRICTING CRITERIA

24. The Board incorporates all preceding responses.

25. The Board admits that Paragraph 24 contains a partial quote of the content of Article VI, Section 6 of the Alaska Constitution.

26. The Board denies Paragraph 26.

27. The Board denies Paragraph 27 and notes that this Court has already rejected virtually identical allegations made by the Mat-Su Borough and City of Valdez with regard to their challenges to house districts. *See* Findings of Fact & Conclusions of Law, Pages 74-75.

COUNT II
VIOLATION OF EQUAL PROTECTION

28. The Board incorporates all preceding responses.

29. The Board admits that Article I, Section 1 of the Alaska Constitutions says "This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State."

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30. The Board denies the allegations in Paragraph 30 of the Complaint.

31. The Board denies the allegations in Paragraph 31 of the Complaint.

AFFIRMATIVE DEFENSES

1. Plaintiffs' challenges to Senate District L or any district that existed under the original November 10, 2021 Final Plan are barred in whole or in part by the applicable limitations period in Article VI, section 11 of the Alaska Constitution and the doctrines of laches, estoppel, and res judicata.

PRAYER FOR RELIEF

WHEREFORE, the Board prays for relief as follows:

A. The Court declares that the Board's Amended Plan dated April 13, 2022, complies with the Alaska Constitution and the Court's remand order;

B. For an award of attorneys' fees and costs in favor of the Board; and

C. For Plaintiffs to take nothing.

DATED at Anchorage, Alaska, this 2nd day of May, 2022.

SCHWABE, WILLIAMSON & WYATT, P.C.
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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of May, 2022, a True and correct copy of ALASKA REDISTRICTING BOARD'S ANSWER TO GIRDWOOD PLAINTIFFS' COMPLAINT AND EXPEDITED APPLICATION TO COMPEL CORRECTION OF ERRORS IN REDISTRICTING (8 pages) was served upon the following by:

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the	)	
2021 Redistricting Plan.	)	
	)	Case No. 3AN-21-08869CI

ALASKA REDISTRICTING BOARD'S
OPENING BRIEF ON GIRDWOOD CHALLENGE

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In accordance with this Court's Orders, the Alaska Redistricting Board ("Board") hereby submits its opening brief on the merits of the Girdwood Plaintiffs' challenges to the Board's April 2022 Amended Redistricting Plan, as follows:

I. INTRODUCTION

Legally, this case is about whether Senate District E of the Board's April 2022 Amended Redistricting Plan is constitutional. But, practically, this case is about whether the Girdwood Plaintiffs can successfully force Eagle River/Chugiak/Eklutna residents into one senate district so that JBER must be paired with downtown Anchorage. If JBER is paired with downtown Anchorage, JBER's ability to elect a senator of its choosing will be usurped by downtown Anchorage, which prefers the same candidates as Girdwood. This Court should reject the Girdwood Plaintiffs' claims and affirm the Alaska Supreme Court's repeated holdings that all areas within a borough or municipality are socio-economically integrated and neighborhood boundaries are of no constitutional import.

Senate District E is comprised of two contiguous house districts and therefore complies with Article VI, Section 6. As to equal protection, Girdwood's placement in House District 9 forecloses their claims. The Anchorage neighborhood of Girdwood has a voting-age population of 1,722, which is 12.34% of the voting-age population of House District 9 (voting-age population 13,957). In other words, Girdwood has the population to effect 12.34% control over who is elected to represent it in the Alaska House of Representatives in House District 9. When it comes to senate districts, which

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are comprised to two house districts, Girdwood's control drops to 6.33%. Simply put, absent evidence that the Board invidiously discriminated against Girdwood, its equal protection rights cannot be infringed by Senate District E because the small neighborhood lacks the ability to elect a candidate of choice for even a house district. Girdwood's ability to choose a candidate for the house or senate is foreclosed by its inclusion in House District 9, which strongly prefers (and elects) Republican candidates.

As the data shows, Girdwood's small population is overridden in statewide elections by their fellow House District 9 members in South Anchorage who strongly favor Republican candidates. Because there is no Senate pairing scenario under which Girdwood's political preferences will change the outcome of a legislative race, this lawsuit is not about Girdwood at all. It is about attempting to force Eagle River/Chugiak/Eklutna voters into a single senate district and thus submerge the voice of JBER under a majority of Downtown Anchorage voters who strongly favor opposing candidates. This Court should reject the Girdwood Plaintiffs' redistricting and equal-protection claims. This process is not about giving any particular political party or labor union exactly what it wants, but instead about adopting a constitutional plan and obtaining finality for all Alaskans.

Because of the lack of legal support for their claims, the Girdwood Plaintiffs are likely to argue there are *better* house districts with which to pair House District 9. But, the wisdom or sagacity of the Board's Senate District E is not judicially reviewable.

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As the Alaska Supreme Court confirmed in affirming the Skagway house district, Senate District E's constitutionality is the end of the inquiry.[1]

II. FACTUAL AND PROCEDURAL BACKGROUND

A. The Board Adopted Its Original Redistricting Plan, Challenges Were Filed, and Ultimately the Courts Ordered the Board to Fix the "Cantwell Appendage" and Senate District K

On November 10, 2021, the Board adopted its 2021 Redistricting Plan.[2] Multiple legal challenges were filed against the 2021 Redistricting Plan,[3] and after a trial on those challenges, on February 15, 2022, this Court issued its Findings of Fact and Conclusions of Law, upholding all but two house districts (House Districts 3 and 4) and one senate district (Senate District K).[4]

On March 25, 2022, the Alaska Supreme Court reversed this Court's invalidation of House Districts 3 and 4, and upheld this Court's invalidation of Senate District K.[5] The Alaska Supreme Court also ruled unconstitutional House District 36 because the "Cantwell Appendage" made that district "non-compact without adequate

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[1] *See* Order on Petitions for Review, Supreme Court No. S-18332, at 2-3 (Mar. 25, 2022) ("House Districts 3 and 4 are the subject of two petitions, one by the Board and one by the Municipality of Skagway Borough. We AFFIRM the superior court's determination that the house districts comply with article VI, section 6 of the Alaska Constitution and should not otherwise be vacated due to procedural aspects of the Board's work. We REVERSE the superior court's remand to the Board for further proceedings under the superior court's 'hard look' analysis relating to public comments on the house districts. There is no constitutional infirmity with House Districts 3 and 4 and no need for further work by the Board.").

[2] Findings of Fact and Conclusions of Law, at 21 (Feb. 15, 2022).

[3] *Id.*, at Appendix D.

[4] *Id.*, at 169-170.

[5] Order on Petitions for Review, S-18332 (Mar. 25, 2022).

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justification."[6] But, the Supreme Court offered an easy fix: move Cantwell from House District 36 to House District 30, where the remainder of the Denali Borough was placed.[7] The Supreme Court noted that if the Board made that move, the resulting populations of House Districts 30 and 36 would be "well within constitutionally allowable parameters under our case law."[8]

After the Supreme Court remanded the case to the superior court, on March 30, 2022, this Court ordered the Board:

> 1) To correct the Constitutional errors identified by this Court and the Supreme Court in Senate District K; 2) To redraw House District 36 to remove the "Cantwell Appendage"; and 3) To make other revisions to the proclamation plan resulting or related to these changes.[9]

It is with this guidance that the Board undertook its remand actions.

B. On Remand, the Board Fixed the "Cantwell Appendage" and Senate District K in an Amended Redistricting Plan

The Board met between April 2 and April 13, 2022, to fulfill the remand orders. On April 2, 2022, the Board met and reviewed the Alaska Supreme Court's decision and this Court's remand order.[10] The Board also took public testimony at this April 2 meeting.[11]

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[6] *Id.*, at 3.

[7] *Id.*, at 4.

[8] *Id.*, at 4.

[9] Order Following Remand From the Alaska Supreme Court (Mar. 30, 2022).

[10] ARB2000076 (April 2 Meeting Agenda); *see also* ARB2000084-000177 (April 2 Meeting Transcript).

[11] ARB2000076 (April 2 Meeting Agenda); *see also* ARB2000084-000177 (April 2 Meeting Transcript).

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On April 4, the Board met to discuss and adopt the process by which it would take public testimony and adopt revisions to the 2021 Redistricting Plan that complied with the courts' orders.[12] The Board took public testimony at this April 4 meeting.[13]

On April 5, the Board met and took public testimony on the best way to accomplish the court-ordered revisions.[14]

On April 6, the Board again met and took public testimony on changes to House Districts 29, 30, and 36 to fix the "Cantwell Appendage."[15] The Board also discussed different Anchorage senate pairings proposals.[16] The Board originally planned to adopt three proposed plans for Anchorage senate pairings: "Option 1," "Option 2," and "Option 3B."[17] But, after considering that Option 1 broadly re-paired senate districts in Anchorage unrelated to and not resulting from fixing Senate District K, the Board unanimously voted to withdraw Option 1 from its consideration.[18] This left the

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[12] ARB2000077 (April 4 Meeting Agenda); *see also* ARB2000178-000284 (April 4 Meeting Transcript).

[13] ARB2000077 (April 4 Meeting Agenda); *see also* ARB2000178-000284 (April 4 Meeting Transcript).

[14] ARB2000078 (April 5 Meeting Agenda); *see also* ARB2000285-000445 (April 5 Meeting Transcript).

[15] ARB2000079 (April 6 Meeting Agenda); *see also* ARB2000446-000599 (April 6 Meeting Transcript).

[16] ARB2000079 (April 6 Meeting Agenda); *see also* ARB2000446-000599 (April 6 Meeting Minutes).

[17] ARB2000533 (April 6 Meeting Transcript).

[18] ARB2000559-ARB2000560 (April 6 Meeting Transcript) (Chairman Binkley: "If there's no objection to the motion, the motion is adopted, and we now have before us two plans, option 2 and option 3 bravo.").

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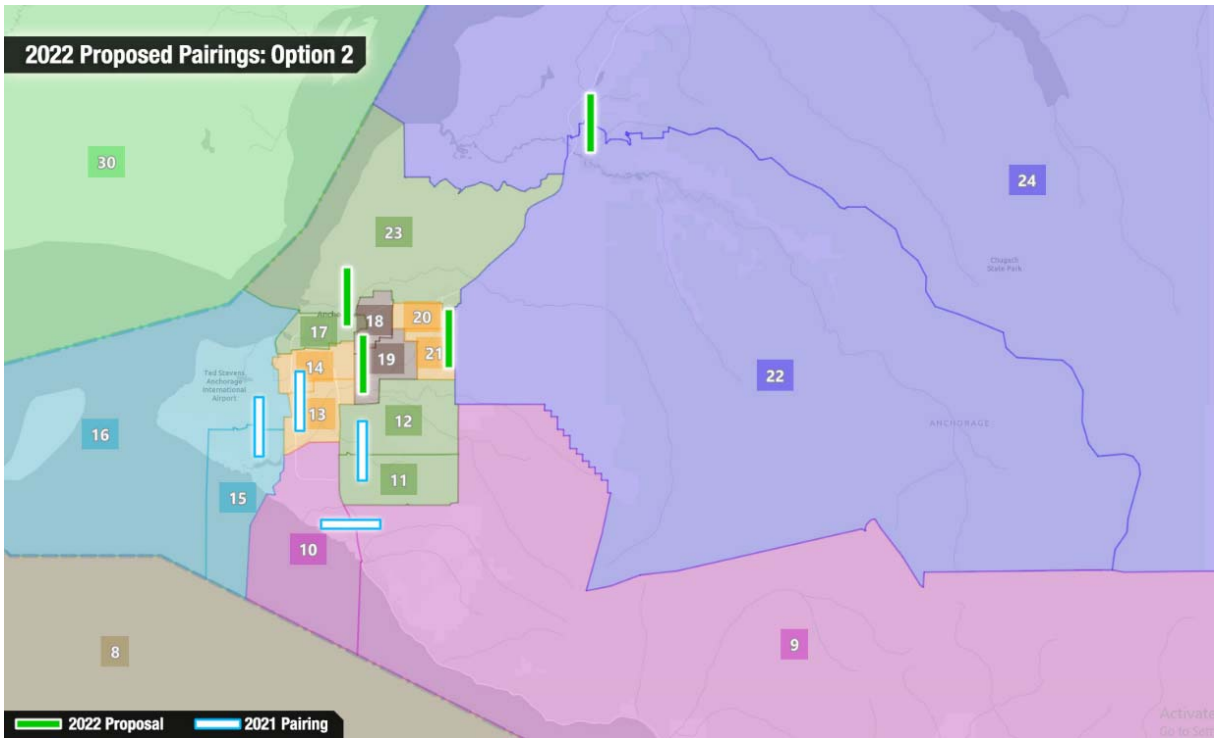
Board considering Option 2 and Option 3B as the Board's proposed plans for Anchorage Senate Pairings.[19]

Proposed plans Option 2 and Option 3B are shown below:[20]



[19] ARB2000559-ARB2000560 (April 6 Meeting Transcript) (Chairman Binkley: "If there's no objection to the motion, the motion is adopted, and we now have before us two plans, option 2 and option 3 bravo.").

[20] ARB20001828 (ARB Website Showing Options 2 and 3B).

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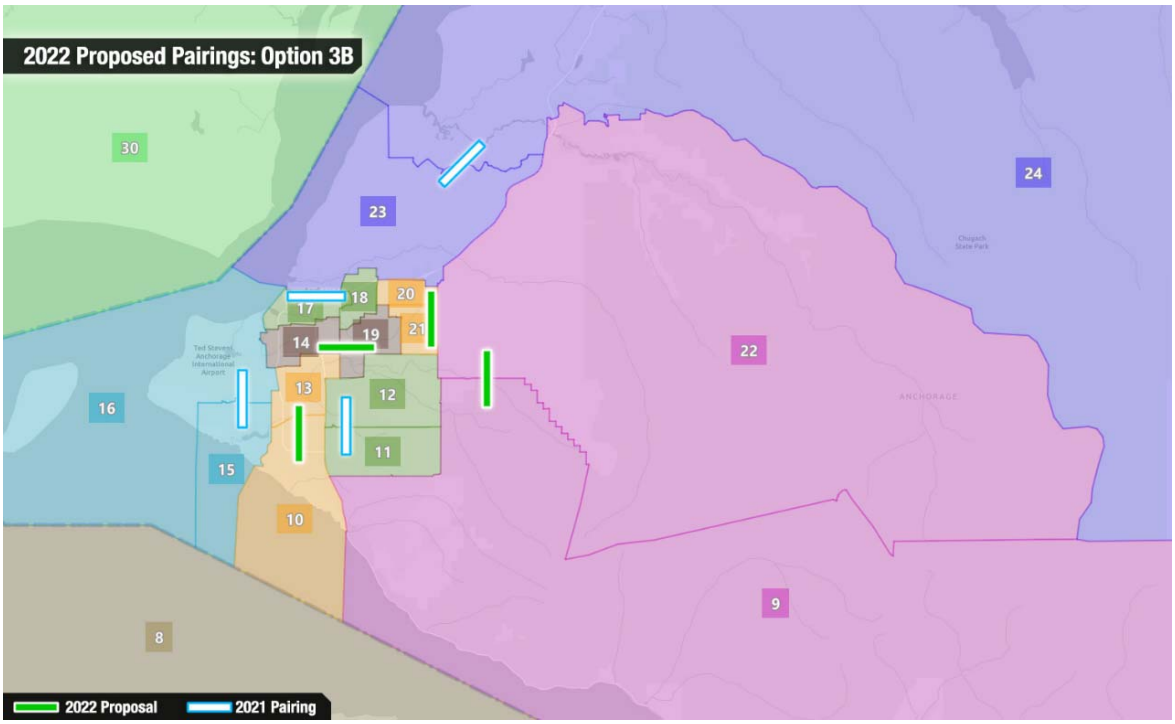

Both proposed plans suggested changing Senate District K from the 2021 Redistricting Plan by pairing North Muldoon (House District 20) and South Muldoon (House District 21) in a new senate district.[21] Both options resulted in three new senate districts stemming from the revision to Senate District K, but they differed in composition.[22]

On April 7, 8 and 9, the Board met and took additional public testimony on Options 2 and 3B.[23] There was public testimony in favor of and against both proposals.[24]

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[21] ARB20001828 (ARB Website Showing Options 2 and 3B).

[22] ARB20001828 (ARB Website Showing Options 2 and 3B).

[23] ARB2000080 (April 7 Meeting Agenda); *see also* ARB2000600-000696 (April 7 Meeting Transcript); ARB2000081 (April 8 Meeting Agenda); *see also* ARB2000697-000813 (April 8 Meeting Transcript); ARB2000082 (April 9 Meeting Agenda); *see also* ARB2000814-000946 (April 9 Meeting Transcript).

[24] *See generally* ARB2001094-001226.

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On April 13, the Board met and discussed the competing proposals for Anchorage senate pairings.[25] The Board voted to adopt proposed plan "Option 3B" as its new Anchorage senate pairings.[26] Members Binkley, Marcum and Simpson voted in favor of Option 3B, and Members Bahnke and Borromeo voted against it.[27] Each member stated their rationale for their vote on the record.[28]

The Board issued its Amended Proclamation of Redistricting the same day. Attached as **Appendix A** to this brief are the proclamation maps for all of the Anchorage house districts (House Districts 9 through 24), which show the four new Anchorage senate districts that are changed from the 2021 Redistricting Plan: Senate Districts E, G, I, and K.[29]

The Board adopted, deliberated and approved its revised Anchorage senate districts during open public meetings. During its meetings to adopt the Amended Redistricting Plan—between April 2 and April 13, 2022—the Board never entered executive session.[30]

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[25] ARB2000083 (April 13 Meeting Agenda); *see also* ARB2000947-001083 (April 13 Meeting Transcript).

[26] ARB2001015-001016 (April 13 Meeting Transcript).

[27] ARB2001015-001016 (April 13 Meeting Transcript).

[28] *See* ARB2000954-000960 (Member Bahnke); ARB2000962-000974 (Member Simpson); ARB2000975-000980 (Member Borromeo); ARB2000980-000981 (Member Marcum); ARB2000981-000991 (Member Binkley).

[29] *See* ARB2000007-000008; 2000011 (maps of election districts within the Municipality of Anchorage) (attached as **Appendix A**).

[30] *See* Affidavit of Peter Torkelson, ¶ 15 (May 4, 2022); *see also* ARB2000084-000177 (April 2 Meeting Transcript); ARB20000178-000284 (April 4 Meeting Transcript); ARB20000285-000445 (April 5 Meeting Transcript); ARB20000446-000599 (April 6 Meeting Minutes); ARB2000600-000696 (April 7 Meeting Transcript); ARB2000697-000813

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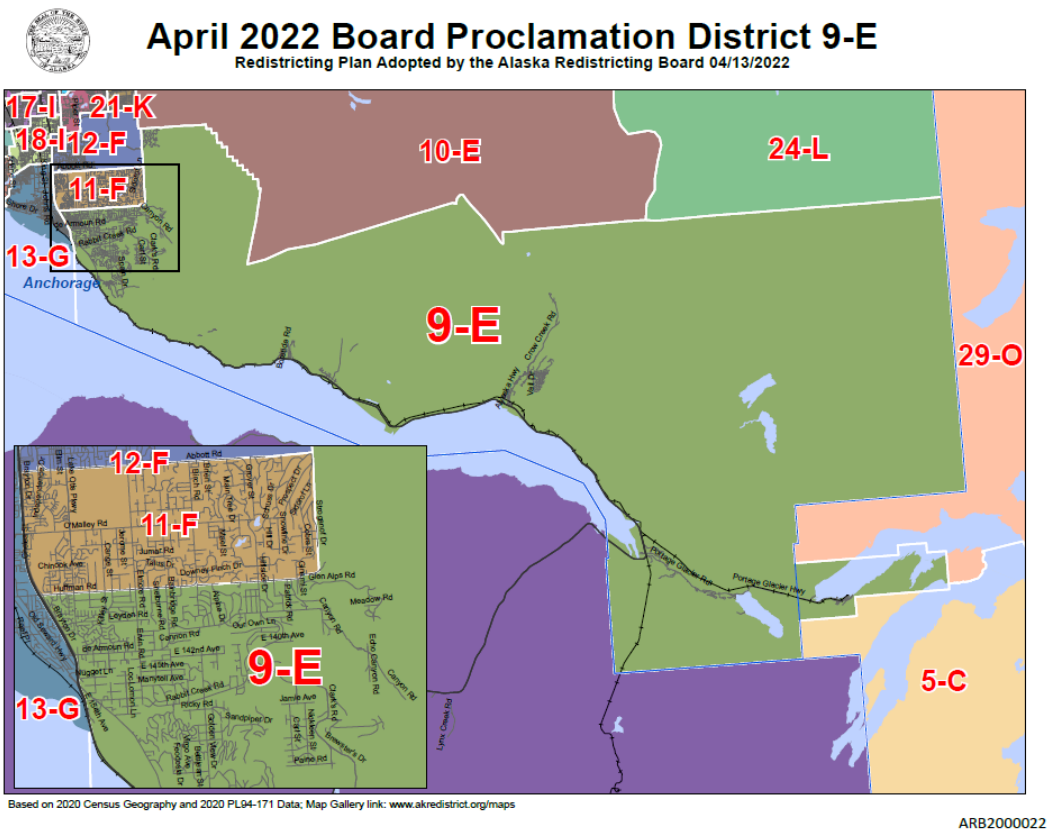
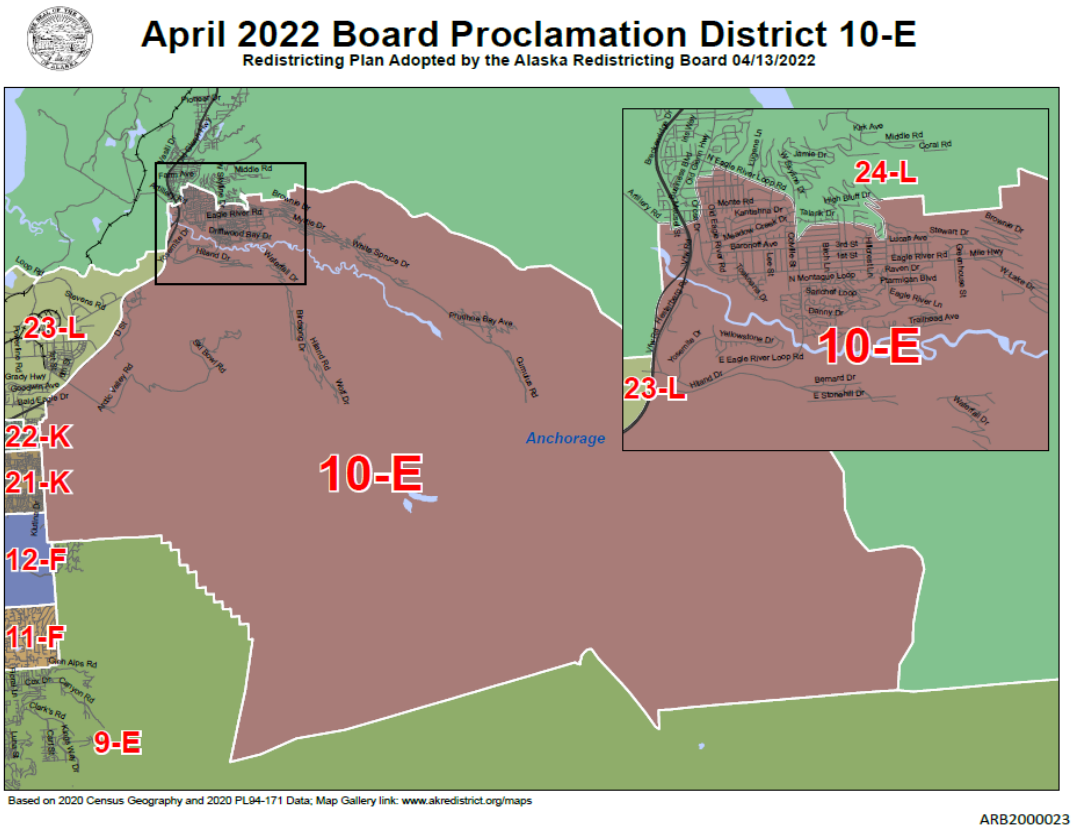
C. Girdwood's Challenge to Senate District E

On April 25, 2022, Plaintiffs Louis Theiss, Ken Waugh, and Jennifer Wingard (collectively the "Girdwood Plaintiffs") filed a complaint challenging Senate District E, which is comprised of House Districts 9 and 10, as shown below.[31]



(April 8 Meeting Transcript); ARB2000814-000946 (April 9 Meeting Transcript); and ARB2000947-001083 (April 13 Meeting Transcript).

[31] Complaint and Expedited Application to Compel Correction of Errors in Redistricting (Apr. 25, 2022).



The Girdwood Plaintiffs assert that Senate District E in the Amended Redistricting Plan violates their equal protection rights under the Alaska Constitution by denying them "an equally powerful and geographically effective vote and ignor[ing] the demographic, economic, political and geographic differences between the Eagle River and Girdwood communities."[32] They also claim that Senate District E violates the substantive criteria for senate districts in Alaska because it is non-compact, is "falsely contiguous," and ignores geographic features.[33]

[32] Compl. at 9, ¶ 30.

[33] Compl. at 9.

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III. STANDARD OF REVIEW

Judicial review of the Board's redistricting plan is deferential, in recognition of the authority delegated to the Board under the Alaska Constitution.[34] The courts "review redistricting plans 'in the same light as [they] would a regulation adopted under a delegation of authority from the legislature to an administrative agency to formulate policy and promulgate regulations.'"[35] This means courts "review the plan to ensure that the Board did not exceed its delegated authority and to determine if the plan is 'reasonable and not arbitrary.'"[36] The examination of a reviewing court is to assess whether the Board has "engaged in reasoned decision making."[37]

This Court "may not substitute its judgment as to the sagacity of a [redistricting plan] for that of the [Board; the] wisdom of [the plan] is not a subject for review."[38] "The court cannot pick a plan it likes, nor can it impose a plan it prefers. Rather, the court's role is to measure the plan against constitutional standards; the choice among alternative plans that are otherwise constitutional is for the Board, not the Court."[39]

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[34] Alaska Const. art. VI, §§ 8, 10.

[35] *In re 2011 Redistricting Cases*, 294 P.3d 1032, 1037 (Alaska 2012) (quoting *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1357 (Alaska 1987)).

[36] *Id.* (quoting *Kenai Peninsula Borough*, 743 P.2d at 1357).

[37] *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 18 (Alaska Super. Ct. Feb. 1, 2002) (citing *Interior Alaska Airboat Assoc., Inc. v. State*, 18 P.3d 686, 690 (Alaska 2001)).

[38] *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 17 (citing *Carpenter v. Hammond*, 667 P.2d 1204, 1214 (Alaska 1983)).

[39] *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 18 (citing *Gaffney v. Cummings*, 412 U.S. 735, 750-51 (1973)).

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IV. ARGUMENT

The Girdwood Plaintiffs' equal protection and Article VI, Section 6 claims are meritless. The house districts that comprise Senate District E are undeniably contiguous, as defined by this Court in the last round of litigation and as upheld by the Alaska Supreme Court as to House District 29.[40] Under Article IV, Section 6, contiguity does not mean a resident can reach all parts of the district via automobile without entering other districts. Rather, the contiguity requirement is a visual test that merely requires areas are physically connected by census blocks. Moreover, as this Court recognized, Article VI, Section 6's language that "[d]rainage and other geographic features shall be used in describing boundaries wherever possible" means simply that: in *describing* boundaries the Board shall use drainage and other geographic features.[41] The Girdwood Plaintiffs do not allege that the Board failed to adequately *describe* Senate District E. Instead, they argue that Section 6 required the Board to create districts within Anchorage based on "geographic features." This

[40] Findings of Fact and Conclusions of Law, at 74-75 (House District 29 contiguous despite intervening mountain range and connecting roadway leaving the district); Order on Petitions for Review, dated Mar. 25, 2022, S-18332, at 3 (affirming District 29 is compact and contiguous); Findings of Fact and Conclusions of Law, at 42 (holding Senate District K to be contiguous because no more than the fact that the boundaries are touching is required).

[41] Findings of Fact and Conclusions of Law, at 42 ("Instead, the plain language of section six indicates such geographic features shall be used where possible in *describing boundaries*.") (emphasis in original).

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geography argument warps the actual language of Section 6 in a manner that this Court has already rejected.

As to equal protection, the Girdwood Plaintiffs' claims fail because their small population is incapable of swaying, let alone controlling, its steadfastly Republican neighbors, and they did not challenge their placement in House District 9. There is no material difference in the effectiveness or strength of Girdwood's voice regardless of whether it is in Senate District E paired with Oceanview (HD 13), or O'Malley (HD 11), because Girdwood lacks the population to control the election of a house representative, let alone to control the election of a senator. As discussed below, Girdwood's inclusion in Senate District E enhances, not diminishes, Girdwood's voting power.

A. Senate District E Complies with Article IV, Section 6 because it is Comprised of Two Contiguous House Districts and the Girdwood Plaintiffs Do Not Challenge the Board's Description of Its Boundaries as Inadequate

The Girdwood Plaintiffs' claim that Senate District E is not comprised of contiguous house districts is meritless and seeks to revive an argument that every Alaska judge who has looked at this issue has rejected—including this Court during the last round of litigation. Indeed, binding precedent from the Alaska Supreme Court and this Court's own Findings of Facts and Conclusions of Law concerning the previous 2021 Redistricting Plan establish that Senate District E is contiguous. Because Senate District K and House District 29 from the 2021 Redistricting Plan were contiguous, Senate District E is also contiguous.

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The Alaska Constitution provides that "[e]ach senate district shall be composed as near as practicable of two contiguous house districts."[42] "Contiguous territory is territory which is bordering or touching."[43] Thus, "[a] district may be defined as contiguous if every part of the district is reachable from every other part without crossing the district boundary (i.e., the district is not divided into two or more discrete pieces)."[44] Contiguity is a visual concept.[45] In application, a district that comprises a single land mass on a map connected by census blocks is contiguous for constitutional purposes, even if transportation barriers such as mountains or waterways physically separate portions of the district.[46] As this Court held in rejecting the "transportation contiguity" urged by the Matanuska-Susitna Borough and Valdez in litigation over House District 29: "The fact that the road connection between Mat-Su and Valdez meanders in and out of two districts as it traverses around the Chugach mountains does not take away from the fact that every part of the district is physically connected. District 29 is contiguous."[47] The Alaska Supreme Court's affirmance of this prior ruling[48] ends the inquiry because every part of Senate District E is physically connected.

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[42] Alaska Const. art. VI, § 6.

[43] *Hickel v. Southwest Conference*, 846 P.2d 38, 45 (Alaska 1992).

[44] *Id.* (citation omitted).

[45] *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 36 (Alaska Super. Ct. Feb. 1, 2002).

[46] Findings of Fact and Conclusions of Law, at 74-75 ("This Court agrees with Judge Rindner's analysis.").

[47] *Id.*, at 74-75.

[48] Order on Petitions for Review, S-18332, at 3.

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Likewise, this Court rejected East Anchorage Plaintiffs' contiguity challenge to Senate District K (from the 2021 Redistricting Plan). Like Mat-Su and Valdez, the East Anchorage Plaintiffs argued that Senate District K was not *truly* contiguous or contiguous "as nearly as practicable" because "one cannot travel between [the house districts] without leaving the Senate district and [the house districts] are separated by a mountain range."[49] East Anchorage also urged "that South Muldoon and Eagle River Valley are located in separate drainages, and are even separated by a drainage."[50] Each of these arguments were properly rejected when this Court determined that the district "boundaries are in fact physically touching. No more is required,"[51] and that "the reference to 'drainage and other geographic features' is not a constitutional limitation on contiguity."[52]

The Court should expect the Girdwood Plaintiffs to use selective quoting of Article VI, Section 6 in an attempt to re-arrange the Constitution's actual wording. Specifically, the Board expects the Girdwood Plaintiffs to attempt to re-arrange the words of Article VI, Section 6's sentence "Each senate district shall be composed as near as practicable of two contiguous house districts" to something requiring *maximum* contiguity. Of course, as this Court held in the last round of litigation the Alaska Constitution's contiguity requirement merely requires that "the boundaries are in fact

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[49] Findings of Fact and Conclusions of Law, at 39.

[50] *Id.*, at 41.

[51] *Id.*, at 42.

[52] *Id.*, at 42.

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physically touching. No more is required."[53] There is no need to determine whether it was *practicable* for the Board to adopt a contiguous senate district, because Senate District E *is* comprised of two contiguous house districts.[54]

And even if "as near as practicable" were read to qualify contiguity, House Districts 9 and 10 of the April 2022 Amended Redistricting Plan, which make up Senate District E, share over 35 miles of border linking them.[55] The expansive shared border between House Districts 9 and 10 confirms Senate District E's satisfaction of the contiguity requirement.

The Girdwood Plaintiffs' complaint also challenges the senate district based on a strained application of Article VI compactness to senate districts,[56] which ignores the language of Article VI, Section 6 itself and the guidance from the 2001 redistricting cycle.[57] Article VI of the Alaska Constitution only requires senate districts to be composed of two contiguous house districts, not that the ensuing senate district be compact.[58] Unlike the language regarding house districts, the sentence concerning senate districts found within the Constitution includes no mention of compactness.

Given Alaska's unique geography and relatively low population, which is spread

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53 *Id.*, at 42.

54 ARB2000007, ARB2000022-000023.

55 Aff. of P. Torkelson, ¶ 14; ARB2001206.

56 Compl. ¶¶ 26-27.

57 *In re 2001 Redistricting Cases*, 2002 WL 34119573, *15 (J. Rindner) (Alaska Super. Ct. Feb. 1, 2002); *see also Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1365 (Alaska 1987).

58 Alaska Const. art. VI, § 6; *In re 2001 Redistricting Cases*, 2002 WL 34119573, *15.

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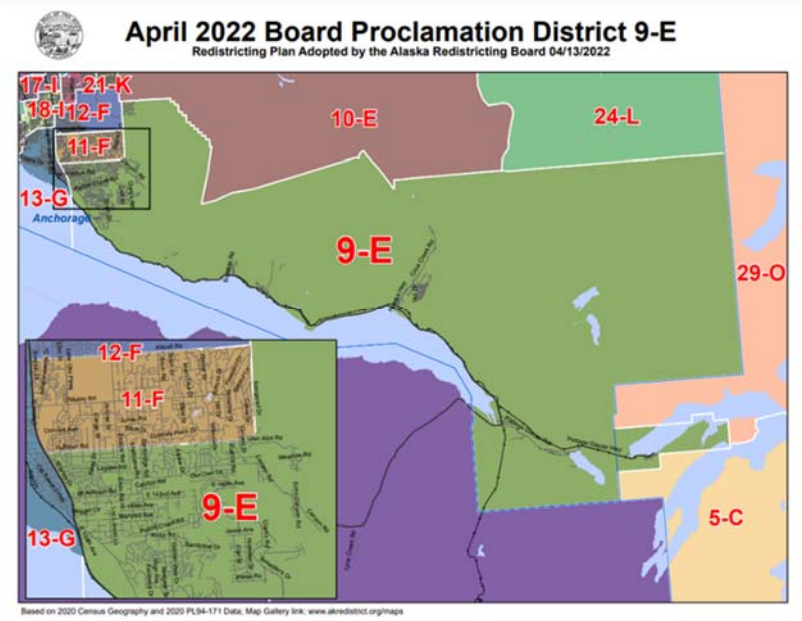
unevenly across a state that is larger than most countries in the world, "neither size nor lack of direct road access makes a district unconstitutionally non-compact."[59] Such expanses are inherent in Alaska redistricting, and they do not make a district unconstitutional. And the current Proclamation has numerous senate districts that span far greater distances and have not been struck down by this Court or the Supreme Court during the first round of litigation. If Adak and Bethel can properly be in one senate district, and Kotzebue and Kaktovik in another, then surely two neighborhoods within the same municipality can also be combined without constitutional concern.

The undisputed material facts demonstrate that Senate District E is comprised of two visually contiguous house districts, House Districts 9 and 10.



No more is required to satisfy Article IV, Section 6's requirements for senate districts.[60]

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59 *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1092 (Alaska 2002).

60 Findings of Fact and Conclusions of Law, at 42.

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The Girdwood Plaintiffs' argument that Senate District E is unconstitutional because it splits Eagle River into multiple senate districts[61] is foreclosed by controlling precedent which recognizes that Eagle River/Chugiak/Eklutna residents are part of the Municipality of Anchorage that should not be segregated from all other election districts in the municipality.

Twenty years ago, the Alaska Supreme Court affirmed the Board's splitting of the Chugiak-Eagle River area into multiple election districts. In *In re 2001 Redistricting Cases*, Anchorage residents[62] complained "that Eagle River is a distinct neighborhood that should not be joined with other neighborhoods in Anchorage."[63] Judge Rindner pointed out that these residents were asking the Court to segregate Anchorage in a manner that the Alaska Supreme Court had explicitly rejected: "The Alaska Supreme Court also rejected the notions that communities within the Anchorage area are socially and economically distinct."[64]

On appeal, the Alaska Supreme Court affirmed the legality of dividing Eagle River into multiple election districts: "While the Eagle River-Chugiak area is socio-economically integrated, its residents have no constitutional right to be placed in a

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[61] *See* Compl., ¶ 31 ("The Board's creation of two separate Eagle River Senate districts constitutes unlawful political gerrymandering.").

[62] *In re 2001 Redistricting Cases*, 2002 WL 34119574, *1 (Alaska Super. Ct. May 9, 2002) ("Most of these letters are from residents of Chugiak or Eagle River who complain about the manner in which these areas were placed into house and/or senate districts.").

[63] *In re 2001 Redistricting Cases*, 2002 WL 34119574, *2 ("Others complain that Eagle River is a distinct neighborhood that should not be joined with other neighborhoods in Anchorage.").

[64] *In re 2001 Redistricting Cases*, 2002 WL 34119574, *2.

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single district."[65] The Supreme Court also adopted Judge Rindner's reasoning that the neighborhood boundaries of Eagle River-Chugiak were of no constitutional import:

> The Luper appellants also argue that the natural and local government boundaries of the Eagle River-Chugiak area should have been "recognized." But the plain language of the Alaska Constitution indicates that respecting local government boundaries is discretionary. Further, the appellants have not demonstrated that any failure by the board to follow natural boundaries violates article VI, section 6. As Judge Rindner observed, "respect for neighborhood boundaries is an admirable goal," but "it is not constitutionally required and must give way to other legal requirements." Therefore, the districts containing the Eagle River area are not unconstitutional in any respect.[66]

A focal point of *In re 2001 Redistricting Cases* was House District 32. House District 32 covered portions of Eagle River (Eagle River Valley) and portions of the Anchorage Hillside (De Armoun Road and Rabbit Creek Road).[67] The district split the Eagle River neighborhood into multiple house districts. The Alaska Supreme Court broadly ruled: "[T]he districts containing the Eagle River area are not unconstitutional *in any respect*."[68]

The same is true of Senate District E. It combines different areas within the Municipality of Anchorage (Eagle River Valley, the Anchorage Hillside, Girdwood, and Portage) into a senate district. Respect for the neighborhood boundaries of Eagle River, Hillside, and Girdwood within the Municipality "is not constitutionally

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[65] *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1091 (Alaska 2002).

[66] *Id*. at 1091.

[67] *Id*. at 1091; *see also* ARB010414 and ARB010416 (Alaska Redistricting Board Amended Final Redistricting Plan dated April 18, 2002) (House District 32P).

[68] *In re 2001 Redistricting Cases*, 47 P.3d at 1091 (emphasis added).

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required."[69] Combining these areas of the Municipality of Anchorage is not unconstitutional "in any respect."[70] This should be the end of the inquiry.

B. Senate District E Does Not Violate Equal Protection

The Girdwood Plaintiffs ask this Court to discriminate against Eagle River residents. Specifically, the Girdwood Plaintiffs seek a ruling that Eagle River residents are too dissimilar from other Municipality of Anchorage residents to be in election districts with them. To the Girdwood Plaintiffs, Eagle River residents must be confined in election districts that do not include other areas of the Municipality, which is contrary to decades of senate pairings.[71] The Court should reject this attempt to segregate certain Municipality of Anchorage voters in different election districts from their neighbors.

In adjudicating equal protection claims to redistricting plans, Alaska courts employ the "neutral factors" test. This Court employed the neutral factors test from *Kenai Peninsula Borough v. State* in adjudicating equal protection claims in the last round of litigation:

> The Court employs a neutral factors test to assess the legitimacy of the Board's purpose in creating a Senate district. The Board's purpose would be illegitimate if it diluted the power of certain voters "systematically by reducing their senate representation below their relative strength in the state's population." In making this assessment, the Court looks to the Board's process in making its decision as well as the substance of the decision. The Court will find suggestive of illegitimate purpose any secretive procedures employed by the Board, evidence of regional partisanship, and the existence of district boundaries which "meander and

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69 *Id.*

70 *Id.*

71 ARB2001120; ARB2001172; ARB2001698.

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selectively ignore political subdivisions and communities of interest."[72] And even where a purpose is determined illegitimate under the first half of the test set out above, as stated in *Kenai Peninsula Borough*, "the Board's 'purpose in redistricting will be held illegitimate unless that redistricting effects a *greater* proportionality of representation.'"[73]

Senate District E provides greater proportionality of representation to Girdwood voters and also easily passes the neutral factors test. The record is devoid of any evidence that the neutral factors indicate the Board intentionally sought to dilute Girdwood voters' voting power by adopting Senate District E. Quite the opposite. The Board held open meetings without a single executive session, engaged in reasoned decision making during public meetings, articulated the evidence and testimony that support their senate map selection, and adopted a senate map for Anchorage that happens to optimize the Girdwood vote. The record does not support a finding of an illegitimate Board purpose or equal protection violation.

1. There is No Equal Protection Violation because Senate District E Optimizes Girdwood Residents' Voting Strength

Article I, Section 1 of the Alaska Constitution provides "that all persons are equal and entitled to equal rights, opportunities, and protection under the law."[74] "In the context of voting rights in redistricting and reapportionment litigation, there are two

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[72] Findings of Fact and Conclusions of Law, at 54 (quoting *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1372 (Alaska 1987)).

[73] *Id.*, at 54 (quoting *Kenai Peninsula Borough*, 743 P.2d at 1372) (emphasis added).

[74] Alaska Const. art. I, § 1.

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basic principles of equal protection, namely that of 'one person, one vote'—the right to an equally weighted vote—and of 'fair and effective representation'—the right to group effectiveness or an equally powerful vote."[75] The Girdwood Plaintiffs cannot show, nor do they allege, that their right to one person, one vote has been abridged.

The Girdwood Plaintiffs' allegation that Senate District E violates their right to fair and equal representation does not withstand scrutiny. U.S. Census data demonstrates that residents of the Girdwood area of the Municipality of Anchorage do not have their vote diluted in any way by Senate District E. In fact, the opposite is true: Senate District E maximizes Girdwood's voice in the Alaska Senate beyond any other legal pairing. There is no other house district within the Municipality of Anchorage that House District 9 could be paired with to give Girdwood more influence than it currently has with Senate District E.

The U.S. Supreme Court and the Alaska Supreme Court look at the "voting age population" (VAP) of an area to determine whether dilution of voter power has occurred.[76] This makes sense because just as the U.S. Supreme Court has noted that

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[75] *Kenai Peninsula Borough*, 743 P.2d at 1366.

[76] *See Thornburg v. Gingles*, 478 U.S. 30, 46-51 (1986) (discussing how multi-member districts may operate to "minimize or cancel out the voting strength of racial minorities in the *voting population*.") (emphasis added). *See also In re 2011 Redistricting Cases*, 294 P.3d 1032, 1042-43 & n.36 (Alaska 2012) (looking to the voting age population of "VAP" of districts when assessing majority-minority house districts under the Voting Rights Act of 1965 for potential retrogression of minority voting strength); *see also Hickel v. Southeast Conference*, 846 P.2d 38, 49 (Alaska 1992).

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"people, not land or trees or pastures, vote,"[77] it is also true that voters who have not reached the age of majority do not vote.

According to the 2020 U.S. Census, the Girdwood area of the Municipality of Anchorage has a total population of 2,144 residents and a voting age population of 1,722.[78] Because Girdwood is not incorporated as a separate political unit—it is part of the Municipality of Anchorage—the Board defines the "Girdwood Area" as the area encompassed by the Girdwood Community Council (aka the Girdwood Board of Supervisors).[79]

Below is a chart of the relevant populations contained in Senate District E. It demonstrates that under Senate District E, House District 9 in which Girdwood is located has the greater influence over who is elected senator at 51.3% of the VAP, and Girdwood voters have the most influence over who is elected senator at 6.33% of the VAP.[80]

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[77] *Reynolds v. Sims*, 377 U.S. 533, 580 (1964).

[78] Aff. of P. Torkelson, ¶ 5.

[79] *See* Girdwood Community Council Map (available at: http://www.communitycouncils.org/servlet/content/girdwood_cc_map.html). As the Girdwood Plaintiffs explain in their Complaint, the Girdwood Valley Service Area Board of Supervisors (GBOS) is the Girdwood Community Council for the Girdwood area of the Municipality of Anchorage. Compl. at Exhibit 4 ("Whereas, the Girdwood Board of Supervisors (GBOS) is the duly elected Anchorage municipal board representing the residents and tax payers of Girdwood Valley Service Area in the provision of multiple local services, and is also recognized under AMC 22.40.035 *as representing the Girdwood community in an equivalent capacity to a Community Council*." (emphasis added)). Girdwood is not a "political subdivision" of its own. *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1363 (Alaska 1987).

[80] Aff. of P. Torkelson, ¶¶ 6-7.

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April 2022 Amended Redistricting Plan – Senate District E				
House District	**Total Population**	**Voting Age Population**	**VAP Population of Senate District**	**VAP Percentage of Senate District**
9	18,284	13,957	27,198	51.3%
10	18,205	13,241		48.7%
Girdwood	2,144	1,722		6.33%

The Girdwood Plaintiffs ask the Court to order the Board to pair House District 9 with either House Districts 13 (Board proposed plan "Option 2") or 11 (Board withdrawn proposed plan "Option 1"). Below is a chart showing Girdwood voters' percentage control of the Girdwood Plaintiffs' preferred senate districts:

Board Proposed Plan "Option 2"				
House District	**Total Population**	**Voting Age Population**	**VAP Population of Senate District**	**VAP Percentage of Senate District**
9	18,284	13,957	27,943	49.9%
13	18,523	13,986		50.1%
Girdwood	2,144	1,722		6.16%

Pairing House District 9 with House District 13, as contemplated by Board proposed plan "Option 2," reduces Girdwood's control of who is elected as its senator from 6.33% to 6.16%.[81]

Board Proposed Plan "Option 1" (Unanimously Withdrawn)				
House District	**Total Population**	**Voting Age Population**	**VAP Population of Senate District**	**VAP Percentage of Senate District**
9	18,284	13,957	27,658	50.5%
11	18,103	13,701		49.5%
Girdwood	2,144	1,722		6.23%

[81] Aff. of P. Torkelson, ¶ 8.

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Pairing House District 9 with House District 11, as contemplated by **unanimously withdrawn** Board proposed plan "Option 1," reduces Girdwood's control of who is elected as its senator from 6.33% to 6.23%.[82]

Indeed, out of *all* of Alaska's forty house districts, House District 9 (VAP 13,957) could only be paired with five other house districts to give Girdwood residents (VAP 1,722) more influence over who is elected as their senator than pairing House District 9 with House District 10.[83] In other words, only five house districts have smaller VAPs than House District 10's VAP of 13,241.[84]

House District	VAP	VAP of Senate District if Combined with HD 9[85]	Girdwood's VAP Percentage[86]
20 (Mountain View)	13,076	27,033	6.37%
26 (Mat-Su Borough)	12,876	26,833	6.42%
38 (Bethel)	11,522	25,479	6.76%
39 (Nome)	11,120	25,077	6.87%
40 (NS & and NW Arctic Boroughs)	13,165	27,122	6.35%

However, these pairings are not constitutional senate district alternatives. None of the house districts with smaller VAPs than House District 10 are contiguous with House District 9. Because Article VI, Section 6 requires senate districts to be comprised "as

[82] Aff. of P. Torkelson, ¶ 8.

[83] **Exhibit A** to Aff. of P. Torkelson.

[84] *Id.*

[85] These Senate VAPs are calculated by adding House District 9's VAP of 13,957 to the VAPs of each of HDs 20, 26, 38, 39, and 40.

[86] These percentages are calculated by taking Girdwood's VAP of 1,722 and dividing it by the total senate VAP from the prior column.

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near as practicable of two contiguous house districts,"[87] pairing House District 9 with a house district in Mountain View, Mat-Su, Bethel, Nome or the North Slope would be unconstitutional because there are practicable Senate pairing options that result in House District 9 being contiguous with its paired house district.

Simple math dictates that Senate District E maximizes, not usurps, the influence of the Girdwood area of Anchorage over who is elected to represent them in the Alaska Senate. This maximization of the minority interest in the area (Girdwood) also disproves that improper intent was responsible for its creation.

2. Senate District E Does Not Discriminate Against Any Politically Salient Class of Voter because House District 9 Selects the Same Candidates as House District 10

Senate District E does not usurp the voting strength of any "politically salient class" of voters.[88] To adjudicate an equal protection vote dilution claim, this Court must "make findings on the elements of a voter dilution claim, including whether a politically salient class of voters existed and whether the Board intentionally discriminated against that class."[89] Senate District E does not dilute the voting power

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[87] Alaska Const. art. VI, § 6 ("Each senate district shall be composed as near as practicable of two contiguous house districts.").

[88] *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1094 (Alaska 2002) (rejecting partisan gerrymandering claim because "there is no evidence that the Amended Final Plan invidiously minimizes the right of any politically salient class to an equal effective vote."); *see also In re 2011 Redistricting Cases*, 274 P.3d 466, 469 (Alaska 2012) (holding that to adjudicate an equal-protection vote-dilution claim "the superior court will need to make findings on the element of a voter dilution claim, including whether a politically salient class of voters existed and whether the Board intentionally discriminated against that class.").

[89] *In re 2011 Redistricting Cases*, 274 P.3d at 469 (quoting *In re 2001 Redistricting Cases*, 44 P.3d 141, 144 (Alaska 2002)).

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of any politically salient class of voters because Girdwood lacks sufficient population to control even who is elected to represent its house district let alone a senate district.

Girdwood lacks the population to control *any* state election. Girdwood has a VAP of 1,722, which means it has 12.33% control over the election of the candidate who will represent House District 9 (VAP 13,957) in the Alaska House of Representatives.[90] Girdwood has only minimal say in who is elected to represent it in the House. And as shown above, Senate District E maximizes, as compared to the other contiguous options of pairing House District 9 with House Districts 11 or 13, Girdwood's influence over who is elected to represent it in the Alaska Senate by giving it 6.33% control of that election.

Senate District E does not dilute the group voting power of House District 9 because that district votes similarly to House District 10.[91] Election return data from

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[90] Challenges to House District 9, of which Girdwood is a part, and that was a district in the Board's 2021 Redistricting Plan that was not challenged for error, are time-barred. *See In re 2001 Redistricting Cases*, 47 P.3d 1089, 1091–92, n.16 (Alaska 2002) (holding that the challenge to the amended proclamation was not timely when the challenged appendages existed in the original proclamation). All house districts, with the exception of House Districts 29, 30 and 36, remain unchanged from the 2021 Redistricting Plan to the April 2022 Amended Redistricting Plan. The Board changed House Districts 29, 30 and 36 in the April 2022 Amended Redistricting Plan to comply with the Alaska Supreme Court's ruling that the "Cantwell Appendage" in House District 36 of the 2021 Redistricting Plan rendered that district unconstitutionally non-compact without adequate justification.

[91] The Board remains uncomfortable with analyzing election return results, and its members did not consider election results in adopting its four new Anchorage senate districts in its April 2022 Amended Redistricting Plan. However, because this Court credited the East Anchorage Plaintiffs' expert witness Dr. Chase Hensel's testimony comparing the election results between the house districts that comprised Senate District K in the 2021 Redistricting Plan, *see* Findings of Fact and Conclusions of Law, at 68-69 ("Dr. Hensel testified that South Muldoon is a swing district, though it does lean Republican, while Eagle River is firmly Republican. This usurps South Muldoon's voting strength in the event it chooses to elect a Democratic senator."), the Board's executive director reviewed that election return data at the request of counsel to file this motion. *See* Aff. of P. Torkelson, ¶¶ 3, 10.

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2018 was used to conduct this analysis because the coronavirus pandemic caused a massive shift to mail-in ballots in 2020 which skew the most-recent statewide precinct-level election data.[92]

Girdwood's voting preference for Democratic candidates is an outlier in House District 9. In 2018, the Girdwood voting precinct voted 75.41% versus 24.34% in favor of Democratic candidate for U.S. Congress Alyse Galvin who ran against Republican Don Young.[93] For governor, Girdwood voters preferred Democrat Mark Begich 73.54% versus 23.16% to Republican Mike Dunleavy.[94] Seven other precincts in House District 9 voted overwhelmingly for Republican Don Young over Democrat Alyse Galvin (57.28% versus 42.63%)[95] and Republican Mike Dunleavy over Democrat Mark Begich (55.95% versus 41.55%).[96]

Voters in the 2022 Proclamation House District 10 have similar candidate preferences to the Anchorage Hillside. They voted in favor of Don Young (R) to Alyse Galvin (D) on a 60.66%-38.76% basis, and in favor of Mike Dunleavy (R) to Mark Begich (D) on a 61.57%-35.17% basis.[97] Like the voters of House District 9, the voters

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[92] Aff. of P. Torkelson, ¶ 10 n.1.

[93] **Exhibit B** to Aff. of P. Torkelson. 598 Girdwood residents voted for Alyse Galvin and 193 voted for Don Young. A total of 793 Girdwood residents voted at the Girdwood precinct.

[94] **Exhibit B** to Aff. of P. Torkelson. 581 Girdwood residents voted for Begich and 183 voted for Dunleavy.

[95] **Exhibit B** to Aff. of P. Torkelson. The remainder of House District 9 cast 3,002 votes for Don Young and only 2,234 for Alyse Galvin.

[96] **Exhibit B** to Aff. of P. Torkelson. The remainder of House District 9 cast 2,932 votes for Mike Dunleavy and only 2,177 votes for Mark Begich.

[97] **Exhibit B** to Aff. of P. Torkelson.

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in House District 10 strongly preferred Republican candidates.

Pairing House District 9 with either House District 11 or 13, as the Girdwood Plaintiffs ask this Court to compel, will not help elect the Democratic candidates that Girdwood prefers. Voters in House District 13 (Oceanview) voted in favor of Don Young on a 54.97%-44.71% basis.[98] They voted in favor of Mike Dunleavy on a 53.57%-43.93% basis.[99]

Similarly, voters in House District 11 (O'Malley/Abbott) voted in favor of Young on a 57.06%-42.65% basis.[100] They voted in favor of Mike Dunleavy on a 55.32%-42.24% basis.[101]

To the extent that this Court reads Alaska's equal protection clause to require the Board to create senate districts out of house districts that vote similarly, Senate District E does that.

3. The Board's Process Easily Passes the Neutral Factors Test Under the Equal Protection Analysis: the Board Deliberated and Adopted Senate District E in Public Meetings, Considered Alternatives, and Identified the Support Upon which Each Members' Rational Decision was Made

On remand, the Board performed its duties transparently. All eight meetings of the Board were properly noticed and publicly held.[102] Not a single executive session

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[98] *Id.*

[99] *Id.*

[100] *Id.*

[101] *Id.*

[102] ARB2000076 (April 2 Meeting Agenda); *see also* ARB2000084-000177 (April 2 Meeting Transcript); ARB2000077 (April 4 Meeting Agenda); *see also* ARB20000178-000284 (April 4 Meeting Transcript); ARB2000078 (April 5 Meeting Agenda); *see also*

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was held on remand.[103] All deliberations of the Board occurred in public,[104] and the public was able to view and provide comment to the Board on the plans considered by the Board.[105] There is no evidence in the record of any secret meetings outside of the public eye or prearranged decisions relating to adoption of senate districts that occurred off the record.[106] Given the accusations made against the Board previously, the Board did not want to leave room for assumptions or speculation. The record reveals no secretive procedures that could be suggestive of an illegitimate Board purpose under the neutral factors analysis.

i. The Board took a hard look at available alternatives and made rational decisions.

More than one decision can be a rational decision. In such an instance, it is

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ARB2000285-000445 (April 5 Meeting Transcript); ARB2000079 (April 6 Meeting Agenda); *see also* ARB2000446-000599 (April 6 Meeting Transcript); ARB2000080 (April 7 Meeting Agenda); *see also* ARB2000600-000696 (April 7 Meeting Transcript); ARB2000081 (April 8 Meeting Agenda); *see also* ARB2000697-000813 (April 8 Meeting Transcript); ARB2000082 (April 9 Meeting Agenda); *see also* ARB2000814-000946 (April 9 Meeting Transcript); ARB2000083 (April 13 Meeting Agenda); *see also* ARB2000947-001083 (April 13 Meeting Transcript).

[103] Aff. of P. Torkelson, ¶ 15.

[104] *See supra* n. 102.

[105] ARB2000076 (April 2 Meeting Agenda); *see also* ARB20000084-000177 (April 2 Meeting Transcript); ARB2000077 (April 4 Meeting Agenda); *see also* ARB20000178-000284 (April 4 Meeting Transcript); ARB2000078 (April 5 Meeting Agenda); *see also* ARB20000285-000445 (April 5 Meeting Transcript); ARB2000079 (April 6 Meeting Agenda); *see also* ARB20000446-000599 (April 6 Meeting Transcript); ARB2000080 (April 7 Meeting Agenda); *see also* ARB2000600-000696 (April 7 Meeting Transcript); ARB2000081 (April 8 Meeting Agenda); *see also* ARB2000697-000813 (April 8 Meeting Transcript); ARB20000082 (April 9 Meeting Agenda); *see also* ARB2000814-000946 (April 9 Meeting Transcript).

[106] ARB2000961-ARB2000962 (Member Borromeo during motion to adopt Option 2 at April 13 meeting: "I'm not sure where Budd lies at this point, so I'll welcome everybody into the discussion.").

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within the Board's discretion and purview to, by majority vote, select from rational alternatives.[107] The Board *unanimously* withdrew Option 1 from consideration because it would make changes to Anchorage senate districts in excess of those necessary to comply with the remand orders.[108] Consequently, the Board had two alternatives before it.

The Board considered and weighed the testimony received from the public as to both options.[109] There was persuasive public testimony that the Hillside (HD 9) and Eagle River Valley (HD 10) shared common characteristics and interests. Below the Board cites to much of that testimony,[110] but a few examples are illustrative. Dan Saddler of Eagle River testified:

> Residents of these districts of -- their lives are characterized by their life on the foothills and the upper slopes of the Chugach mountains. That means they share a lot of common interests. While lots of the rest of Anchorage residents rely on local or state road maintenance, people in these districts rely on their local road service boards to provide for maintenance of their roads.
>
> . . .

---

[107] *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 18 (Alaska Super. Ct. Feb. 1, 2002) (citing *Gaffney v. Cummings*, 412 U.S. 735, 750-51 (1973) ("The choice among alternative plans that are otherwise constitutional is for the Board, not the Court.").

[108] ARB2000559-ARB2000560 (April 6 Meeting Transcript) (Chairman Binkley: "If there's no objection to the motion, the motion is adopted, and we now have before us two plans, option 2 and option 3 bravo."); ARB2000964-000965 (Member Simpson discussing that Option 1 would have changed all eight districts in Anchorage).

[109] *See generally* ARB2001094-001798; ARB2000962 (Member Simpson at April 13 meeting: "I'm sure, like the rest of you, I've gone through and read the written testimony and the transcripts of the oral testimony and have tried my best to keep up to speed on all of that and to take into consideration what – what everybody said. . . . so I just want to let the people that submitted written testimony know that I consider that as important as somebody who came in person.").

[110] *See* infra n.115.

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> You know, residents of Districts 9 and [10] face a lot of similar living conditions and hazards. They live on the urban one at the interface. It means they face the risk of wildfires and of bears getting into their houses and threatening their household and their families. They face the challenge of less reliable utility service, extremes of weather, wind, and snow, as the recent avalanche on the Hiland Road dramatically demonstrates.
>
> Again, it should go without saying these two districts are socially, economically integrated simply by virtue of being within the Municipality of Anchorage. And they are also contiguous. And they are joined in the uplands of the Chugach mountains.[111]

Others voiced concern that the Board's proposed plan "Option 2" would usurp the ability of JBER residents to elect a senator of their choosing by not pairing it with an Eagle River district and instead pairing it with downtown Anchorage. For example, Anchorage resident Lance Pruitt testified:

> What I'm not hearing is I'm not hearing a lot of dialogue about JBER and the -- our military personnel. And I think they've been left out of the conversation that I've heard. That's what's compelled me to come in. They do not have enough for their own Senate district, but they are more closely tied to Eagle River and East Anchorage than any other part of Anchorage.
>
> As East Anchorage at this point is no longer on the table, based on both of the maps, based on the conversation that we've heard related to trying to pair that District 20 [North Muldoon] and 21 [South Muldoon], I believe the two are left with the only option to make sure that our military personnel are taken care of, to make sure that the people that are not -- not going to -- they're not going to be as engaged in this process, is you're going to have to keep them in the Senate district paired with Eagle River.
>
> Eagle River High School would not exist -- this is a fact. It would not exist if it were not for our military. It wouldn't be there. There are whole hallways at Chugiak High School that are empty. If we did not

[111] ARB2000306-000366 (April 5 Board Meeting Transcript).

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> have the military, Eagle River High School could fit in Chugiak High School. You have to tie those two together [JBER and North Eagle River] because they have the closest socioeconomic situation.
>
> . . .
>
> So I think it's important to -- as you're looking at these maps, to go back and consider our military. And then when you do that, the only one that you can pair it with, because you've taken East Anchorage off the table with all of the process, is Eagle River. And then the dominoes start to fall.[112]

Suzanne Fischetti testified:

> But I do support a Chugach Mountain district as laid out in Map 3B. When you look at the map, it's clear that the rest of Anchorage is cut into little blocks, but Districts 22 [HD 10] and 9 are the two large districts with thousands of acres of parks and mountains. There are none others like these.
>
> The Upper Hillside of Anchorage has been combined with Eagle River Valley in the past, both as a House and a Senate pairing. That's because there are legitimate, logical reasons to do so. That is just as true today as it was in the past, maybe even more so because parts of Anchorage have become even more urbanized. Those in the outer areas, like Eagle River Valley and Hillside, have chosen for -- a more suburban experience, surrounded by mountains and wildlife instead of the city life. That's why bringing together Districts 22 [HD 10] and 9 makes sense, and I urge you to choose Map 3 which does this.
>
> . . .
>
> Maps that carve away portions of the military base from its primary district would also be a mistake. JBER belongs with JBER. That means Districts 23 [JBER] and 24 [North Eagle River/Chugiak/Eklutna] belong together, as shown in the map called 3B. That's the one to support if you care about our military. You've already broken up JBER into separate House districts. We owe it to the military to put the base back together by pairing Districts 23 and 24, which makes the base whole again.

---

[112] ARB2000879-000882 (Lance Pruitt Testimony); *see also* ARB2000624-000626 (Suzanne Fischetti Testimony).

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All Board members explained their rationale on the record during the April 13 Board meeting. The majority of the Board selected Option 3B, which included Senate District E, because Option 2 resulted in pairing JBER with downtown Anchorage, which they believed was a poor pairing.

Member Simpson articulated the considerations that went into his decision to select Option 3B that included Senate District E:

> So on the -- as far as the motion before us on option No. 2, I personally find the pairing of 23 and 24, being the military with Chugiak, to be the more compelling version or solution.
>
> I think pairing the military bases with downtown overlooks JBER as a significant community of interest, and I think that, in itself, could expose us to a constitutional challenge from that constituency.
>
> We heard a lot of testimony about interactions between Eagle River, Chugiak, and JBER, that that area has essentially developed as a bedroom community for -- for the military families. They send their kids to middle school and high school there.
>
> . . .
>
> And there's nothing wrong with the pairing of 9 and 22. They have -- they are contiguous. You look at the map, they have a lengthy, maybe 35-mile, border that is shared. They consist of two districts that are, I think, socioeconomically and demographically similar in many ways. And of course, they are -- like the other House districts, they are included in the Municipality of Anchorage, and therefore are legally socioeconomically integrated based on precedent.
>
> . . .
>
> To kind of wrap up, I want to briefly address the charges of partisan gerrymandering that have been tossed around with some frequency throughout this process.
>
> The final day of testimony, on Saturday, two Republican senators and a member from Governor Dunleavy's administration spoke out against option 3B.

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> And I can note here that I am an appointee of the governor's and yet I find myself kind of lining up in favor of option 3, even though somebody from that office apparently has -- thinks the other one is a better idea.
>
> If the board's option 3 is some kind of naked partisan attempt to gerrymander the map to protect Republicans, as some have claimed, then why is it that Republican Senators Lora Reinbold and Roger Holland have testified so vehemently against it? Apparently they feel that something in option 3 harms them in some way. But if it does, that fact obviously clearly goes against the argument that any of the drafters of option 3 made any effort to protect or enhance Republican seats of interests.
>
> So having considered all of that, I have -- I believe that if there's anything partisan in either of these two maps, the most partisan is the proposed pairing of JBER and downtown. I believe this would diminish the voice of our valued Alaska military personnel. I can't support that, and I am, just to be clear, going to be voting for option 3B.[113]

Member Marcum similarly voiced her support for Option 3B, which arose at least in part, out of the concerns raised by the senate pairings in Option 2:

> So I'm very uncomfortable with proposal 2, and that's primarily because it moves District 23, JBER, from its current pairing with District 24 by linking it with downtown, which is District 17. Downtown has almost nothing in common with the military base. It absolutely makes the least sense of any possible pairing for District 23, JBER. Downtown is the arts, right? It's tourism, it's lots of professional services, and that is not what makes up JBER. So I really fear that a District 17 and District 23 pairing could be viewed -- could be viewed as, like, an intentional action to break up the military community.[114]

Chairman Binkley also articulated the reasons he felt Option 3B had the more appropriate pairings, and which were supported by the public comments received[115]:

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113 ARB2000968-000974.

114 ARB2000980-000981.

115 ARB2000624-000626 (Suzanne Fischetti Testimony); ARB2000879-000882 (Lance

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> [W]e've already heard that there are significant similarities between District 22, Eagle River, and District 9, the Hillside. And we heard many, many people testify that both Eagle River and the Upper Hillside in Anchorage are generally more rural parts of the municipality. They have larger lots sizes, mostly single-family homes.
>
> Many of these areas, it was indicated in testimony, are served by road service districts, which is different than the other more core areas of the municipality. They share the Chugach Mountains and the Chugach State Park, which are really defining geographic features.
>
> And these people, it was also testified that they're close to the mountains. They deal with wildlife closer to their homes. There are higher snow loads that they deal with in the mountains, and also wildfire dangers, as well, that they share.
>
> So I can also appreciate that these similarities really could be important to a senator[.]
>
> . . .
>
> And I think District 22 and District 9 are both those large, more rural, and share a really long, physical border. And that, to me, makes them contiguous, as pointed out by everybody, that's required by our constitution.[116]

Chairman Binkley also described his extensive experience with downtown

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Pruitt Testimony); ARB2000479-000481 (discussing preference for Option 3B, communities both maintain their own roads, economic similarities, neighborhood settings, and snow management); ARB2000483-000488 (fire management and firefighting limitations, as well as shared Bicentennial Park); ARB2000624-000626 (discussing that Districts 22 and 9 are the only two large districts with several acres of parks and mountains within Anchorage, have been paired previously, offer suburban lifestyle, and challenges with wildlife); ARB2000635-000636 (supporting option 3B as more rural districts and indicating she believes pairing JBER with downtown would diminish the voting strength of JBER); ARB2000844-000846 (discussing JBER residents sending children to school in Eagle River, sharing a 35 mile border between the districts, and similar demographics); ARB2000914-000918 (both districts semi-rural areas with people living on the Chugach Mountains, and also discussing disagreement with pairing JBER with downtown); ARB2001593 (zoning similarities); ARB2001556 (fire, water systems, lot size, roads and lack of roads, recreation); ARB2001658 (Girdwood resident in support); ARB2001698 (discussing long history of shared senate representation with Anchorage or Mat-Su); ARB2001700 (Eagle River resident supporting option 3B).

[116] ARB2000984-000986.

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Anchorage and the dissimilarities between it and JBER.[117] Sharing concerns expressed by two other board members, Chairman Binkley reiterated: "We've also heard concerns that putting the more conservative or swing district of the military base with downtown would drown out the military voters. That really echoes a concern that the Superior Court, I think, had in its decision about regional partisanship."[118]

Even though Member Bahnke preferred proposed plan "Option 2," she acknowledged the similarities between House Districts 9 and 10: "I don't disagree that there are things in common between Eagle River and Hillside and Eagle River and JBER. We heard from a lot of folks that there are actually a lot of things in common."[119] The other Board member that voted in favor of Option 2, Member Borromeo, also noted commonalities between District 22 and 9.[120]

In selecting a map that is consistent with binding legal authority, acknowledges similarities between the paired districts, and seeks to maintain a military community of interest, the Board acted rationally. It would have been irrational for the Board to reject Option 3B because it lacks "transportation" or "drainage" contiguity when this Court has already instructed that the Constitution requires no such thing.[121]

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[117] ARB2000987-000988.

[118] ARB2000989.

[119] ARB2000956; ARB2000955.

[120] ARB2000486 (stating in response to testimony in support of Option 3B: "Fantastic. You offered some specific examples, and I appreciate it because I'm learning a lot more about the commonalities between 22 and 9.").

[121] ARB2000959.

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C. Challenges to Senate District L are Untimely

Article VI, Section 11 provides that any challenge to the Board's redistricting plan must be filed within 30 days of the Board's adoption of that plan. And in the 2001 redistricting cycle, the Alaska Supreme Court indicated the 30-day timeline ran from the time the first proclamation to contain the challenged district was issued.[122] The Girdwood Plaintiffs made no challenge to Senate District L within 30 days of the Board's issuance of the original proclamation, and thus, to the degree they now pursue a backdoor challenge to Senate District L, such a challenge is time barred under the Constitution.

Further, Senate District L was expressly and unsuccessfully challenged in the first round of litigation. The East Anchorage Plaintiffs sought a ruling striking down as unconstitutional Senate District L, arguing that the Court should invalidate both "Eagle River senate districts." This Court did not grant the East Anchorage Plaintiffs this relief, instead issuing a narrower order focused on the equal protection implications for Muldoon voters of pairing then-House District 22 (Eagle River Valley) with then-House District 21 (South Muldoon). This Court did not strike down Senate District L and acknowledged that the Board had articulated justification for pairing the North Eagle River-Chugiak and JBER districts together.[123] This Court declined to invalidate

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[122] *See In re 2001 Redistricting Cases*, 47 P.3d 1089, 1091–92, n.16 (Alaska 2002) (holding that the challenge to the amended proclamation was not timely when the challenged appendages existed in the original proclamation).

[123] Findings of Fact and Conclusions of Law, at 67 ("While justification for pairing North Eagle River and JBER was strongly contested by other Board members, there was some

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Senate District L,[124] and should not now reconsider the same issue in a challenge time-barred under Article VI, Section 11.

V. CONCLUSION

For the foregoing reasons, this Court should rule that Senate District E complies with Article I, Section 1 and Article VI, Section 6 of the Alaska Constitution.

DATED at Anchorage, Alaska, this 5th day of May, 2022.

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys for Alaska Redistricting Board

By:_____

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justification provided for uniting Districts 24 and 23.").

[124] *See* Findings of Fact and Conclusions of Law, at 67.

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of May, 2022, a true and correct copy of ALASKA REDISTRICTING BOARD'S OPENING BRIEF ON GIRDWOOD CHALLENGE WITH APPENDIX A (45 pages) was served upon the following by:

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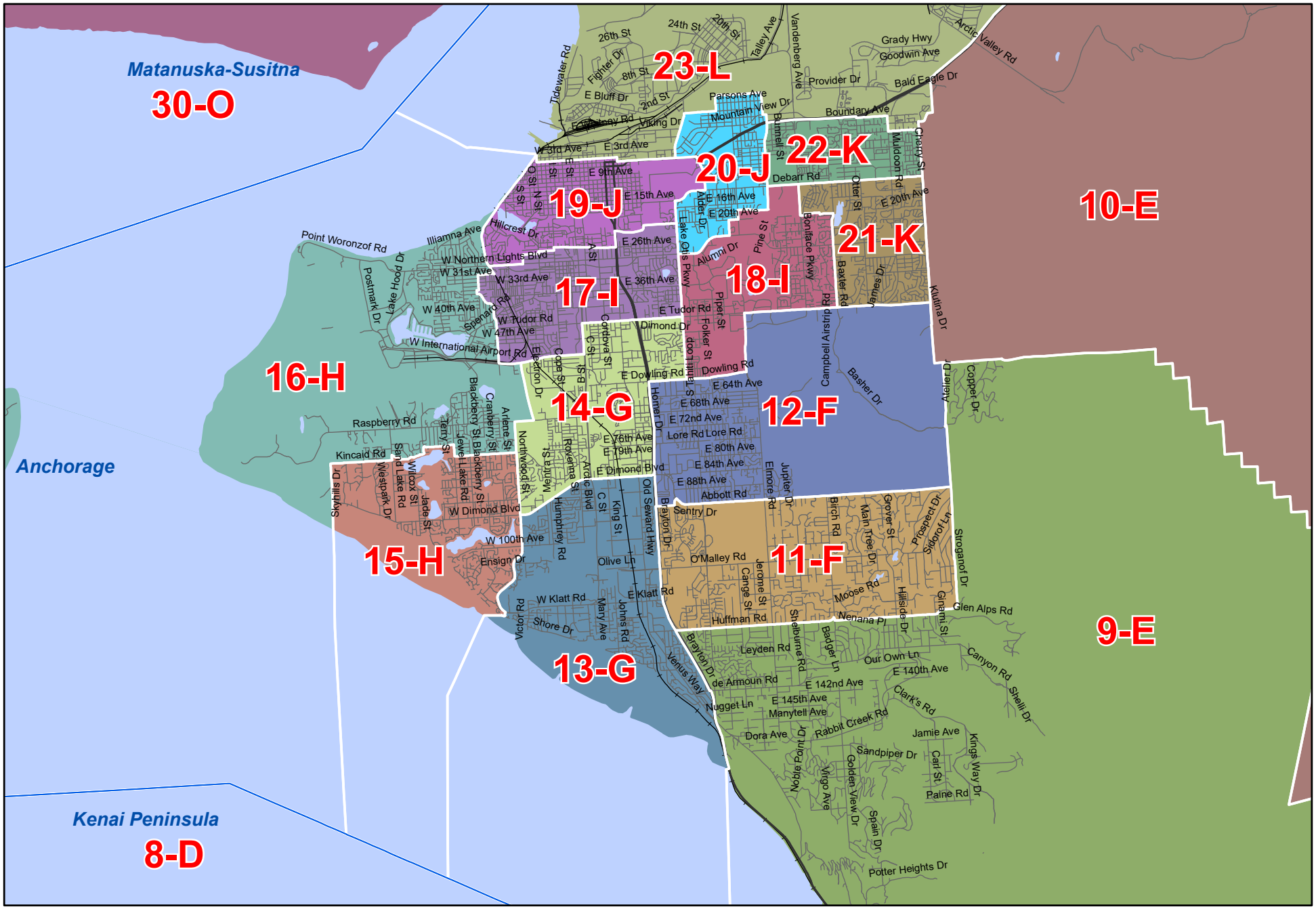
April 2022 Board Proclamation Anchorage

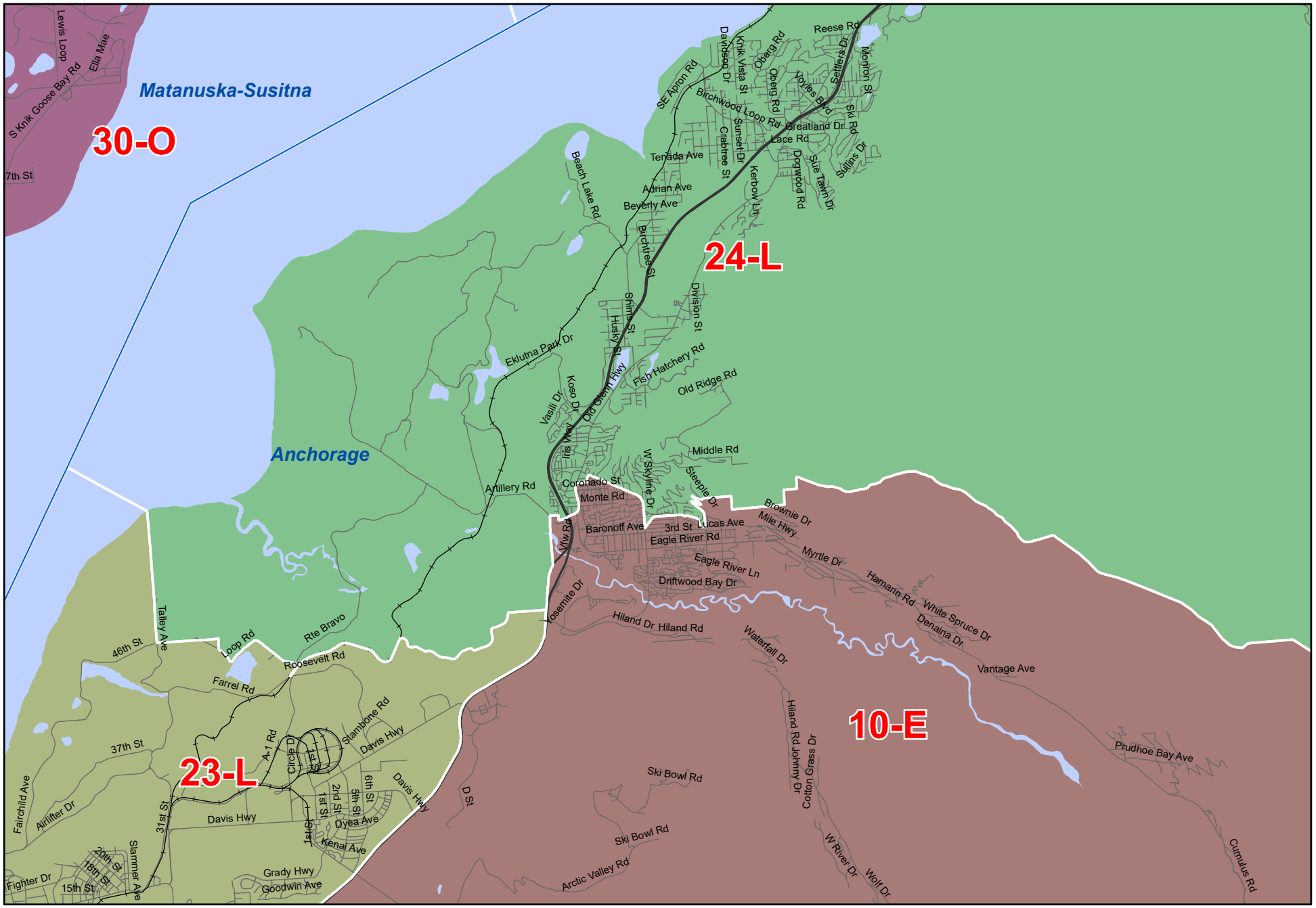
Redistricting Plan Adopted by the Alaska Redistricting Board 04/13/2022



Based on 2020 Census Geography and 2020 PL94-171 Data; Map Gallery link: www.akredistrict.com/maps

April 2022 Board Proclamation Eagle River

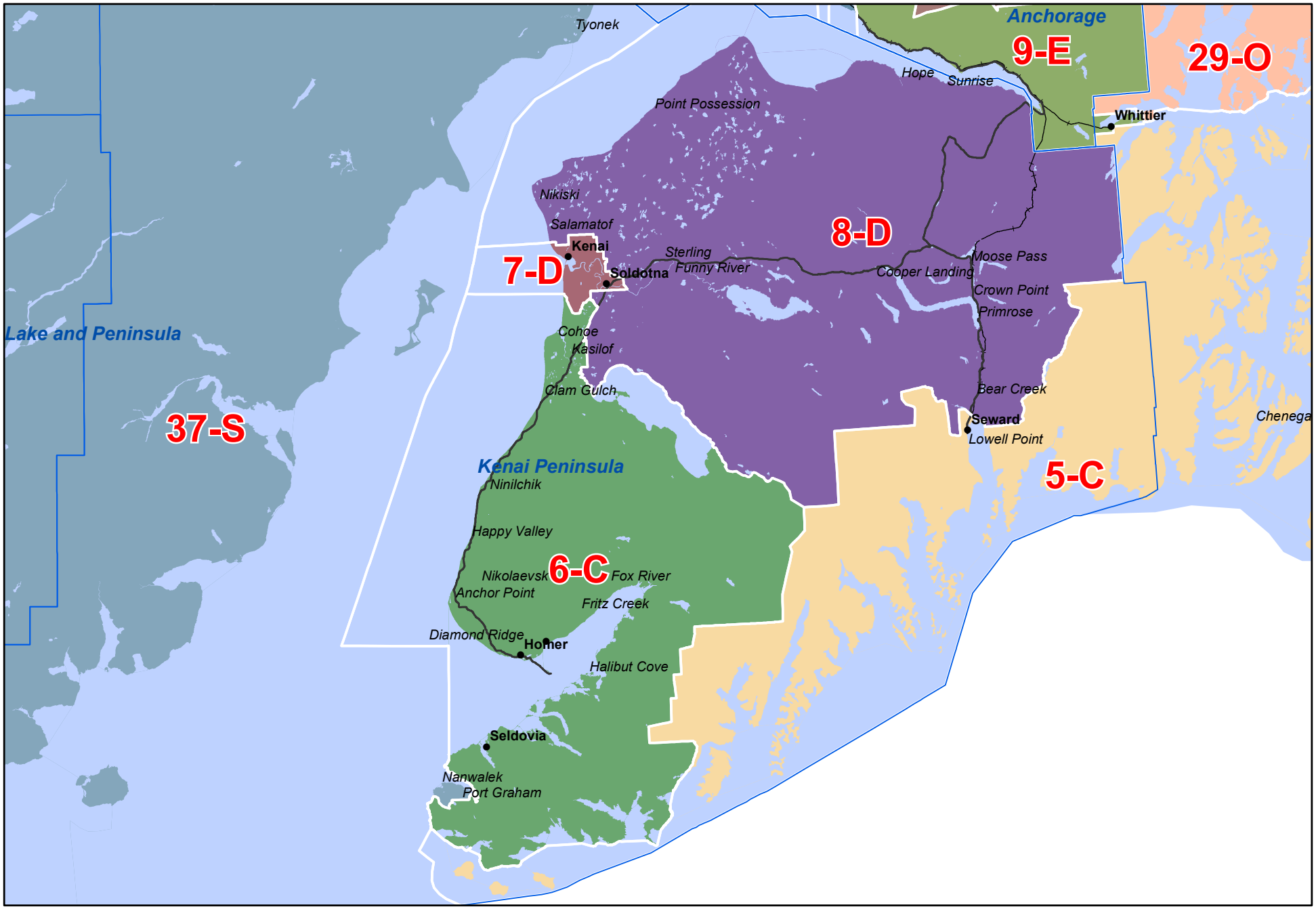
Redistricting Plan Adopted by the Alaska Redistricting Board 04/13/2022



Based on 2020 Census Geography and 2020 PL94-171 Data; Map Gallery link: www.akredistrict.gov/maps

April 2022 Board Proclamation Kenai Peninsula

Redistricting Plan Adopted by the Alaska Redistricting Board 04/13/2022



Based on 2020 Census Geography and 2020 PL94-171 Data; Map Gallery link: www.akredistrict.org/maps

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the 2021 Redistricting Plan.	)	Case No. 3AN-21-08869CI

AFFIDAVIT OF PETER TORKELSON

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

I, Peter Torkelson, being first duly sworn, depose and state as follows:

1. My name is Peter Torkelson, and I am the age of majority. The following testimony is based on my personal knowledge.

2. I am the Executive Director of the Alaska Redistricting Board.

3. To respond to the Girdwood Plaintiffs' legal challenges to Senate District E, I reviewed the voting-age populations of the voting precincts that comprise House Districts 9, 10, 11, and 13.

4. Attached to this affidavit as **Exhibit A** is a spreadsheet I compiled of the voting-age population (VAP) of every house district in the Board's April 2022 Amended Redistricting Plan. The VAPs are taken directly from the 2020 U.S. Census data. The house district numbers and senate district letters are taken from the Board's April 2022 Amended Redistricting Plan. I performed the remainder of the calculations.

5. According to the 2020 U.S. Census (which provides VAPs of blocks and

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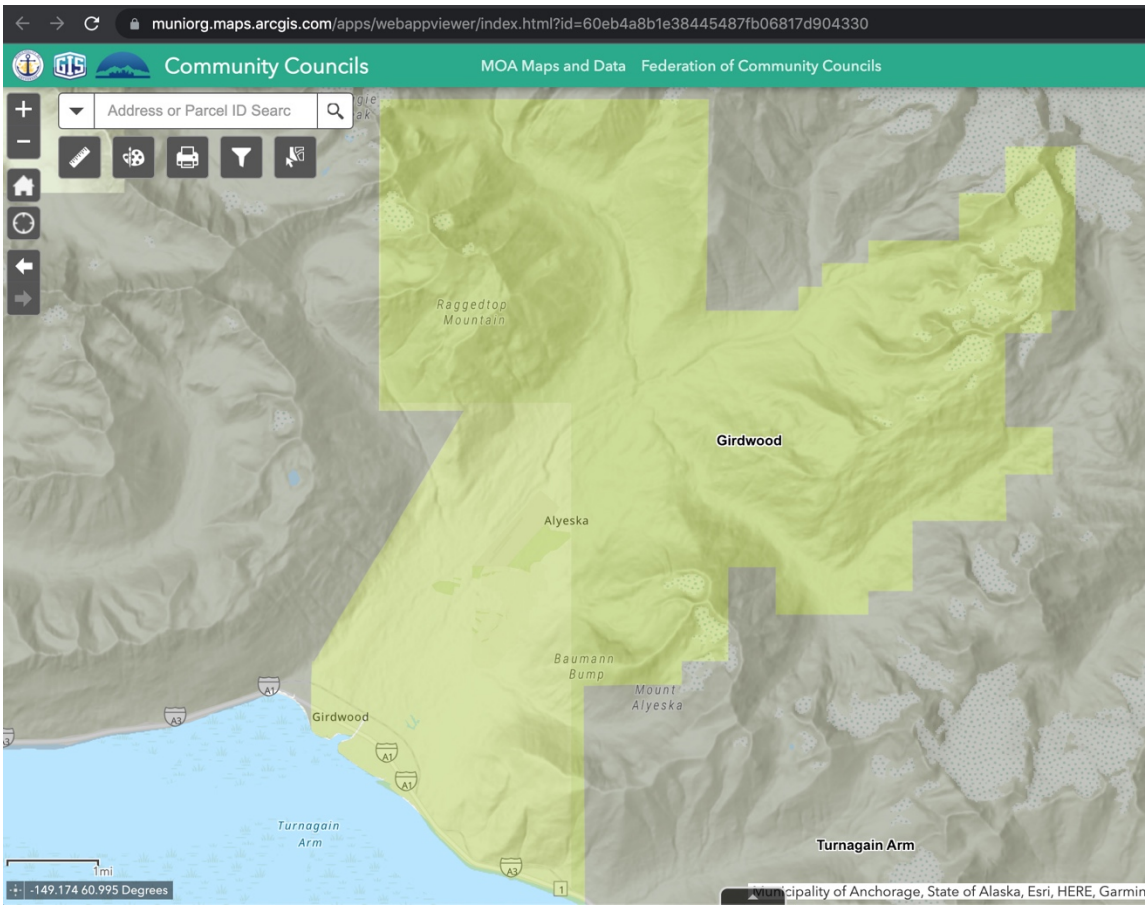
precincts), the area encompassing the Girdwood Community Council (also known as the Girdwood Board of Supervisors) has a total population of 2,144 residents and a VAP of 1,722. To obtain the total population and VAP of "Girdwood," which is not a separate incorporated area of the Municipality of Anchorage, I used the Anchorage Municipal boundary for the Girdwood Community Council. A map and shapefile download are available from a portal on the Municipal website:



I loaded this shapefile into Autobound Edge, and then selected all U.S. census blocks that were wholly within the boundaries of the community council, as well as all census blocks that spanned the boundaries of the community council. In other words, to gather all of the population of those residing within the boundaries of the Girdwood

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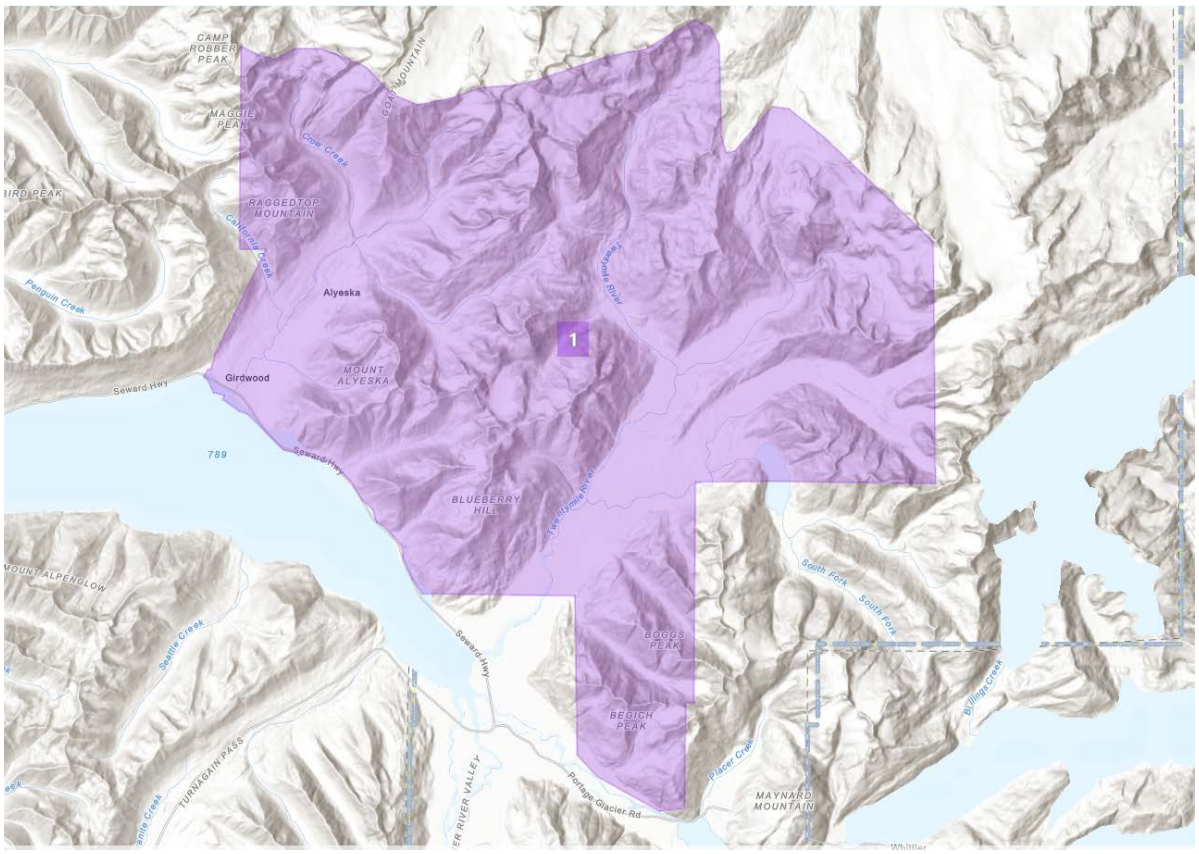
Community Council using 2020 U.S. Census data, I had to include some geography from outside the Girdwood boundary because the U.S. Census blocks do not perfectly correspond to the boundaries of the community council. The area from which the population numbers were taken is shown below:



6. House District 9 has a total population of 18,284, and voting-age population of 13,957. Girdwood's voting age population comprises 12.34% of House District 9's total VAP.

7. House District 10 has a total population of 18,205 and VAP of 13,241. When combined with House District 9 to create Senate District E, the total VAP of

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Senate District E is 27,198. Girdwood's VAP of 1,722 is 6.33% of Senate District E's VAP.

8. As demonstrated in **Exhibit A**, if House District 9 were paired with House District 13 (13,986 VAP), as shown in the Board's proposed plan "Option 2," Girdwood's VAP drops to 6.16% of that hypothetical senate district. If House District 9 were paired with House District 11 (13,701 VAP), as was suggested in the unanimously withdrawn Board proposed plan "Option 1," Girdwood's proportion of the VAP drops to 6.23% of that hypothetical senate district.

9. I reviewed the 2020 U.S. Census results for the VAPs of all of Alaska's 40 house districts. There are only five house districts across the state that would give Girdwood more proportional control over their senator: House Districts 20 (Mountain View), 26 (Mat-Su Borough), 38 (Bethel), 39 (Nome), and 40 (North Slope and Northwest Arctic Borough). None of these districts touch House District 9.

10. To further examine the Girdwood Plaintiffs' allegations of an equal protection violation, I looked to election returns from Alaska's 2018 statewide elections[1] for U.S. Representative and Alaska Governor.[2] Those statewide official results are available online on Alaska's Division of Elections' website at the following

---

[1] Election returns from 2020 do not provide reliable precinct-level data because of the exceptionally high rates of absentee voting that took place during the coronavirus pandemic. The Alaska Division of Elections does not report absentee returns by precinct, making 2020 returns an unreliable data source for precinct electoral preferences.

[2] Election result percentages will not total 100% as write-in and third-party votes were included in the total vote count, but not individually noted.

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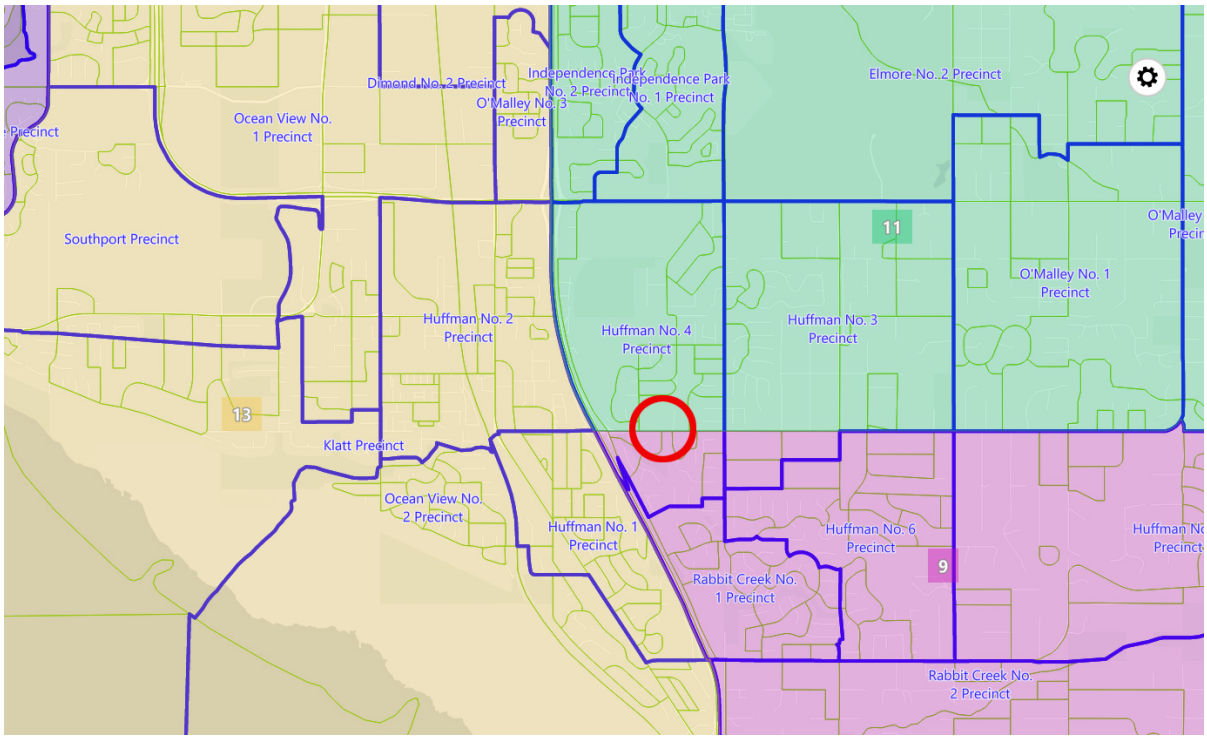
URL: https://www.elections.alaska.gov/results/18GENR/index.php

11. Attached to this affidavit as **Exhibit B** is a spreadsheet I compiled from the State of Alaska's official 2018 election results available at the link above.

12. To create the tables in **Exhibit B**, I first overlaid existing 2013 Proclamation Plan voting precincts boundaries onto the new 2022 House district map. I then noted each voting precinct which was contained within a new 2022 House district.[3]



1. Precinct lines and labels overlaid on the 2022 Proclamation House Plan. Notice that Huffman No. 4 Precinct is substantially split between Districts 11 & 9. Therefore, Huffman No. 4 results were not included in Exhibit B's election results tabulation.

[3] Only two precincts returns were tabulated that were substantially, but not wholly, contained within a new April 2022 Amended Redistricting Plan house district. These exceptions are noted in the exhibit footnotes.

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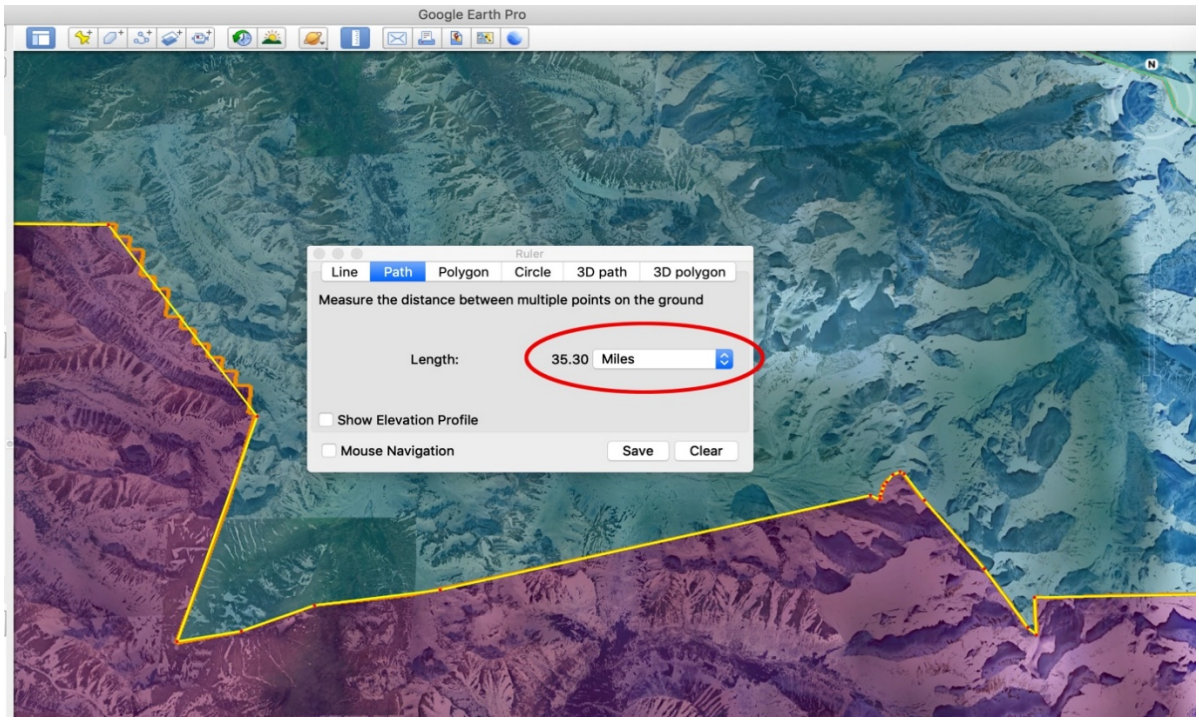
13. I then turned to precinct-level election results for 2013 Proclamation House Districts 14 (South Eagle River), 23 (Dimond/Taku), 24 (Oceanview), 26 (O'Malley/Abbott) and 28 (Hillside-Girdwood) and tabulated the returns for both the U.S. Representative race and the Alaska Governor's race for each noted precinct. For more precise comparisons, I omitted election results from voting precincts which are now substantially fragmented between separate 2022 House districts.

14. To measure House District 9 and 10's shared border, I started at the Board's website 2022 Map Gallery Interactive Map page, maximized the view, and selected the "Download KML" option. Opening this KML file in Google Earth allowed me to measure the shared border length. Simplifying the line by omitting the stair-step pattern through the mountains, results in a 35.3 mile shared boundary.



2. Using Google Earth's path measurement tool.

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15. I was present for all of the Board's meetings following remand, which were held from April 2 to April 13, 2022. The Board did not enter executive session during any of those meetings.

FURTHER AFFIANT SAYETH NAUGHT.

Peter Torkelson

SUBSCRIBED AND SWORN to before me this 4th day of May, 2022, at Anchorage, Alaska.

JEANNE M. HUSTON NOTARY PUBLIC STATE OF ALASKA

Janene M. Huston
Notary Public in and for the State of Alaska
My Commission expires: 1-31-2024

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Exhibit A – 2022 April Proclamation Voting Age Population							
2022 District	**Total Pop**	**VA Persons**	**Senate Seat**	**Sen. VAP Adopted**	**Gird. % of VAP**	**Sen. VAP Option 2**	**Gird. % of VAP #2**
Girdwood	2,144	1,722					
1	17,921	13,930	A				
2	18,048	14,188	A	28,118		28,118	
3	18,195	14,154	B				
4	18,122	14,513	B	28,667		28,667	
5	18,707	14,467	C				
6	18,434	14,788	C	29,255		29,255	
7	18,465	13,816	D				
8	18,471	14,564	D	28,380		28,380	
9	**18,284**	**13,957**	**E**	**Pairing 9 & 10**		**Pairing 9 & 13**	
10	**18,205**	**13,241**	**E**	**27,198**	**6.33%**	**27,943**	**6.16%**
11	18,103	13,701	F			Pairing 11 & 12	
12	18,217	13,822	F	27,523		27,523	
13	18,523	13,986	G			Pairing 14 & 17	
14	18,185	14,342	G	28,328		29,169	
15	18,168	13,704	H			Pairing 15 & 16	
16	18,182	14,269	H	27,973		27,973	
17	18,213	14,827	I			Pairing 18 & 20	
18	18,239	14,234	I	29,061		27,310	
19	18,203	14,949	J			Pairing 19 & 23	
20	18,243	13,076	J	28,025		29,079	
21	18,414	14,029	K			Pairing 21 & 22	
22	18,285	13,349	K	27,378		27,378	
23	18,023	14,130	L			Pairing 10 & 24	
24	18,032	13,509	L	27,639		26,750	
25	18,822	13,846	M				
26	18,807	12,876	M	26,722		26,722	
27	18,799	13,567	N				
28	18,793	13,583	N	27,150		27,150	
29	18,780	13,593	O				
30	18,736	14,973	O	28,566		28,566	
31	18,294	14,336	P				
32	18,522	13,792	P	28,128		28,128	
33	18,500	13,457	Q				
34	18,382	13,963	Q	27,420		27,420	
35	18,367	14,343	R				
36	18,351	14,023	R	28,366		28,366	
37	18,226	14,299	S				
38	17,853	11,522	S	25,821		25,821	
39	17,453	11,120	T				
40	18,824	13,165	T	24,285		24,285	

Exhibit B – 2018 Election Results by Precinct

	2022 District		U.S. Represenatative			Split			Governor			Spilt	
2013 Precincts in 2022 District 9 (Hillside)			**Galvin**	**Young**	**Total**	**Galvin**	**Young**		**Begich**	**Dunleavy**	**Total**	**Begich**	**Dunleavy**
– 28-105 Rabbit Creek #1	9		320	385	707	45.26%	54.46%		305	373	710	42.96%	52.54%
– 28-110 Rabbit Creek #2	9		499	685	1186	42.07%	57.76%		495	671	1183	41.84%	56.72%
– 28-115 Huffman #6	9		284	447	731	38.85%	61.15%		275	434	728	37.77%	59.62%
– 28-120 Huffman #7	9		356	464	821	43.36%	56.52%		332	465	820	40.49%	56.71%
– 28-125 Bear Valley	9		247	279	526	46.96%	53.04%		236	279	526	44.87%	53.04%
– 28-130 Indian	9		83	59	142	58.45%	41.55%		80	55	143	55.94%	38.46%
– 28-140 Golden View	9		445	683	1128	39.45%	60.55%		454	655	1130	40.18%	57.96%
– Non-Girdwood Precinct Totals			**2234**	**3002**	**5241**	**42.63%**	**57.28%**		**2177**	**2932**	**5240**	**41.55%**	**55.95%**
– 28-135 Girdwood †	9		**598**	**193**	**793**	**75.41%**	**24.34%**		**581**	**183**	**790**	**73.54%**	**23.16%**
† Adding the preceding two rows together to gauge Girdwood's electoral influence will not result in an accurate calculation because there are portions of the new District 9 which were fragmented among other precincts not reported here													
2013 Precincts in 2022 District 10 (S. Eagle River)			**Galvin**	**Young**	**Total**	**Galvin**	**Young**		**Begich**	**Dunleavy**	**Total**	**Begich**	**Dunleavy**
– 14-940 Downtown E.R. #2	10		308	519	830	37.11%	62.53%		283	514	832	34.01%	61.78%
– 14-945 Meadow Creek #1	10		228	374	607	37.56%	61.61%		207	376	605	34.21%	62.15%
– 14-955 Eagle River #1	10		145	256	403	35.98%	63.52%		129	264	406	31.77%	65.02%
– 14-960 Eagle River #2	10		378	553	938	40.30%	58.96%		352	560	943	37.33%	59.38%
– 14-965 Chugach Park #2	10		553	843	1404	39.39%	60.04%		499	860	1401	35.62%	61.38%
– 14-970 Hiland	10		335	502	841	39.83%	59.69%		300	524	845	35.50%	62.01%
– Precinct Totals			**1947**	**3047**	**5023**	**38.76%**	**60.66%**		**1770**	**3098**	**5032**	**35.17%**	**61.57%**
2013 Precincts in 2022 District 11 (Lower Hillside)			**Galvin**	**Young**	**Total**	**Galvin**	**Young**		**Begich**	**Dunleavy**	**Total**	**Begich**	**Dunleavy**
– 26-800 Independence Park No. 1	11		359	427	790	45.44%	54.05%		324	441	796	40.70%	55.40%
– 26-805 O'Malley #1	11		321	469	791	40.58%	59.29%		335	440	794	42.19%	55.42%
– 26-810 Huffman No. 3	11 & 9*		235	430	667	35.23%	64.47%		234	421	672	34.82%	62.65%
– 26-820 O'Malley No. 2	11		409	563	975	41.95%	57.74%		421	532	976	43.14%	54.51%
– 26-825 Independence Park No. 2	11		285	325	613	46.49%	53.02%		282	315	614	45.93%	51.30%
– 26-830 Elmore No. 2	11		180	208	388	46.39%	53.61%		171	214	389	43.96%	55.01%
– 28-145 O'Malley No. 4	11		318	397	716	44.41%	55.45%		327	379	716	45.67%	52.93%
– Precinct Totals			**2107**	**2819**	**4940**	**42.65%**	**57.06%**		**2094**	**2742**	**4957**	**42.24%**	**55.32%**
2013 Precincts in 2022 District 13 (Oceanview)			**Galvin**	**Young**	**Total**	**Galvin**	**Young**		**Begich**	**Dunleavy**	**Total**	**Begich**	**Dunleavy**
– 24-705 Huffman #2	13		272	326	601	45.26%	54.24%		273	316	606	45.05%	52.15%
– 24-710 Klatt	13 & 15**		381	546	927	41.10%	58.90%		379	526	927	40.88%	56.74%
– 24-715 Southport	13		342	425	770	44.42%	55.19%		345	408	772	44.69%	52.85%
– 24-720 Ocean View #1	13		333	395	728	45.74%	54.26%		329	384	731	45.01%	52.53%
– 24-725 Ocean View #2	13		395	502	903	43.74%	55.59%		398	486	908	43.83%	53.52%
– 23-770 Dimond #2	13		222	197	421	52.73%	46.79%		195	220	424	45.99%	51.89%
– Precinct Totals			**1945**	**2391**	**4350**	**44.71%**	**54.97%**		**1919**	**2340**	**4368**	**43.93%**	**53.57%**
** Precinct 26-810 contains 2,414 persons. 2,310 reside in 2022 District 11 while 104 now reside in 2022's House District 9. (2020 Census)*													
*** Precinct 24-710 contains 2,424 persons. 2,153 reside in 2022 District 13 while 271 now reside in 2022's House District 15. (2020 Census)*													

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the	)	
	)	
	)	Case No.: 3AN-21-08869 CI
2021 REDISTRICTING PLAN.	)	
	)	

GIRDWOOD PLAINTIFFS' OPENING BRIEF

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I. INTRODUCTION

Plaintiffs Louis Theiss, Ken Waugh, and Jennifer Wingard ("Girdwood Plaintiffs") ask the Court to reject the Alaska Redistricting Board's ("Board") April 13, 2022 Amended Proclamation and compel the Board to adopt the constitutional map it considered as an alternative.

The Board has now *twice* gerrymandered the Anchorage senate maps. On February 16, 2022, this Court ruled that the Board—the entity charged under the Alaska Constitution with making fair, equitable, representative legislative maps for the State of Alaska—had engaged in partisan gerrymandering in violation of the Constitution's Equal Protection Clause.[1] Specifically, it found that the Board intentionally and illegitimately divided the two Eagle River house districts to increase Eagle River's Senate representation and dilute the vote in East Anchorage for partisan political reasons. Notably, the Court determined that the Board had reached a secret agreement not on the entirety of the Senate map, but on a single component of it: the treatment of the Eagle River districts. It remanded the senate pairings to the Board "to craft a pairing that complies with Alaska's Equal Protection Clause."[2] Its determination was upheld on review by the Alaska Supreme Court.

On remand, the Board—instead of correcting its error by pairing Eagle River with itself—pushed through a map that brazenly repeated its prior gerrymander. Against the

[1] Findings of Fact and Conclusions of Law ("FFCL"), Feb. 15, 2022, at 73.

[2] FFCL at 73.

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vast weight of public testimony, based on the thinnest of rationales, the same Board majority that had voted for the prior map again demonstrated a single-minded commitment to splitting Eagle River and increasing its representation. This time, it paired one Eagle River district (District 10) with the swing district of South Anchorage/Girdwood/Turnagain Arm (District 9) to create Senate District E, and the other (District 24) with downtown Anchorage/Government Hill/JBER (District 23) to create Senate District L. In other words, the Board *did exactly what it had done before*. The only difference between November 2021 and April 2022 is that the second time around, the Board slapped a veneer of public process on its gerrymander.

If the Amended Proclamation is allowed to stand, it will send a clear message that gerrymandering is allowed in the State of Alaska so long as it has been laundered through the courts–that the price of a gerrymander, paid by the taxpayers of Alaska, is an appeal and remand.

Article VI, §11 of the Alaska Constitution gives the Superior Court the authority "to compel the Redistricting Board, by mandamus or otherwise, to perform its duties under this article or to correct any error in redistricting." The Girdwood Plaintiffs ask the Court to exercise the full force of its constitutional powers to compel the Redistricting Board to adopt the other, constitutional map it considered on remand.

II. FACTUAL AND PROCEDURAL BACKGROUND

The background of this case up until remand is well known to this Court. The Girdwood Plaintiffs will therefore rely on the Court's extensive findings in its February

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16, 2022 decision rather than reiterate the facts here. It bears repeating, however, that in its prior decision, this Court found that the Board had engaged in partisan gerrymandering, specifically that it had split Eagle River into two senate districts to increase its representation, and decrease Muldoon's representation, for illegitimate, partisan purposes. It found that the Eagle River pairings, "while contiguous in the strict definition of the word, ignore the communities of interest in Eagle River and Muldoon"[3] and that they were made contrary to the "vast majority" of the public testimony.[4] The Court found, among other deficiencies, that the pairing had violated the East Anchorage Plaintiffs' right to Equal Protection under the Alaska Constitution, and ultimately ordered that the matter "be remanded to the Board to address the deficiencies in the Board plan consistent with this order."[5] The Board appealed this decision to the Alaska Supreme Court, which affirmed this Court's ruling on the Anchorage senate pairings, and the matter was subsequently remanded to the Board for correction.

On Saturday April 2, 2022, the Board convened for its first meeting after remand.[6] During the bulk of the meeting, the Board took public testimony regarding the senate pairings on remand; the majority of the testimony favored quickly adopting senate pairings that complied with the remand order, pairing the Muldoon house districts

[3] FFCL at 69.

[4] FFCL at 51.

[5] FFCL at 170.

[6] This procedural history section relies on the transcripts of the Board's proceedings on remand, ARB2000084-20001083.

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together and the Eagle River house districts together, though there was other testimony from around the state regarding a variety of issues, including issues beyond the scope of the Board's authority on remand. Towards the close of the meeting, the Board's attorney provided a litigation summary, stating in relevant part that the Court ordered the Board to "address the constitutional deficiency in Senate District K (Eagle River Valley and South Muldoon) . . . recognizing that those changes will impact – they'll have some ripple effects." The Board's counsel proposed a process that would involve inviting the public to offer solutions to the unconstitutional Senate District K, offer feedback on proposed solutions, and then the Board would adopt a final plan.

On April 4, 2022, the Board adopted a procedure to address the discrete Cantwell issue that had been remanded and resolve it at the meeting on Wednesday, April 6. The Board then discussed options for senate pairings, including the pairings previously proposed by Member Bahnke, then took public testimony, which largely favored the "Bahnke map."

On April 5, 2022, the Board took additional public testimony. The majority of the testimony was, again, in regard to senate pairings and favored the "Bahnke map." Toward the end of the meeting, the Board discussed specific senate pairing proposals—to include Member Bahnke's proposal, a proposal by the East Anchorage Plaintiffs, and a proposal by Randy Ruedrich. The Board established a schedule for hearings to receive public comment on senate pairings before making its decision, and adjourned for the day.

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On April 6, 2022, the Board began its meeting with the Cantwell issue. After receiving limited public testimony on the issue, the Board quickly debated the issue and reached a proposed solution. All Board members supported the solution except Chair Binkley, who expressed that he "disagreed with [the Alaska Supreme Court's order]," and therefore he could not support removing Cantwell from District 36.[7] The motion to adopt the solution passed, with four Board members voting yes and Chair Binkley voting no.

The Board then moved on to public testimony regarding the senate pairings. Randy Ruedrich of Alaskans for Fair and Equitable Redistricting ("AFFER") testified regarding his proposed plan, which would pair Eagle River Valley with South Anchorage/Girdwood/Turnagain Arm, and North Eagle River with North Anchorage, a district that stretched from Fourth Avenue downtown through Ship Creek and Government Hill to JBER. Mr. Ruedrich's proposed pairings were a modification of the plan he had previously submitted. Member Marcum stated that by coincidence, she had independently developed the same plan that Mr. Ruedrich was then proposing.

After receiving further testimony regarding senate pairings, the vast majority of which favored pairing the two Eagle River house districts as a senate district and the two Muldoon districts as a senate district, the Board unanimously voted to discard Member Bahnke's plan, which was then known as Plan 1, because it would involve changing more senate districts than necessary on remand, and adopt two senate pairings maps for official

[7] ARB2000455, ARB2000460.

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consideration: **Option 2**,[8] the plan proposed by the East Anchorage Plaintiffs to cure the prior gerrymander by pairing the Muldoon house districts together, the Eagle River house districts together, downtown with North Anchorage, and South Anchorage/Girdwood/Turnagain Arm with another South Anchorage district; and **Option 3B**,[9] the AFFER/Marcum plan, which preserved the gerrymandered division of Eagle River by pairing Eagle River Valley with South Anchorage/Girdwood/Turnagain Arm, and North Eagle River with North Anchorage.

On April 7, April 8, and April 9, 2022, the Board met to receive live public testimony regarding Option 2 and Option 3B. The Board also received written testimony from the public. Again, the vast majority of the comments favored Option 2, as it preserved the Eagle River community of interest within a single senate district, while maintaining other sensible pairings that preserved downtown communities and the logical connection between South Anchorage, Girdwood, and Turnagain Arm. When the Board adjourned on Saturday, April 9, 2022, it planned to begin its deliberations at its next meeting on April 13, 2022.

Throughout these meetings, from the time the two plans were adopted for consideration, it was clear that Members Bahnke and Borromeo favored Option 2, while Member Marcum and Chair Binkley favored Option 3B. Member Simpson remained largely silent.

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[8] Complaint Exhibit 2.

[9] Complaint Exhibit 3.

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On April 13, the Board convened to deliberate and all Board members had an opportunity to share their thoughts. The deliberations were heated. Members Bahnke and Borromeo vigorously urged the Board to do its duty on remand and not perpetuate its gerrymander by continuing to split Eagle River to increase its representation. In her efforts to sway the Board, Member Borromeo foreshadowed this suit, challenging the members who had insisted that the new pairings would not benefit Eagle River:

> And we need to look at what the Court is going to do when they get this case back again, which they will. Page 56, Judge Matthews is instructing what the Court is going to do when they look at this new pairing that once again splits Eagle River. Quote, "The Court employs a neutral factors test to assess the legitimacy of the Board's purpose in creating a Senate district. The Board's purpose would be illegitimate if it diluted the power of certain voters 'systematically by reducing their senate representation below their relative strength in the state's population.'"
>
> So going back to the census data, which we may not have looked at for some time, Eagle River is about 7 percent of the state's population. But yet, under this new plan we are going to give them 20 percent of the Senate. It makes no sense, no sense whatsoever. […]
>
> The Court's also going to look at the substance of the decision. I haven't heard anything in the rationale that has bolstered splitting Eagle River. Instead, Budd says things like: Well, last time we split Eagle River it came at the expense of South Muldoon, and we're not doing that this time. Well, it's coming at the expense of South Anchorage. Is that any better? It's not better.[10]
>
> Member Borromeo went so far as to call on this Court to intervene:
>
> [P]lease exercise your Article VI, Section 11 powers. Do not send this back to us when you find it invalid, which you will. Draw the boundaries yourself. This board will continue to gerrymander. We will continue to hurt voters. We will go ahead and pick different districts next time so that Eagle River

[10] ARB2000977-978.

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> remains split. Don't send it back. We are defunct. We are derelict in our duties.[11]

Ultimately, the Board voted 3-2 to adopt Option 3B, with the same three Board members who had adopted the original map (Marcum, Simpson, Binkley) voting in favor.[12] The Board then renumbered the districts to suit the new pairings, conducted some housekeeping business, and issued its Amended Proclamation.

The East Anchorage Plaintiffs promptly filed a motion on (which remains undisposed) asking this Court to intervene,[13] which the Board opposed on largely technical grounds, such as standing and untimeliness. This suit followed. In an effort to resolve this challenge prior to the impending June 1, 2022 filing deadline for legislative candidates, the parties stipulated to submit the case in writing (rather than by trial) on an expedited timeframe, with the Board providing the record from its remand proceedings on April 28, additional supplementation on May 2, and opening briefs due on May 5.

Together with his brief, the Girdwood Plaintiffs submit and rely on their own affidavits and the expert report of Dr. Chase Hensel.

III. LEGAL STANDARDS

The Court articulated the legal standards applicable to this case in its February 16, 2022 decision.

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[11] ARB2000979.

[12] ARB2001015-16.

[13] East Anchorage Plaintiffs' Motion to Reject Amended Redistricting Proclamation Plan and for Modification of Order on Remand, April 18, 2022.

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Regarding the scope of the Board's discretion, the Court held:

The Board must resolve redistricting conflicts by determining what is the "fairest" resolution for the people. The Board is "not given wide discretion" and its decisions must be informed by "public opinion." Rather than drawing districts based on individual prerogatives, the Board must make a good-faith effort to harmonize both "the greater good of the State" and the desires of each community "to the greatest extent possible."[14]

While each Board member is an Alaskan with knowledge about the State and its regions in their own right, that fact does not give the Board the discretion to make decisions based on personal preference when that preference is directly contrary to the overwhelming majority of public testimony. . . . T]he Board must make a good-faith effort to incorporate the clear weight of public testimony.[15]

Regarding contiguity, compactness, and Senate districts, the Court held:

[A] district may be defined as contiguous if every part of the district is reachable form every other part without crossing the district boundary (i.e., the district is not divided into two or more discrete pieces). . . [but] without limitations on the definition of "contiguous," a coastal district could be considered contiguous with any other coastal district by reason of sharing the open sea. For example, District 37 covering the Aleutian Islands could permissibly be paired in a Senate district with District 2 in Southeast Alaska despite being separated by the Gulf of Alaska. In Kenai, the Supreme Court noted this anomalous result, and determined that contiguity could not be separated from the concept of compactness when crafting senate districts.[16]

Regarding local government boundaries, the Court held:

[T]the Court has said "that respecting local government boundaries is discretionary." But the Court has also noted that "the division of a borough which otherwise has enough population to support an election district will be an indication of gerrymandering," in which case "some legitimate justification" is required.[17]

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[14] FFCL at 133 (internal quotation marks omitted).

[15] FFCL at 52.

[16] FFCL at 28.

[17] FFCL at 29-30.

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Regarding the Equal Protection Clause of the Alaska Constitution, the Court held:

Equal protection analysis under Article I, Section I of the Alaska Constitution applies "an adjustable 'uniform-balancing' test ... depending on the importance of the individual right involved" to determine the applicable level of scrutiny, which is then balanced against the government's purpose and "the state's interest in the particular means employed." In Kenai Peninsula Borough v. State, the Court concluded that "a voter's right to an equally geographically effective or powerful vote ... represent[s] a significant constitutional interest." The Court therefore applied a "stricter equal protection standard when assessing the constitutionality of a reapportionment plan." In that context, "upon a showing that the Board acted intentionally to discriminate against the voters of a geographic area, the Board must demonstrate that its plan will lead to greater proportionality of representation." In light of the stricter constitutional standard, no "pattern of discrimination" is required, and the de minimis nature of any imbalance is not considered "when determining the legitimacy of the Board's purpose."[18]

In determining whether the Board crafted the challenged senate seats with illegitimate purpose, the Court looks to whether there were secret procedures in the contemplation and adoption of those senate districts, whether there is evidence of partisanship, and whether the adopted senate boundaries selectively ignore political subdivisions and communities of interest.[19]

If the Court determines that the Board created the challenged districts with discriminatory intent, the Board's "purpose in redistricting will be held illegitimate unless that redistricting effects a greater proportionality of representation."[20] *In other words, "[t]he Board's purpose would be illegitimate if it diluted the power of certain voters 'systematically by reducing their senate representation below their relative strength in the state's population.'"*[21]

These standards are applied to the facts of this case below.

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[18] FFCL at 33 (citations omitted).

[19] FFCL at 56.

[20] FFCL at 54.

[21] FFCL at 54.

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IV. ARGUMENT

The totality of the evidence in the record demonstrates that, once again, the Board engaged in partisan gerrymandering to adopt senate pairings that violate the Alaska Constitution.

A. The Board Exceeded Its Discretion by Disregarding the Weight of the Evidence.

Heading into the remand, the Board should have known one thing beyond doubt: that Eagle River, composed of its two house districts, was a unified community of interest that should be kept together. This was clearly established in the Court's February 16, 2022 ruling, as affirmed by the Alaska Supreme Court. In reaching this conclusion, the Court relied on the testimony of East Anchorage Plaintiffs' expert Dr. Chase Hensel, who has now submitted testimony in support of the Girdwood Plaintiffs as well.

The evidence received by the Board between April 2 and April 13 was in harmony with the Court's ruling. The vast weight of the testimony favored a map that paired the two Eagle River districts together. For example, of the oral testimony presented live to the Board on the map options, 70% of the testimony was in favor of pairing Eagle River with itself, and only 30% was in favor of splitting it.[22] Of the written testimony submitted

[22] ARB 200084-1083 (transcripts); ARB 2001094-1226 (oral testimony summaries).

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on the map options, approximately 57% was in favor of pairing Eagle River with itself while approximately 43% was in favor of splitting it.[23]

The testimony in support of pairing Eagle River with itself was by and large factual and identified not just commonalities, but *actual connections* between the South Anchorage/Girdwood/Turnagain Arm district and South Anchorage, and the lack of connection with Eagle River.

Some testified to the practical difficulties of the pairing. For example, a representative of AHLOA, the Home and Landowners Association, Inc. of the Anchorage Hillside in District 9, testified in support of Option 2, explaining that there were few similarities between the Hillside and Eagle River. She stated that AHLOA expected to see its senators in person at its meetings when the Legislature was not in session, and that it would not be feasible to have Eagle River-based representatives driving to and from meetings on the Hillside.[24] A Girdwood resident testified to the Board that based on his phone's location data, in the prior four years, he had been to Eagle River once—but had visited South Anchorage at least weekly, often multiple times a week.[25] Others testified to their concern that being paired with Eagle River would deprive them of a voice, leaving them unrepresented.[26] Others testified to the close connections between Girdwood and

[23] ARB2001227-1824 (written testimony).

[24] ARB2000729- ARB2000731.

[25] ARB2000894.

[26] *E.g.,* ARB2000902; ARB2000903.

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South Anchorage, explaining that the areas "link together well" because they share schools, shops, and infrastructure.[27]

In their attached affidavits, the Girdwood Plaintiffs expand on these themes as they related to Girdwood. Dr. Hensel addresses them in his report as well:

> Plaintiffs in this case reference and describe a finely-honed, strategic and mutual relationship with urban Anchorage. One stated that his pattern of being back and forth from South Anchorage three or four times a week is not atypical. K-8 education is available in Girdwood, but children need to attend high school and may pursue post-secondary education in Anchorage. South Anchorage High School is the neighborhood school for Girdwood. Parents coordinate resources and carpool to and from Anchorage for their children's extracurricular activities, such as sports training and team participation. Classmates from Anchorage attend birthday parties in Girdwood. Girdwood depends on Anchorage's medical facilities but provides the training ground for South Anchorage firefighters. South Anchorage and Girdwood emergency services back each other up, and both respond to accidents that may occur near the Mile 100 boundary of their respective service areas.
>
> There is thus a two-directional flow between Girdwood and the city, and Girdwood does not think of itself as a suburb of Anchorage. Plaintiffs variously described the relationship that has developed in terms of "a natural affinity," "mutual support," and "a bond [that] goes both ways." Some people live in Anchorage and commute to work in Girdwood; others live in Girdwood and commute to Anchorage. Residents of both areas recreate in Girdwood and patronize its businesses. As happened recently, a Girdwood constituent might run into their representative while shopping at Fred Meyer in South Anchorage and discuss legislative concerns.[28]

The majority of the comments supporting Option 3B, the Eagle River split, were cursory and provided little to no factual information in support. For example, numerous individuals called or wrote in merely to state that they opposed Option 2, with no

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[27] ARB2000367.

[28] Hensel Report at 6-7.

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explanation given;[29] or that they opposed it because it was "partisan" or "political," without further explanation.[30] Many of the written comments used the same language, indicating they were part of a coordinated campaign to flood the Redistricting Board with "votes" for Option 3B rather than provide factual information for the Board to consider. Where there was substantive testimony in favor of pairing Eagle River with South Anchorage/Girdwood/Turnagain Arm, it focused on tenuous similarities between the districts rather than substantive connections: individuals testified that both districts were concerned about things like fire danger, snow, and bears.[31] In some cases, the individuals testifying were blatant about their desire to achieve greater representation for Eagle River. Anchorage Assembly Member Crystal Kennedy was clear that her goal was to achieve increased representation for Eagle River in her written comments:

> For at least the past 40 years, as the community of Chugiak Eagle River has grown, the area has been represented by two senators. For almost three of those decades the community was represented in these seats by people who lived in either Chugiak, Peters Creek or Eagle River specifically. With Option 2, all of the Chugiak Eagle River area becomes encased in one senate district and essentially the entire area (MOA's District 2) will have one senator.[32]

On remand, the Board also had the benefit of a separate but relevant record from the recent Municipality of Anchorage ("MOA") reapportionment process, which had

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[29] *E.g.,* ARB2001685; ARB2001687; ARB2001689; ARB2001692; ARB2001695; ARB2001696; ARB2001697; ARB2001699 (small sampling of comments).

[30] *E.g.,* ARB2000260; ARB2000294; ARB2001690; ARB2001693

[31] ARB2000356; ARB2000363; ARB2000483-84; ARB2001617.

[32] ARB2001698.

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concluded on March 23, 2022 with the adoption of a new map for municipal elections. Draft MOA maps were released on December 29, 2021, and town halls and constituent meetings were held from January 26 to February 5, 2022.[33] Assembly Member Christopher Constant, who had chaired the MOA reapportionment process, submitted a letter to the Board explaining the process.[34] His letter explained that MOA had considered an option that would pair Eagle River with a South Anchorage neighborhood, and that it had been a "lightning rod" for overwhelming opposition:

> One of the maps drafted by the contractors and an additional map submitted by a member of the public paired Chugiak Eagle River with Hillside in South Anchorage. That pairing was a lightning rod causing scores and scores of comments in opposition from the public. The comments came in through all channels. Phone calls to members, emails through our regular email system. Comments posted to the portal, and substantial in person testimony in opposition. The opposition was overwhelming that the pairing of Eagle River and Hillside is inappropriate and shouldn't be promulgated.[35]

Assembly Member Constant included with his letter extensive documentation of comments the Assembly had received on the Eagle River issue.[36]

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[33] Anchorage Assembly, Anchorage Reapportionment Summary Report at 2, "Timeline and Public Outreach Process, April 14, 2022, *available at* https://www.muni.org/Departments/Assembly/ReapportionmentCommittee/Documents/2022-0414%20Anchorage%20Reapportionment%20Report.pdf.

[34] ARB2001391-1481.

[35] ARB2001392.

[36] ARB2001391-1481.

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In his report, Dr. Hensel reached the following conclusion regarding Girdwood and Eagle River, which comports with the testimony the Assembly received during its reapportionment:

> As communities of interest, Girdwood and Eagle River are dramatically different. One sees its strengths in terms of connectedness and the other in terms of self-sufficiency. A community that operates as independent and separable, and one that operates as interdependent and inseparable, would find it difficult to coordinate in the solution of problems. Each of these communities – Eagle River and Girdwood – has its own set of shared issues. Whether they choose to address solutions through affirming bonds or other means, however, relates strongly to these measures of self-perceived independence and interdependence, as well as their sense of which issues should be addressed through public funding and which should be addressed by other means, such as volunteerism or private donation. Political leanings are clearly related to such preferences.

The Board appears to have disregarded the extensive evidence of this lack of affinity between District 9 and District 10, and the close relationship between District 9 and 13.

The Board also disregarded the stated "desires of each community,"[37] contrary to the guidance this Court had provided. The record contained extensive evidence that the affected communities strongly preferred Option 2 over Option 3B. The Anchorage Assembly passed a resolution in support of Option 2.[38] It stated that Plan 2 involved "highly contiguous pairings that maintain communities of interest, keeping neighbors with neighbors," and noted that during the recent municipal reapportionment process, "residents from Eagle River, South Anchorage and Girdwood spoke out overwhelmingly

[37] FFCL at 133 (internal quotation marks omitted).

[38] Complaint Exhibit 5.

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against proposals that would combine these communities with scores of comments opposing the combination[.]" The resolution further commented that "Option 3B offers pairings with only second-class contiguity that connects Chugiak with Government Hill and Downtown, Eagle River with Girdwood, Portage, and Whittier which all have substantial geographic barriers including the Chugach Front Range Mountains, the federally secured borders of JBER, and in some cases hours of highway time[.]" It cited, in turn, resolutions that five individual community councils in South Anchorage had passed during the MOA process, along with comments from "scores of individuals" in "opposition to grouping Eagle River and South Anchorage on the basis that these are distinctly different regions with few shared communities of interest."[39] The Girdwood Board of Supervisors ("GBOS") passed a similar resolution that stated "maps 1 & 2 maps combine the geographically contiguous and culturally & socio-economically coherent communities of the Hillside, South Anchorage and Turnagain Arm/Girdwood/Whittier into senate seats[.]"[40] Both of these resolutions were provided to the Board during its proceedings but were evidently disregarded by the Board majority.

Finally, at the conclusion of the Board's remand proceedings, during deliberations, two Board members vociferously opposed splitting Eagle River a second time, citing the testimony and evidence that had been presented during the lengthy public process—but the Board majority disregarded their comments.

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[39] *Id.* at 2.

[40] Complaint Exhibit 4. This resolution was vetoed by the Mayor but the veto was subsequently overridden by the Assembly. *Id.* at 1 (notation in upper left corner).

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Overall, the situation on remand was thus identical to the situation in November 2021: once again, the Board made "a concerted effort to push a pairing through that split the Eagle River house districts into two senate districts amidst staunch pushback from a minority of Board members and the vast majority of public comment."[41]

B. The Board Chose a Technically but Minimally Contiguous Pairing that Is Not Compact.

Article VI, §6 of the Alaska Constitution requires Alaska senate districts to "be composed as near as practicable of two contiguous house districts." The Board's pairing of Districts 9 and 10 is technically but not meaningfully contiguous and is not compact.

The Board's revised Senate District E is constitutionally infirm because the Board created an unnecessarily sprawled district in service of the same illegitimate purpose of improperly increasing Eagle River's representation that this Court and the Supreme Court have already rejected. Instead of placing the Eagle River community of interest that this Court previously recognized in one senate district, the Board created Senate District E, spanning hundreds of unpopulated square miles of Chugach State Park to link South Anchorage and the Turnagain Arm communities with Eagle River.

This Court recognized that compactness has a role to play when evaluating contiguity, as mere contiguity could result in sprawling, illogical pairings that use, e.g., the open sea to satisfy the requirement. The Court stated that "contiguity could not be separated from the concept of compactness when crafting senate districts."[42]

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[41] FFCL at 73.

[42] FFCL at 28.

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Compactness in the context of districting "means having a small perimeter in relation to the area encompassed… Compact districting should not yield bizarre designs.[43] The Court looks "to the relative compactness of proposed and possible districts in determining whether a district is sufficiently compact."[44] The "requirements for compactness and contiguity are meant to be read to avoid geographic manipulation of districts for voter dilution or enhancement."[45] "The compactness inquiry thus looks to the shape of a district. Odd-shaped districts may well be the natural result of Alaska's irregular geometry. However, 'corridors' of land that extend to include a populated area, but not the less-populated land around it, may run afoul of the compactness requirement."[46]

The Board itself has acknowledged this. In closing arguments before the Court after trial in the prior proceeding, Board counsel used the following analogy to characterize an argument that had been made by another plaintiff:

> [T]o bring Skagway's preference closer·to home, it would be like taking Girdwood and then using the waterway of the Turnagain Arm, coming up·and wrapping -- out into Cook Inlet, wrapping around Earthquake Park and into Knik Arm, and combining·Girdwood with residents of downtown Anchorage, bypassing all the folks who live in between. On its face, that approach is just less compact than pairing people from one town with the folks in the next town with whom they live more closely, with whom they are geographically closer.[47]

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[43] *Hickel v. Southeast Conference*, 846 P.2d 38 at 45 (1992) (internal citations and quotation marks omitted).

[44] Id.

[45] *Id.* at 71 (Appendix E, Superior Court Decision upheld by Supreme Court).

[46] *Id.* at 45-46.

[47] February 11, 2022 Tr. at 2288.

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When the Board chose to pair Districts 9 and 10, it knowingly created a senate district with unusual obstacles to practical contiguity that reveal a lack of compactness, in essence a "bizarre design." Several hundred miles of uninhabited state park, including the Chugach Mountains, divide the actual population centers contained in Senate District E. Mr. Thiess explained this in his affidavit testimony:

> The only geographic connection between District 9 (South Anchorage/Girdwood/Turnagain Arm) and District 10 (Eagle River Valley) is the uninhabited, uninhabitable, inaccessible mountainous wilderness of Chugach State Park. In a practical sense, connecting District 9 to District 10 using Chugach State Park would be like connecting us to District 24 using Turnagain Arm and Cook Inlet. The park may as well be open sea.[48]

Dr. Hensel addresses this problem in his report:

> Notably, in all other Anchorage Senate pairings, a constituent can drive, often along more than one route, directly from one half of their Senate district to the other. In contrast, for constituents to get from one half of Promulgated Senate District E (PD 9 and 10) to the other – that is, from Girdwood or South Anchorage to Eagle River Valley – they must travel on the main route of Alaska Highway 1 through or along the boundaries of every other Senate District in Anchorage (F, G, I, J, K, and L) except H." [49]

He further addresses the reason contiguity is a requirement for senate pairings: "Implicit in the requirement for contiguity as a pairing criterion is also an assumption that political representation is facilitated by the proximity – as near as practicable – of the populations sharing representation… The practicability clause in this respect is not a loophole but an exhortation."[50] "Consequently, if a pairing presents particularly unnecessary obstacles to

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[48] Theiss Aff. at ¶6.

[49] Hensel Report at 3.

[50] *Id.* at 2.

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the population that a district encompasses, and there are other pairings that do not present such difficulties, and the people who have chosen the pairing also have previously engaged in partisan gerrymandering, it raises the question of "why this pairing, and not that?"[51]

The question is an apt one. Based on the record, there was little reason provided for the chosen pairing. Rather, the testimony before the Board emphasized the "false contiguity" of the pairing. One individual described the pairing as a "geographical nightmare" that would lead to ineffective representation:

> I've lived in Eagle River for 40 years. In 2000 or so we were paired with the Hillside all the way to Hope, and it was a geographical nightmare. We had Con Bunde and Cathy Giessel both try to represent Eagle River, but never really connected with what was important to the community out here.[52]

This echoed what had been said during the recent municipal reapportionment process. For example, Assembly Member Jamie Allard stated the following at a January 27, 2022 Town Hall:

> And I also wanted to point out, [Assembly Member Crystal] Kennedy had brought up the fact that if we are connected to Hillside or we're connected to Girdwood, we would literally have to ride a Dall sheep in order to get to those areas unless we drove approximately from our location almost an hour – probably 45 minutes just to get to Hillside and approximately an hour and a half to get down to Girdwood. And I would also point out that when folks are saying we have things in common over there I would point out – look who their elected officials are. Suzanne LaFrance and Jon Weddleton – wonderful people, but you still have to say okay – what do we really have in common with those areas. We don't.[53]

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[51] *Id.* at 3.

[52] ARB2000147.

[53] MOA Town Hall Meeting, January 27, 2022, at 1:53, *video available at* https://www.youtube.com/watch?v=s2dqRZjlwnM&t=689s.

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Particularly when viewed in light of the illegitimate purpose this Court has already found in the Board's treatment of Eagle River, the strained pairing of Eagle River with South Anchorage, Girdwood, and beyond appears to be a geographic manipulation for the purpose of voter enhancement. In analyzing the compactness of Senate District E, it is appropriate for the Court to compare the promulgated district with other proposed and possible districts. The Board's Option 2, or even Option 1, would have created Anchorage senate pairings that do not include a senate district where the only population centers in the constituent house districts are separated by vast, uninhabited, impassable tracts. While such expanses may be unavoidable in rural areas of our large state, this Court should look warily upon the creation of such a district in urban/suburban Anchorage by a Board already found to have acted with illegitimate purpose in this exact area.

Similarly, the Court should look circumspectly at a pairing that disregards local government boundaries. While all districts under discussion are technically within the Municipality of Anchorage, the Board's pairing disregarded a significant boundary within that one: the South High school zone, which extends from District 13 through District 9. As the Girdwood Plaintiffs have testified, the connection between Girdwood and the South Anchorage school district is a strong one.[54] The Board should not have disregarded this significant unifying boundary that ties Girdwood, Turnagain Arm, and South Anchorage together and the fact that it did so is further evidence of its improper purpose.

[54] Waugh Aff. ¶7.

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C. The Board Adopted the Amended Proclamation with Illegitimate Purpose.

To determine whether the senate pairings were made with illegitimate purpose, the Court considers "whether there were secret procedures in the contemplation and adoption of those senate districts, whether there is evidence of partisanship, and whether the adopted senate boundaries selectively ignore political subdivisions and communities of interest."[55] A lengthy analysis here is not required because the Board majority that voted for Option 3B on April 13, 2022 is the same majority that voted for the prior Anchorage senate pairings. The Court *has already found* that that Board majority engaged in secret procedures, and that there was evidence of partisanship. The Court has also *already found* that placing Eagle River into two senate districts selectively ignored the strong, coherent Eagle River community of interest. Because the Board majority did *the same thing* on remand, these findings need not be revisited.

To the extent the Board may argue that it had no secret meetings or secret agreements during the remand proceedings, that argument misses the point. The Board did not *need* to have secret meetings or secret agreements on remand; those meetings had already taken place, and the agreements had already been made, in November 2021. The Board majority already knew what its goal was. The Board merely chose a different means of effectuating its illegitimate purpose, this time at the expense of District 9 and Girdwood instead of Muldoon.

[55] FFCL at 56.

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The effect of the Board's adoption of Option 3B was to give Eagle River more representation. It achieved this by dividing Eagle River into two Senate districts. This is precisely what the Court found to be the heart of the Board's secret agreement in November 2021:

> It seems that what the three Board Members had reached a majority [on] was the only element of the map that was consistent between them: that Eagle River was split and North Eagle River was paired with JBER.[56]

This secret agreement was made with the illegitimate purpose of increasing Eagle River's representation at the expense of other districts' voting power. This illegitimate purpose did not evaporate on remand, nor did the remand wash it away.

Instead, the Board paid little attention to the Court's detailed findings about what went wrong in November 2021. Notably absent from any of Board counsel's litigation summaries was any direct reference to the Court's ruling that the Anchorage senate parings had been gerrymandered for partisan reasons. Likewise, when the Board reconvened, it made no apology to the public, or effort to take responsibility for its prior actions. To the contrary, Member Marcum repeatedly refused to accept the Court's ruling. On April 6, in a discussion with Member Borromeo, Member Marcum insisted that "This has never been about more representation for Eagle River."[57] Two days later, during an exchange with a testifying member of the public, she again insisted that she had never intended to give Eagle River more representation: "The intent was not to give

[56] *Id.* at 66.

[57] ARB2000526.

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anyone more representation than any others. That is words that other people have put in my mouth."[58]

On remand, the Board once again selectively ignored communities of interest. It insisted on dividing Eagle River, despite the Court's clear finding that Eagle River was a strong community of interest, and split District 9 from South Anchorage. The Court previously found "that the vast majority of public commenters were in favor of keeping Eagle River and Muldoon, both communities of interest, together in their own respective Senate seats."[59] With regard to Eagle River, this did not change on remand; as explained above in Section IV.A, the vast majority of public comment—both in the Board proceedings directly and in the prior municipal reapportionment—was supportive of preserving Eagle Rivers integrity, and keeping District 9 with its closely-connected community of South Anchorage. This was true not only for individual testimony, but also for formal resolutions adopted by MOA, GBOS, and numerous affected community councils in South Anchorage. In addition, the Board disregarded the local government boundaries of school districts, such as the South High school zone, which unites District 9 with District 13.

All of this demonstrates that the Board's purpose on April 13, 2022 was just as illegitimate as it was on November 10, 2021. The veneer of public process did not cure

[58] ARB2000711. Chair Binkley adopted a similar approach with his vote against correcting the Cantwell appendage, stating that he disagreed with the courts and could not vote to make the court-mandated correction. ARB2000455, ARB2000460.

[59] FFCL at 68.

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the gerrymander, especially when the Board—once again—disregarded the weight of the evidence presented during that process.

D. The Amended Proclamation Does Not Lead to More Proportional Representation and Dilutes the Vote of Girdwood and District 9.

As demonstrated above, the Board acted with discriminatory intent in adopting Option 3B in its Amended Proclamation. The Court must therefore hold that its purpose was illegitimate unless Option 3B achieves "greater proportionality of representation."[60] As explained in Dr. Hensel's report, it does not.

In terms of straight population numbers, Dr. Hensel calculated that the difference between Option 2 and Option 3B for the five affected senate districts is *de minimis*.[61] Under Option 2, the average deviation for the five senate districts involved would be -.79%.[62] Under Option 3B, it would be -.72%. The difference of -.07% amounts to a mere 25 voters.[63] For numerical proportionality, therefore, Option 3B is not better than Option 2.

In terms of relative voting strength, however, there is a marked difference between the two options. Dr. Hensel examined historical voting data to determine how the District 9/10 pairing would affect each district's voting power. He determined that District 10's strong majority party vote would overwhelm the voting power of District 9, which is

[60] *Id.* at 54.

[61] Hensel Report at 4.

[62] Id.

[63] *Id.*

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majority-leaning but not always majority-electing.[64] In other words, the pairing would overpower the more moderate "swing" vote of District 9, ensuring that the new Senate District E always elects a majority-party candidate—just as Eagle River Valley would have overwhelmed the swing vote of South Muldoon in the previous map.[65]

Dr. Hensel also examined voting data from a non-partisan perspective and reached the same conclusion. Specifically, he looked at how District 9 and 10 have voted on bond issues. He determined that the two Eagle River districts (10 and 24) had similar lower levels of bond support than either the municipality of Anchorage in total or South Anchorage.[66] On municipal bonds, District 10 votes 3% more negatively on bond issues than District 9.[67] Given that municipal bonds typically pass or fail on razor-thin margins,[68] this difference is a meaningful one.

Dr. Hensel's opinion on a district-wide level comports with the Girdwood Plaintiffs' personal experience on a community level. Mr. Thiess testified that Eagle River and Girdwood are politically disparate, citing as an example Eagle River's consistent practice of voting against Girdwood's school bonds. Ms. Wingard testified that Eagle River voted against these bonds *even though there was no financial cost* to Eagle River.[69] Mr. Thiess also testified that, in general, Eagle River votes against areawide

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[64] *Id.* at 7-8.

[65] Id.

[66] *Id.* at 8.

[67] *Id.*

[68] Aff. of Thiess ¶4.

[69] Aff. of Wingard ¶6.

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bonds because it does not consider itself a part of Anchorage and therefore is unwilling to support initiatives that do not directly benefit it, whereas Girdwood votes for them because it considers itself connected with urban Anchorage.[70]

As Member Borromeo pointed out, Option 3B as adopted in the Amended Proclamation gives Eagle River—a single community of interest whose voting strength would easily overpower its paired district—extraordinarily disproportional representation. The two Eagle River districts contain just 7% of state population, but Option 3B would give them control of 20% of the Alaska Senate.[71] The Amended Proclamation certainly does not lead to more proportional representation.

V. CONCLUSION

As Dr. Hensel asks in his report, "why this pairing, and not that?" The record shows that the Board had every legitimate reason to adopt Option 2, and virtually none to adopt Option 3B. The explanation now is the same as it was on February 16, 2022: because the Board majority was committed to increasing Eagle River's representation, at the expense of other districts.

For the foregoing reasons, this Court should rule that the Board has again engaged in improper gerrymandering and again adopted an unconstitutional senate map, reject the Board's Amended Proclamation, and compel the Board to adopt Option 2 to ensure Alaskans are represented consistent with the requirements of the Alaska Constitution.

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[70] Aff. of Thiess at ¶5.

[71] ARB2000977-78.

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the 2021 Redistricting Plan	)	Case No.: 3AN-21-08869 CI 4BE-21-00372 CI

AFFIDAVIT OF LOUIS L. THEISS

STATE OF ALASKA)
)
THIRD JUDICIAL DISTRICT)

I, Lou Theiss, being first duly sworn under oath, depose and say:

1. I am a registered voter in the State of Alaska and the Municipality of Anchorage. I have resided in Girdwood, Alaska for over forty years.

2. Senate District E in the Redistricting Board's April 13, 2022 Amended Proclamation, which pairs Girdwood with Eagle River, would dilute the influence of Girdwood voters.

3. Girdwood's prior pairing with the Hillside is much closer both in distance and political disposition than its pairing with Eagle River. Our children go to high school in South Anchorage. Much of the time, over the last 10 years, our road contractors have been based in the South Anchorage Hillside area. We shop there. We often recreate, eat and socialize there. A few weeks ago, I ran into Roger Holland, our current District N Senator, at the Abbott Loop Fred Meyer. We had a 10-minute face-to-face constituent meeting. If I had a Senator from Eagle River, this would never happen. There are

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numerous intervening Senate Districts between Eagle River and Girdwood and it's a very long drive. Distance makes a difference.

4. Politically, Girdwood and Eagle River couldn't be more disparate. From 2004 to 2013, while Girdwood was trying to pass the 3 areawide school bonds necessary to build a new K-8 school in three phases (planning money, design money and construction money), Eagle River voted against them consistently. Because School Bonds are won or lost by thin margins, these losses were keenly felt.

5. Whereas Girdwood typically approves everyone's bond propositions, whether areawide or just agreeing to be included in the total assessed valuation guarantee that is necessary to pass general service area bonds outside of Girdwood, Eagle River recognizes no such distinctions and regularly votes solely in its own self-interest. Based on its voting patterns, it is clear that it does not consider itself truly a part of the Anchorage community, and certainly not part of the Girdwood and Turnagain Arm communities.

6. The idea that Eagle River and Girdwood have a common connection through Crow Pass Trail, which is a high elevation glacial area of the Chugach National Forest, is laughable, as many others have pointed out. The only geographic connection between District 9 (South Anchorage/Girdwood/Turnagain Arm) and District 10 (Eagle River Valley) is the uninhabited, uninhabitable, inaccessible mountainous wilderness of Chugach State Park. In a practical sense, connecting District 9 to District 10 using Chugach State Park would be like connecting us to District 24 using Turnagain Arm and Cook Inlet. The park may as well be open sea.

7. We should be paired with South Anchorage (District 11), not Eagle River.

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Louis L. Theiss

SUBSCRIBED AND SWORN to before me this 11th day of May, 2022.

State of Alaska
NOTARY PUBLIC
Jamie Lee White
My Commission Expires Aug 9, 2025

Jamie Lee White
NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires: 8/9/25

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the 2021 Redistricting Plan	) Case No.:	3AN-21-08869 CI 4BE-21-00372 CI

AFFIDAVIT OF KEN WAUGH

STATE OF ALASKA)
)
THIRD JUDICIAL DISTRICT)

I, Ken Waugh, being first duly sworn under oath, depose and say:

1. I am a registered voter in the State of Alaska and the Municipality of Anchorage. I reside in Girdwood, Alaska.

2. The redistricting board continues to pursue a blatant policy of gerrymandering even after instructions by the Alaska Supreme Court to follow a different path. Once again, this Board has voted to ignore previous rulings by the court and split Eagle River into two districts to increase its representation at others' expense.

3. Eagle River is comprised of a staunchly conservative population. We, the residents of Girdwood, will suffer from this as our more moderate/independent vote will be drowned out, and we will no longer have any meaningful state representation. In fact, Eagle River has historically opposed initiatives that are supported by our community or adds to our quality of life, such as bonds.

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4. In short, Girdwood residents will have no political voice, quality of life will suffer in the community, future investment in our infrastructures will dry up, while Eagle River residents will reap the benefits of enhanced representation should this redistricting plan be allowed to stand.

5. By contrast, South Anchorage is closely connected with Girdwood. I lived in South Anchorage for a long time. I commuted to Girdwood for shifts on the Fire Department and Patrol. Circumstances allowed me to move to Girdwood and my commute reversed for work. These commutes continue for many on a daily basis. Those living in Girdwood often commute to Anchorage for employment while those working in Girdwood that find housing difficult to obtain in our community live in Anchorage and commute to Girdwood for work. I know of no one who comes from or goes to Eagle River for the same reason.

6. South Anchorage and Girdwood also have a strong connection through our emergency services. We have a mutual aid agreement with the Anchorage Fire Department ("AFD") starting at mile 100 of the Seward Highway. If AFD needs another apparatus or personnel after that mile marker, they call Girdwood (not Eagle River), and we send help. If Girdwood sends both of its ambulances to Anchorage for patient transport, an ambulance from South Anchorage comes down to Girdwood to be on standby in case it's needed. When Girdwood has a fire response that requires additional resources, or when the Girdwood Fire Department is called out to a response in Turnagain Pass leaving Girdwood unprotected, South Anchorage sends resources and back fill to assist. Many of the current AFD firefighters, paramedics, engineers, captains, battalion

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chiefs and deputy chiefs started their careers with Girdwood's volunteer department, then sought full time employment in Anchorage.

7. Girdwood and the other communities along Turnagain Arm are in the South High school zone. When my daughters matriculated out of grade school, they went to South Anchorage for middle and high school—Dimond initially, then South High after it was built. When my daughters began to attend schools in Anchorage, they formed new friendships as all kids do in new grades and locations. When my daughters invited those friends out to ski or for birthday parties or just to take a limo ride, it often included children who lived in South Anchorage. So we reached out to those parents so they would feel comfortable that they could entrust the care of their child to us for the time they were in Girdwood. Often my daughters would visit or stay with those same South Anchorage friends so we, the parents, over time formed relationships as well. There has always been a flow between Girdwood and South Anchorage, between the kids that were attending those schools. Never in my recollection can the same be said for Eagle River. Buses and transportation ran down the highway, not over Crow Pass.

8. While Girdwood has a small medical clinic, all significant medical care, be it orthopedic, emergent, or behavioral health, is sought in urban Anchorage first, not Eagle River. We have a small grocery store and some sundry shops, but lumber, major food shopping, tools, clothing, virtually any retail shopping, if not done online, is done in Anchorage. I am aware of not one person in our community that travels to Eagle River for any of these things.

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9. In short, there is a daily exchange of residents of both Girdwood and South Anchorage going back and forth for jobs, supplies, education, and recreation. It is a fluid exchange along a 40 mile stretch of scenic road. There is a natural awareness and mutual support that has developed between South Anchorage and Girdwood due to this flow. No one I know of thinks adding another hour or so to drive through Anchorage and continue on to Eagle River, for these same reasons, is a good idea. Girdwood is tied to South Anchorage, and they to us. We support each other financially and want to see the other's community thrive. Our political ideology is more in tune with the more moderate South Anchorage population. I can think of no valid reason to disrupt the situation that is in place and has worked in all my time in Alaska.

Ken Waugh

SUBSCRIBED AND SWORN to before me this 12th day of May, 2022.

Jamie Lee White
NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires: 8/9/25

State of Alaska
NOTARY PUBLIC
Jamie Lee White
My Commission Expires Aug 9, 2025

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the 2021 Redistricting Plan	) Case No.:	3AN-21-08869 CI 4BE-21-00372 CI

AFFIDAVIT OF JENNIFER WINGARD

STATE OF ALASKA)
)
THIRD JUDICIAL DISTRICT)

I, Jennifer Wingard, being first duly sworn under oath, depose and say:

1. I am a registered voter in the State of Alaska and the Municipality of Anchorage. I reside in Girdwood, Alaska.

2. I was elected to Girdwood Board of Supervisors in April 2021 for a three-year term. I'm also a regular attendee at other Girdwood committees, including the Land Use Committee, the Housing Working Group, Imagine Girdwood!, and the Public Safety Advisory Committee (with my co-plaintiff Ken Waugh).

3. I live in Girdwood, receive my mail in Girdwood, and vote in Girdwood. I also have a strong connection to urban Anchorage—because our kids attend school in Anchorage, we have a "cabin" in midtown Anchorage, where we often stay during school weeks to accommodate the kids' Anchorage-based extracurricular activities.

4. The pairing of Girdwood and Eagle River clearly strains the Alaska Constitution's contiguity requirement to the point of the ridiculous (requiring a hike over

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Crow Pass or a lengthy drive through other districts) but also runs counter to the spirit of that requirement, since the lives of Girdwood and Eagle River residents aren't contiguous either.

5. In Girdwood, our closest grocery stores, besides the Mercantile, are in South Anchorage, our high school kids get bussed to South High School (where few if any of their classmates are from Eagle River), and many of our local employees commute from Anchorage.

6. A sizable percentage of our homeowners are urban Anchorage residents, people who have a shared interest in Girdwood's vitality and support our community's goals. By contrast, Eagle River has a proven track record of voting against Girdwood projects, like the school bonds, even when there was no financial cost to them.

7. This exemplifies the extent to which Girdwood and Eagle River have grown apart politically and culturally in the last couple of decades, an important fact to keep in mind when considering historical precedents.

Jennifer Wingard

SUBSCRIBED AND SWORN to before me this 12th day of May, 2022.

HEIDI A. WYCKOFF NOTARY PUBLIC STATE OF ALASKA My Commission Expires:

NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires: 1/11/2023

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the 2021 Redistricting Plan	) Case No.:	3AN-21-08869 CI 4BE-21-00372 CI

AFFIDAVIT OF CHASE HENSEL, PH.D.

STATE OF ALASKA)
)
THIRD JUDICIAL DISTRICT)

I, Chase Hensel, being first duly sworn under oath, depose and say:

1. I was retained to provide expert testimony in this matter on behalf of the Girdwood Plaintiffs.

2. I am presenting my opinion in the form of the attached report, which I ask the Court to accept as my testimony in this case.

Chase Hensel

SUBSCRIBED AND SWORN to before me this 13 day of May, 2022.

GRETTA MEYER NOTARY PUBLIC STATE OF ALASKA

NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires: 04-29-2023

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EXPERT REPORT

In the Matter of the 2021 Redistricting Plan
3AN-21-08869 CI

Chase Hensel, Ph.D.

May 5, 2022

I. SCOPE OF WORK

For this report, I was retained by the Girdwood Plaintiffs to look at communities of interest and dilution questions relating to the pairing of South Anchorage/Girdwood (PD 9) and Eagle River Valley (PD 10).

II. QUALIFICATIONS

I have a BA from Cornell University, an MA from the University of Alaska Fairbanks in Anthropology, and a Ph.D. from the University of California Berkeley in Anthropology. I have worked extensively on a variety of consulting projects throughout the State, including previous redistricting cases. I also worked on the constitutional challenge to the Alaska Official English Initiative. I am a retired Associate Professor of Anthropology, University of Alaska Fairbanks. My full qualifications are already in the record in this case.

In the past five years, I have testified in court as an expert witness in the following cases:

State of Alaska v. Conrad Jones, Case No. 4GA-19-00023CR
State of Alaska v. Mark Huntington, Case No. 4GA-19-00012CR
In the Matter of the 2021 Redistricting Plan, Case No. 3AN-21-08869CI

III. SUMMARY

From my analysis, detailed below, I conclude that, despite other options for contiguity, the ARB appears to have once again:

> 1) unnecessarily divided Eagle River Valley (PD 10) and Eagle River/Chugiak (PD 24), which comprise a single community of interest; and

2) chosen a technically contiguous pairing that would allow each of the Eagle River house districts to overwhelm the political voice of its paired senate partner.

IV. DISCUSSION

The below discussion is limited to new facts that are at issue in this case but assumes familiarity with and references my prior testimony in this case.

A. Practical Contiguity

In this case, despite other options for contiguity, the ARB chose to pair the Eagle River Valley district with South Anchorage/Girdwood, the farthest district away by road.

In his February 16, 2022 decision in this case prior to the remand, Judge Matthews ruled that whenever a defined area has multiple borders, a pairing with any of its adjacent areas may satisfy the requirement of contiguity if "the boundaries are in fact physically touching."[1] It is understood that as long as constitutional requirements are satisfied, the board is not obligated to choose any particular pairing. However, later in the decision, Judge Matthews qualified that though the boundaries of two districts may be touching "this itself does not mean that the Board did not create these districts with illegitimate purpose."[2]

This leads me to further consider the implications of the requirement that contiguity be satisfied "as near as practicable." In context, the phrase has two aspects. First, it gives board members needed leeway to create pairings where contiguity is tenuous by nature, *e.g.*, where a piece of populated land is shaped or positioned relative to, for example, a large body of water such that it shares little or no border with other landforms, or where a given choice affects options for other pairings within the larger redistricting puzzle. In these situations, it allows people to make a best effort decision. In this sense, "as near as practicable" applies to the practicability of the decision-making process: it provides flexibility for the board.

Second, implicit in the requirement for contiguity as a pairing criterion is also an assumption that political representation is facilitated by the proximity – as near as practicable – of the populations sharing representation. Surely, contiguity is meant to connect people who need to share in selecting and interacting with each other and their representative. That the lands in which they reside must touch is a precondition meant to facilitate their interaction. The practicability clause in this respect is not a loophole but an exhortation.

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[1] In the Matter of the 2021 Redistricting Plan; 3AN-21-08869CI FFCL and Order, p.42.
[2] In the Matter of the 2021 Redistricting Plan; 3AN-21-08869CI FFCL and Order, p.56.

Consequently, if a pairing presents particularly unnecessary obstacles to the population that a district encompasses, and there are other pairings that do not present such difficulties, and the people who have chosen the pairing also have previously engaged in partisan gerrymandering, it raises the question of "why this pairing, and not that?"

There are, in fact, unusual obstacles to practical contiguity in the pairing of PD 9 and 10. Notably, in all other Anchorage Senate pairings, a constituent can drive, often along more than one route, directly from one half of their Senate district to the other. In contrast, for constituents to get from one half of Promulgated Senate District E (PD 9 and 10) to the other – that is, from Girdwood or South Anchorage to Eagle River Valley – they must travel on the main route of Alaska Highway 1 through or along the boundaries of every other Senate District in Anchorage (F, G, I, J, K, and L) except H.

Every other set of districts is paired through routes established along the comparative lowlands near the coast. This lowland corridor, by virtue of being easier to travel and oriented towards the water, has grown from and been reinforced by transportation networks and settlement patterns. The problem with both the previous pairing and this one is that its boundary sits, instead, at an uninhabited mountain range.

In late 2021 and early 2022, the Municipality of Anchorage underwent its own reapportionment process, resulting in a new map adopted March 23, 2022.[3] The Anchorage Assembly held a series of town halls to take public testimony. The record of that process contains extensive fact-based testimony on the need to keep Eagle River together and avoid pairing it with South Anchorage and Girdwood. South Anchorage residents' public comments with respect to a proposed similarly problematic (municipal) pairing were pointed:

- "Chugach State Park does not create contiguity between populations;"
- "Attempts to fly over the mountains and combine the two areas are obscene;"
- "We have zero connection to Eagle River, geographic or otherwise;"
- "If there is a 'common boundary' here, it seems to be Chugach State Park. Are there any voters in the Park? Are there voting precincts in the park? No, there are not."[4]

In the municipal reapportionment context, Anchorage Assembly Member Jamie Allard, who represents Eagle River, similarly remarked: "that if we are connected to Hillside or we're connected to Girdwood, we would literally have to ride a Dall sheep in

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[3] Anchorage Assembly, Anchorage Reapportionment Summary Report, *available at* https://www.muni.org/Departments/Assembly/ReapportionmentCommittee/Documents/2022-0414%20Anchorage%20Reapportionment%20Report.pdf. Exhibit CH-1.

[4] 2022-0224 Reapportionment Public Comments Received as of Feb 24 at 3:30 p.m. – available at muni.org. Exhibit CH-2.

order to get to those areas unless we drove approximately from our location almost an hour…."[5]

During the Board proceedings on remand, similar comments were presented. For example, one member of the public remarked: "I've lived in Eagle River for 40 years. In 2000 or so we were paired with the Hillside all the way to Hope, and it was a geographical nightmare. We had Con Bunde and Cathy Giessel both try to represent Eagle River, but never really connected with what was important to the community out here."[6]

The Girdwood Plaintiffs have also made exasperated comments about having to choose between a long drive or a 27-mile hike over Crow Pass to reach Eagle River.[7]

Because school districts are a recognized form of local government that can be taken into consideration[8] with respect to practical contiguity, the school district boundaries of PD 9 and 10 are also significant in this context. School district boundaries for Eagle River High School and Chugiak High School are contiguous, while the school district boundaries for South Anchorage High School, which serves Girdwood and South Anchorage, are non-contiguous with Eagle River or Chugiak. Chugach State Park, being unpopulated, is not within any school district boundaries, underscoring the grouping of Eagle River and Chugiak districts in isolation from other districts.[9]

B. Population deviation

Population deviation between the two plans (2 and 3b) is minimal. With Plan 2, the average deviation for the five senate districts involved would be -.79%. With Plan 3b, it would be -.72%. The difference of -.07% amounts to 25 voters.

C. Public testimony

Public testimony on Anchorage Municipality reapportionment, including both individual opinions and organizational resolutions (Northeast Community Council; Hillside Home and Landowners Association [HALO]; Rabbit Creek Community Council) centered on the very same factual issues that pertain to the current case: the need to keep Eagle River intact and not include it in a district with South Anchorage and Turnagain Arm communities such as Girdwood. There were about 60 comments in opposition to, and none

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[5] MOA Town Hall, video of proceedings at 1:53, *available at* https://www.youtube.com/watch?v=s2dqRZjlwnM&t=689s. ARB2000260.

[6] ARB2000147

[7] Affidavits of Waugh.

[8] In the Matter of the 2021 Redistricting Plan; 3AN-21-08869CI FFCL and Order, p. 95.

[9] Anchorage School District High School Zone Map (interactive), https://www.google.com/maps/d/u/0/viewer?mid=1zhPjXFxgEt8vSdgqeZbj9UPuKnA&ll=61.0863020320663 6%2C-149.70092260807513&z=9.

in favor of, proposals that would pair parts of South Anchorage with Eagle River[10]. The grounds for their opposition included: lack of any meaningful contiguity and attendant difficulties of practical access (both inaccessibility through Chugach State Park and interruption by intervening districts); marked differences between the local issues of Anchorage and Eagle River residents; concern that Eagle River's distinct priorities would overwhelm the priorities of South Anchorage; suspicions of gerrymandering; commonality among areas within urban Anchorage; lack of commonality with Eagle River, perceived as a community distinctly different in its culture and needs for representation; Eagle River's expressed desires to leave the municipality; and non-reciprocal flow between Eagle River area and urban Anchorage, with Anchorage residents having little reason to go to Eagle River.

The testimony presented to the ARB was similar. Despite reflecting differences in opinion about the various proposed plans, the extensive public testimony to the ARB overwhelmingly opposed dividing Eagle River and Eagle River/Chugiak, citing contiguity problems (Chugach Mountains, driving distance and intervening districts) and the need to pair and/or not divide communities of interest.[11]

Significantly, resolutions against being paired with Eagle River, adopted by both the Anchorage Assembly[12] and the Girdwood Board of Supervisors[13] and presented to ARB in its remand proceedings, reiterate the themes of and reinforce objections raised in public testimony, including lack of practical contiguity and common interests. The Anchorage Assembly resolution for the ARB refers to the weight of public testimony it received during its reapportionment process and expressly states that it "heard from five community councils and scores of individuals regarding their opposition to grouping Eagle River and South Anchorage on the basis that these are distinctly different regions with few shared communities of interest."

D. Communities of Interest

The pairing in question also ignores the Eagle River community of interest and the interests of urban Anchorage and Turnagain Arm communities.

The development of common interests depends on the extent to which populations are connected through direct access to each other, share concerns that derive from

[10] 2022-0224 Reapportionment Public Comments Received as of Feb 24 at 330pm - muni.org. Exhibit CH-3.

[11] ARB2001094-001226 Apr-2-Apr-9-Verbal-Testimony-Summaries.pdf.

[12] Exhibit 5 to Girdwood Plaintiffs' Complaint. Exhibit CH-4.

[13] Exhibit 4 to Girdwood Plaintiffs' Complaint. Exhibit CH-5.

relationship to similar places; and orient towards each other through routine patterns of movement and social commonality.[14]

Judge Matthews has agreed that Eagle River represents a community of interest[15] and its characteristics as such do not need to be further described. What needs discussion here are the interconnections of urban South Anchorage and Turnagain Arm communities, of which Girdwood is the largest. Whereas Eagle River defines itself largely in distinction to Anchorage, Girdwood defines itself in relation to the city and emphasizes its linkages with South Anchorage.

Girdwood is a longstanding community, having evolved from a camp that supplied placer gold miners in the Turnagain Arm area to a townsite, which was then incorporated as a city in 1961. After the 1964 earthquake and subsidence destroyed its original location, Girdwood relocated a short distance up the valley and absorbed much of the population of Alyeska.[16] During the construction first of the railroad and then of the Seward Highway, Girdwood thrived by building infrastructure that continues to connect the city to other places – including Girdwood.[17] Girdwood's location and natural characteristics are desirable for outdoor recreational activities. These activities and related tourism services grew with the development of the Alyeska Ski Corporation and continue to form the city's economic base.[18] Much of Girdwood's business today comes from residents of urban Anchorage.

Connectedness with Anchorage is thus built into Girdwood's history, character and raison d'être. Girdwood exists because Anchorage needs to be connected to other parts of the state, and because people who prefer the urban life want recreation nearby but away from the city. Girdwood residents want to live in a small, close-knit community with a character distinct from Anchorage but to maintain their small-town distinctiveness, they need access to Anchorage's stores, services, amenities, and resources.

Plaintiffs in this case reference and describe a finely-honed, strategic and mutual relationship with urban Anchorage. One stated that his pattern of being back and forth from South Anchorage three or four times a week is not atypical. K-8 education is available in Girdwood, but children need to attend high school and may pursue post-secondary education in Anchorage. South Anchorage High School is the neighborhood school for Girdwood. Parents coordinate resources and carpool to and from Anchorage for their children's extracurricular activities, such as sports training and team participation. Classmates from Anchorage attend birthday parties in Girdwood. Girdwood depends on

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[14] In The Matter of the 2021 Redistricting Plan Case No. 3AN-21-08869CI - Affidavit of Chase Hensel, Ph.D.

[15] In the Matter of the 2021 Redistricting Plan; 3AN-21-08869CI FFCL and Order, p.68.

[16] https://en.wikipedia.org/wiki/Girdwood,_Anchorage,_Alaska. Exhibit CH-6.

[17] http://www.communitycouncils.org/servlet/content/15.html. Exhibit CH-7.

[18] http://www.visitgirdwood.com. Exhibit CH-8.

Anchorage's medical facilities but provides the training ground for South Anchorage firefighters. South Anchorage and Girdwood emergency services back each other up, and both respond to accidents that may occur near the Mile 100 boundary of their respective service areas.

There is thus a two-directional flow between Girdwood and the city, and Girdwood does not think of itself as a suburb of Anchorage. Plaintiffs variously described the relationship that has developed in terms of "a natural affinity," "mutual support," and "a bond [that] goes both ways." Some people live in Anchorage and commute to work in Girdwood; others live in Girdwood and commute to Anchorage. Residents of both areas recreate in Girdwood and patronize its businesses. As happened recently, a Girdwood constituent might run into their representative while shopping at Fred Meyer in South Anchorage and discuss legislative concerns. By contrast, one Girdwood resident testified to the Board that based on his phone's location data, in the prior four years, he had been to Eagle River once—but had visited South Anchorage at least weekly, often multiple times a week.[19]

Girdwood has a set of interests and local issues that are particular to this place and have developed in the context of this longstanding interrelationship with the city.

As communities of interest, Girdwood and Eagle River are dramatically different. One sees its strengths in terms of connectedness and the other in terms of self-sufficiency. A community that operates as independent and separable, and one that operates as interdependent and inseparable, would find it difficult to coordinate in the solution of problems. Each of these communities – Eagle River and Girdwood – has its own set of shared issues. Whether they choose to address solutions through affirming bonds or other means, however, relates strongly to these measures of self-perceived independence and interdependence, as well as their sense of which issues should be addressed through public funding and which should be addressed by other means, such as volunteerism or private donation. Political leanings are clearly related to such preferences.

E. Voting dilution

Judge Matthews has determined that splitting the Eagle River community of interest into two Senate seats would provide it more representation[20]. This raises concerns about dilution in pairing PD 9 and PD 10.

The voters in PD 9 have voted largely Republican but voted for the Democratic candidate in the 2014 US House election and for President Biden in the 2020 election. In both cases, had PD 9 been consolidated with PD 10, the combined votes would have

[19] ARB2000894 (testimony of Mike Edgington).

[20] In the Matter of the 2021 Redistricting Plan; 3AN-21-08869CI FFCL and Order, p.69.

favored the Republican candidate. As when Eagle River Valley was paired with South Muldoon, Eagle River's strongly Republican vote would overwhelm the Republican-leaning but not always Republican-electing district PD 9 (South Anchorage-Girdwood).

To better understand patterns with respect to non-partisan issues, I looked at voting for municipal bonds. The two Eagle River districts track similarly in relation to bond issues. Correlating with the Eagle River community of interest's sense of independence and its general conservativism, their level of bond support is lower overall than that of either the municipality of Anchorage in total or South Anchorage. In terms of voting for municipal bonds, PD 10 votes 3% more negatively on bond issues than does PD 9, and PD 24 (Eagle River/Chugiak) votes 7.5% more negatively than does PD 9.

V. CONCLUSION

The fundamental task of paired districts is to work together to solve problems. To do this, they need access to each other, some shared common interests, and a degree of compatibility in their sense of self-sufficiency or interdependence. These communities of interest are very far apart, in terms of both spatial distance and their relationships towards urban Anchorage.

The ARB appears to have once again chosen a technically contiguous pairing that would allow each of the Eagle River house districts to overwhelm the political voice of its paired senate partner, despite a continued appearance of illegal political gerrymandering.

Report submitted by:

_____

Chase Hensel, Ph.D. **DATE**

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ANCHORAGE REAPPORTIONMENT

SUMMARY REPORT – April 14, 2022

OVERVIEW

In the fall of 2021, the Anchorage Assembly formed the Reapportionment Committee to fulfill its duties to carry out Reapportionment. The committee was charged with reviewing the 2020 US Census data, taking public input, and developing proposed maps for the Anchorage Assembly to consider for adoption to realign the boundaries of the six Assembly Election Districts to ensure fair and equal representation. The committee was represented by one Assembly Member from each district.

A major project goal was an open, transparent and easily accessible process with active participation from community members. To that end, the committee developed a presentation and handouts, and members presented on Reapportionment at community and civic meetings during the winter of 2021-22. A timeline and list of presentations can be found below.

To support Reapportionment, the Assembly contracted with Resource Data to oversee the map creation, map presentation and public comment portal. Resource Data also worked with members of the public who submitted maps to prepare those maps for presentation in an ARC-GIS viewer, found at www.ReapportionANC.org. Resource Data created four maps (maps 2-5) and six maps were submitted by members of the public: Matt Greene (map 1), Anchorage Action (map 6), Robert Hockema (map 7), Alaskans for Fair Redistricting (map 8) and Denmer Wells (maps 9 and 10). After the public Reapportionment Town Halls, several mapmakers revised their maps based on public feedback, leading to Map 6 v2, Map 7 v2 and Map 9 v2. In February, two Assembly Members introduced their own maps: Weddleton (map 11) and Allard and Bronson (map 12). Before submission to the Assembly on February 15, the Weddleton Map 11 underwent a revision and became map 11 v2. At the March 1 Assembly Meeting, the body voted to move Map 11 v2 forward as the final map for consideration with the opportunity for members to make amendments to that map. Five amendments were submitted by members and a final map was adopted on March 23, 2022.

This document contains an overview of the process, as well as feedback gathered from the community through an online public comment portal, community council resolutions, and written and verbal feedback at Town Hall meetings.

TIMELINE AND PUBLIC OUTREACH PROCESS

- The Reapportionment Committee was formed on September 9, 2021 and Assembly members were informed that work was being done on Anchorage Reapportionment. The timeline for Assembly actions was as follows:
    - Sept 9: Formation of Reapportionment Committee
    - Nov 23: Declaration of Malapportionment by Assembly
    - Dec 29: Draft maps released
    - Jan 20: Deadline for submission of third-party maps
    - Jan 26-Feb 5: Town Halls and Constituent Meetings
    - Jan 27: Ten draft maps released to the public for review
    - Jan 28: Committee Meeting: review Town Hall feedback and set metrics for decision-making
    - Feb 4: Deadline for revisions to the original map submissions
    - Feb 9: Committee Meeting: analyze maps and select maps to move forward for consideration
    - Feb 15: Assembly Meeting: introduce proposed plan
    - Feb 24: Assembly Meeting: 1st public hearing
    - Feb 25: Assembly Worksession
    - Mar 1: Assembly Meeting: 2nd public hearing
    - Mar 15: Assembly Meeting: 3rd public hearing
    - Mar 18: Assembly Worksession
    - Mar 23: Assembly Special Meeting to adopt final map and set special election for 12th seat

- The Reapportionment Committee held public meetings on:
    - October 12, 2021
    - October 27, 2021
    - November 10, 2021
    - November 23, 2021
    - December 9, 2021
    - January 6, 2022
    - January 28, 2022
    - February 9, 2022
    - February 14, 2022
    - February 25, 2022

- The Assembly held two worksessions on Reapportionment:
    - February 25, 2022
    - March 18, 2022

- Community stakeholders were engaged through the following presentations, displays, constituent meetings and town halls:
    - Nov 28, 2021: Alaska Black Caucus Community Conversation
    - Dec 15, 2021: Federation of Community Councils
    - Jan 5, 2022: Chugiak-Eagle River Chamber of Commerce
    - Jan 10, 2022: Anchorage Chamber of Commerce
    - Jan 25, 2022: Anchorage Assembly Regular Meeting
    - Jan 26, 2022: Virtual Town Hall
    - Jan 27, 2022: In-Person Town Hall, Loussac Library
    - Feb 3, 2022: In-Person Town Hall, Chugiak-Eagle River
    - Feb 5, 2022: Virtual Constituent Meeting on Reapportionment – District 6, South Anchorage
    - Dec 2021- Feb 2022: various community councils by individual Assembly Members
    - Jan 2022: full-sized map displays were featured at all five locations of Anchorage Public Library and City Hall

- Public comments were collected through the following means:
    - Online comment portal at www.ReapportionANC.org
    - Questions and comments submitted through the Q&A at the public virtual town hall on January 26, 2022
    - Written comments and a Q&A at public town halls on:
        - January 27, 2022 (Loussac Library)
        - February 3, 2022 (Chugiak-Eagle River Town Center)
        - February 5, 2022 (Virtual Town Hall for South Anchorage community councils)
    - Resolutions submitted through community councils and organizations

- Reapportionment was set for three public hearings at Assembly Meetings:
    - February 24, 2022
    - March 1, 2022
    - March 15, 2022

SUMMARY OF TOWN HALLS

By the Numbers

- Number of Attendees: 24 attendees on 1/26; 15 in-person and 14 streaming viewers on 1/27, 10 at Chugiak-Eagle River on 2/3, 40 at South Anchorage virtual event on 2/5 (does not include staff or Assembly Members present) + 162 views of the videos as of 3/31/22
- Represented groups:
    - Alaskans for Fair Redistricting
        - Principles: protect neighborhoods of interest, ensure neighborhoods and communities have fair representation and access to democracy
        - similar socioeconomic groups in the same district
    - Anchorage Action
        - Citizen group collaborating on "logical" delineation of neighborhoods

Map Highlights from Public Submitters

- Map 1 - Matt Greene
    - District 2 absorbs Girdwood; may not be a contiguous fit
- Map 6 - Anchorage Action
    - Fairly similar to existing boundaries
- Map 7 - Robert Hockema
    - JBER is split into two
    - Downtown, Midtown, both move south
- Map 8 - Alaskans for Fair Redistricting
    - 0.13 Deviation
    - Downtown, Fairview, Mountainview maintain relationships with similar socioeconomic communities
    - JBER is part of where residents access services
    - Chugach Mountain District - Hillside and Eagle River
- Map 9 - Denny Wells Map A
    - Testimonials from Loussac Town Hall seemed to favor
- Map 10 - Denny Wells Map B
    - Favored by a long-time resident of Fairview because of natural connection to most frequented businesses and roads
    - Testimonials from Loussac Town Hall seemed to favor

Questions about Process

- How do these maps impact Community Council representations?
    - ➢ No direct impact to Community Councils; they have a separate and independent process for determining their boundaries
- What type of data is being used to develop these maps?
    - ➢ US Census Data was used

- How can the maps be more accessible?
    - ➢ Consider B/W version maps for low visibility readers
- What is the process for selecting one of the next ten maps?
    - ➢ Work session committee meeting on 1/28 to make a recommendation to narrow down options, continue the process with future public input.
- How do we define "communities of interest?"
    - ➢ For the acquisition of municipal services, what are the communities of interest? What communities are impacted?
    - ➢ There can be many meanings to the definition
- Military Land: Does it matter how many people are registered voters? Does it matter if population is considered Alaska Residents?

Notable Quotations

- "We keep hearing about the importance of direct gate access from JBER to Downtown, but that leads to splitting South Anchorage current District 6 into a district with Eagle River. How do people drawing these maps explain to us that direct gate access from JBER to Downtown leads to keeping them in 1 district. Then, that leads to Dearmoun / Hillside and Girdwood being in the same district as Chugiak. **It looks like we have to decide between District 1 including JBER or Girdwood & part of Hillside being in the district with Eagle River** and that is not close road connection nor respecting communities."
    - This sentiment from the virtual Town Hall was echoed thrice over by public testimony at the Loussac Town Hall
- "I'm in Independence Park. We are Abbott Loop. We shop in the Abbott Town center and are part of the Abbott Loop Community Council. . . My preference so far is for Map 6 because it keeps Abbott Loop pretty much intact. It has Hillside and Girdwood with south Anchorage instead of with Eagle River and it keeps Muldoon compact."

Neighborhood-Specific Comments and Observations

- *Downtown*
    - Concerns about diluting vote by expanding scope of representation
    - Idea to have downtown district go south to include the areas affected by Seward Highway project
- *Airport Heights, Rogers Park*
    - Concerns about what consideration was given to these neighborhoods almost universally being brought into District 1 (Downtown)
    - Map drawers commented on the math, drawing boundaries based on logical geographical boundaries
- *Muldoon*
    - If Muldoon/East Anchorage is absorbed by Eagle River, their voting power is diluted by the majority of engaged voters in Eagle River

    - I am concerned about District 5, East Anchorage. In the recent state Redistricting process, East Anchorage was pasted onto Eagle River in a way that diluted the power of its diverse population. In the reapportionment, a similar thing happens in Map 3 by adding some South Anchorage residents and in Map 5 by Eagle River absorbing a section east of Muldoon Road.
- *JBER*
    - There are two distinct bases with distinct chains of command on base.
        - Elmendorf: more Anchorage-feeding
        - Fort Richardson: more Eagle River-feeding
    - Five total gates of access: two from Fort Ridge to Glenn, three to Anchorage Bowl.
    - If a split of the joint base is to be considered, there is value to noting where residents live on base.
    - Connection to Land/Sewer Mobility Project, supports JBER connection to Eagle River and Downtown extension South into Midtown neighborhoods
    - People who work on JBER are represented by their home districts? So how are residents of JBER represented?
    - For map of JBER: https://jber.isportsman.net/files/JBER_Recreation_2019_15x25.pdf
- *South Anchorage*
    - Concerns about pairing Chugiak and Rabbit Creek for purposes of economic similarity, proximity and logical geographic boundaries
    - Comments that driving more than an hour through four districts to reach the far end of the same district doesn't make sense
    - I'm in Independence Park. We are Abbott Loop. We shop in the Abbott Town center and are part of the Abbott Loop Community Council. This is just a comment. Not a question. But we also get together with and do some shopping in South Anchorage.
    - The issues of Eagle River are very specific and that population should be represented by Assembly members who can represent those. Hillside issues are different and I believe would be overwhelmed by Eagle River issues.
- *Girdwood*
    - Concerns about extending the above concerns all the way to Girdwood for the same reasons.
- *Sand Lake/Campbell Lake*
    - In all 5 of the proposed reapportionment maps, my neighborhood along the north shore of Campbell Lake is included in District 6 with south Anchorage and the hillside rather than being included in District 3 with Sand Lake. This is irrational. The area South of Dimond, West of Arlene and North of Campbell Lake should be included in the same district with Sand Lake, as it is now. This area is zoned for Kincaid Elementary school, with our neighbors in Sand Lake. This area is in legislative districts (both current and pending with the new redistricting) with our

neighbors in Sand Lake. In order to go from this area to South Anchorage and the rest of the district, we would literally have to transit the Sand Lake district. I understand that someone may draft a proposal with the Sand Lake/South Anchorage boundary at Dimond instead of at Campbell Lake, but that ALL FIVE of the current proposals make this change is irrational and speaks to an underlying problem in the process used to draft these maps. My neighborhood, bounded by Campbell Lake to the south and Dimond Blvd to the north should be included with Sand Lake for our Anchorage Municipal Assembly district. All 5 of these maps are gravely problematic, all in very similar ways. They ALL include the north shore of Campbell Lake with South Anchorage, they ALL advantage Eagle River or pair Eagle River with another dis-similar community in the municipality, and all but Map 1 explicitly disadvantage Muldoon. There is a pattern here. These plans should not be adopted.

Map-Specific Comments

- *Map 1 – Matt Greene*
    - Awful map – keeps Ft. Rich w/ ER/Chugiak. The kids from Ft. Rich go to school in ER/Chugiak – not sure how you would explain them not being in the same community together
    - Matching Eagle River/Chugiak and upper Hillside with Girdwood/Indian is problematic because those areas are not only discontiguous, but they are significantly culturally different with significantly different issues.
    - Taking Campbell Lake Area south of Dimond out of District 3 and adding to district 6 is a bad idea – it fits socio-economically much better with District 3
- *Map 2 – Resource Data*
    - This map makes sense. These communities share much in common. I have lived in Anc since 1981 and lived in 4 of the communities
    - This map, with almost surgical precision, increases the voting power of Eagle River at the expense of Muldoon by putting disparate population sizes in each district.
    - This map is not bad, but south of Dimond needs to stay with district 3 (socio-economical) and deviation for district 2 and district 5 are too big. So this map is a no for me.
- *Map 3 – Resource Data*
    - I don't believe JBER should be included in downtown. I do believe the port should be.
    - As with Map 2, this map surgically increases the voting power of Eagle River at the expense of Muldoon. But it takes that disparity a step further by including lower Hillside with Muldoon. District 5 in this map is both discontinuous and merges significantly different populations.
    - As on most of the other maps, the area south of Dimond (Campbell Lake area) needs to stay with District 3. The one thing that I do not like is that District 2 ha such a high deviation – twice as much as the deviation of the next district.
- *Map 4 – Resource Data*
    - What do Girdwood and ER/Chugiak have in common – nothing- takes 1.5 hours to drive one to the other.
    - This map seems specifically targeted at fracturing the voting power of Muldoon. It splits the current Muldoon district into 3 sections – giving one section each to the Downtown and Eagle River districts, and then adding the significantly un-diverse U-Med area and lower hillside to the remaining skeleton of the diverse Muldoon district.
    - South of Dimond needs to stay with district 3. It fits much more socio-economical to 3 than 6. I also don't like JBER being split up and that odd "fringe" of district 5 sandwiched between 1 and 5. Not very concise.
- *Map 5 – Resource Data*

    - This takes the problems of Map #4 and amps them up significantly. It is again specifically targeted at splitting the Muldoon district. This time, it gives even more of the district to Eagle River, and adds JBER to the remaining (even smaller) skeleton of Muldoon.
    - This map is a solid no. Such discombobulated districts
- *Map 6 – Anchorage Action*
    - My preference so far is for Map 6 because it keeps Abbott Loop pretty much intact. It has Hillside and Girdwood with south Anchorage instead of with Eagle River and it keeps Muldoon compact.
    - Area south of Dimond needs to stay with district 3. Too much deviation.
    - JBER/Eagle River stays together; almost anything over Dimond is south
- *Map 7 – Robert Hockema*
    - A fair, common sense map!
    - This map respects that Elmendorf uses the government hill gate
    - I really like Robert's map #7! I'm a former resident of Muldoon and Airport Heights and I think the commitment to logical geographical barriers makes sense
    - The area south of Dimond needs to stay with district 3 (socio-economically) and deviation is too big
    - Upper Huffman has nothing in common with Chugiak-Eagle River
- *Map 8 – Alaskans for Fair Redistricting*
    - The equal numbers is very appealing. But you cut Airport Heights in two. Seems confusing
    - Constitutional deviations
    - To add all of that south Anchorage area to Eagle River/Chugiak so you can add JBER to district 1 seems arbitrary. Not concise! So a no for me. Deviation might be great, but compactness is not
    - No
    - Kind of funky
- *Map 9 – Denny Wells A*
    - I do not like this map. It is showing a very long commute for Folker neighborhood - We are too far away from Muldoon
- *Map 10 – Denny Wells B*
    - FWIW - As a 70 year resident of Fairview, Map 10 most closely represents the district that i spend most of my time in for commerce, education, entertainment, and services. Thanks!
    - This is a great map but the little area above the McPhee Avenue is kind of randomly put with downtown district. I also like that Campbell Lake area (south of Dimond) remains with District 3.

Summary of Vote Counts at Chugiak-Eagle River Town Hall (not all attendees voted and some attendees voted multiple times):

- *Map 1 – Matt Greene:* 0 support, 2 oppose
- *Map 2 – Resource Data:* 0 support, 1 oppose
- *Map 3 – Resource Data:* 0 support, 1 oppose
- *Map 4 – Resource Data:* 0 support, 1 oppose
- *Map 5 – Resource Data:* 0 support, 1 oppose
- *Map 6 – Anchorage Action:* 2 support, 1 oppose
- *Map 7 – Robert Hockema:* 0 support, 2 oppose
- *Map 8 – Alaskans for Fair Redistricting:* 0 support, 1 oppose
- *Map 9 – Denny Wells A:* 0 support, 1 oppose
- *Map 10 – Denny Wells B:* 5 support, 0 oppose

SUMMARY OF REAPPORTIONMENT MAP DELIBERATIONS

Reapportionment Committee Meeting, January 28, 2022

The committee held a lengthy discussion on the metrics to use for decision-making on which maps to eliminate and which maps to move forward for further review, and developed the following ideas:

Potential metrics for decision-making

- Legal standards must be reviewed first (including Voting Rights Act concerns)
- If the legal thresholds are met for multiple maps, here are some other potential metrics that could be used to narrow down the final maps:

Potential ideas to help make further decisions:

- Eliminate maps above a set deviation. Below 5%? Below 3%?
- Least change possible to existing districts (keeping in mind that 12th member will cause unavoidable substantial change)
- Keep neighborhoods together (individuals from Rogers Park, Airport Heights, Independence Park, Abbott Loop, Sand Lake and Campbell Lake have made specific requests), but recognize they might have to shift to new districts
- Communities of interest – contemplate how MOA provides services to a neighborhood e.g. wells, economic services
- Keep the core of each existing district intact (consider that everyone might have a different idea of what this means)
- Alignment with state precincts/house districts/community councils
- When considering compact/contiguous – include road system connections
- What is most practical, reasonable, realistic?
- Avoid politics of past voting records

Questions to research/consider:

- What is the definition of the legal standard of socio-economically integrated?
- What are the bounds of the deviation?
- How should we view compact and contiguous within constitution and charter requirements?
- What is the definition/law for deviation? 5-10% needs compelling justification. What level of deviation is the committee/Assembly comfortable with?

Reapportionment Committee Meeting, February 9, 2022

After the January 28 committee meeting, the Chair and staff developed the following map rating matrix. Although the matrix was not used to track scores for each map, individual committee members used it to inform their input for the discussion to determine which maps to eliminate

and move forward. At the February 9 meeting, Maps 6, 7, 8 and 10 were moved forward for further consideration.

Anchorage Reapportionment Rating Matrix

		Legal				Discretionary			
Map	Title	% Deviation (1 Person 1 Vote)	Compact	Contiguous	Integrated SocioEcon	Similar to previous districts	Keeps Neighbrhds together	Maintains Comms. Of interest	Service Areas
1	RDI 1 - Matt Greene								
2	RDI 2								
3	RDI 3								
4	RDI 4								
5	RDI 5								
6	Anchorage Action - v2								
7	Robert Hockema - v2								
8	Alaskans for Fair Redist.								
9	Denny Wells A - v2								
10	Denny Wells B								
11	John Weddleton								
12	Jamie Allard 1 - TBA								
13	Jamie Allard 2 - TBA								

Directions: rank each map on a scale of 0-10 for each category using the scales below (can use the same scores for multiple maps) - higher is better

Scale
0= does not meet
3= somewhat meets
5= acceptable
7= very good
10= extremely good

Communities of interest: water/sewer types (utility service areas), density, lot sizes, geography, school attendance, commercial districts, district plan boundaries, service areas

Discussion of Maps at Reapportionment Committee Meeting, February 9, 2022

Map 1 – RDI 1-Matt Greene: Rejected

- Joining Chugiak-Eagle River with Girdwood is too impractical and joins neighborhoods that have a lot of dissimilarity
- Does have good deviation
- Too much change from previous districts and splits neighborhoods

Map 2 – RDI 2: Rejected

- Too much disruption to District 4 (midtown)
- Deviation too high

Map 3 – RDI 3: Rejected

- Breaks up neighborhoods that are grouped together in the Hillside District Plan
- Breaks up College Village from Rogers Park neighborhoods
- Spreads District 5 very far along north-south corridor
- High deviation

Map 4 – RDI 4: Rejected

- District 5 not compact – spreads district too far; continues split of northern part of Muldoon from District 5
- Splits up several neighborhoods, including JBER

Map 5 – RDI 5: Rejected

- District 4 is not compact
- Pulls a big portion of Muldoon into District 2

Map 6 – Anchorage Action-v2: Maybe – committee will come back to it

- Overall, meets the qualifications
- Moves a lot of midtown out of District 4, including Rogers Park
- Spreads District 4 out and has substantial changes from previous district
- Districts 3, 4, 5 each give up sections to District 1, but District 2 doesn't give up anything for District 1 expansion (however, District 2 gives up Muldoon section)

Map 7 – Robert Hockema-v2: Move forward

- Keeps Abbott Loop together
- Keeps College Village and Rogers Park together
- Part of Hillside goes into Chugiak-Eagle River, which is unpopular and not contiguous via the road system
- Splits up Hillside
- Each district gives a little bit up
- Low deviation - good

Map 8 – Alaskans for Fair Redistricting: Maybe – committee will come back to it

- Has a very small deviation – good
- Districts 3, 4, 5 don't give up enough – too much change put on too few districts
- Too much of Hillside grouped with Chugiak-Eagle River – not popular and not contiguous by roads
- Splits JBER from Chugiak-Eagle River, which is not supported by Chugiak-Eagle River residents
- A large impact on District 2

Map 9 – Denny Wells A-v2: Rejected

- Not contiguous

Map 10 – Denny Wells B: Maybe – committee will come back to it

- Splits UMed into two
- District 5 is compact and contiguous

Reapportionment Committee Meeting, February 14, 2022

Two maps were submitted by Assembly Members that were not received in time for consideration at the Feb. 9 meeting. Those maps were discussed at the February 14 meeting, as well as the four maps that were moved forward at the Feb. 9 meeting. From this meeting, maps 6, 7 and 11 were moved forward for the public hearings. Before submission to the Assembly on February 15, the Weddleton Map 11 underwent a revision and became map 11 v2. The committee determined to submit the draft maps as one Assembly Ordinance with S versions for the different maps under consideration. The Allard map was brought forward independently as an additional S version.

Map 11 – John Weddleton and Denny Wells: Maybe – committee will come back to it

- Overall, it meets qualifications
- Splits Forrest Park from Turnagain

Map 12 – Jamie Allard 1 (noted as 11b on the map produced in the meeting): Rejected

- Takes all of Turnagain, which considers itself as "West Anchorage"
- Keeps more of northern part of District 4 intact
- Keeps Abbott Loop area together
- Uses major arterials and geographic features as boundary

Assembly Worksession on Reapportionment and Committee Meeting, February 25, 2022

Following the February 25 worksession, the Reapportionment Committee released a new timeline to extend time for public input on the Reapportionment process and the proposed maps in AO 2022-37, AO 2022-37(S), AO 2022-37(S-1) and AO 2022-37(S-2).

- Map 6 v2 (by Anchorage Action) – AO 2022-37
- Map 7 v2 (by Robert Hockema) – AO 2022-37(S)
- Map 11 v2 (by Weddleton/Wells) – AO 2022-37(S-1)
- Map 12 (by Allard and Bronson) – AO 2022-37(S-2)

Assembly Meeting, March 1, 2022

Following the 2nd public hearing, the Assembly voted to move the Weddleton-Wells Map 11 v2 forward for a third public hearing on March 15 and postponed indefinitely on the remaining maps. A deadline for members to propose amendments to these maps was set for March 7.

Assembly Worksession, March 18, 2022

At this worksession, five amendments to Map 11 v2 AO 2022-37(S-1) were described by their sponsors and the Assembly discussed the amendments.

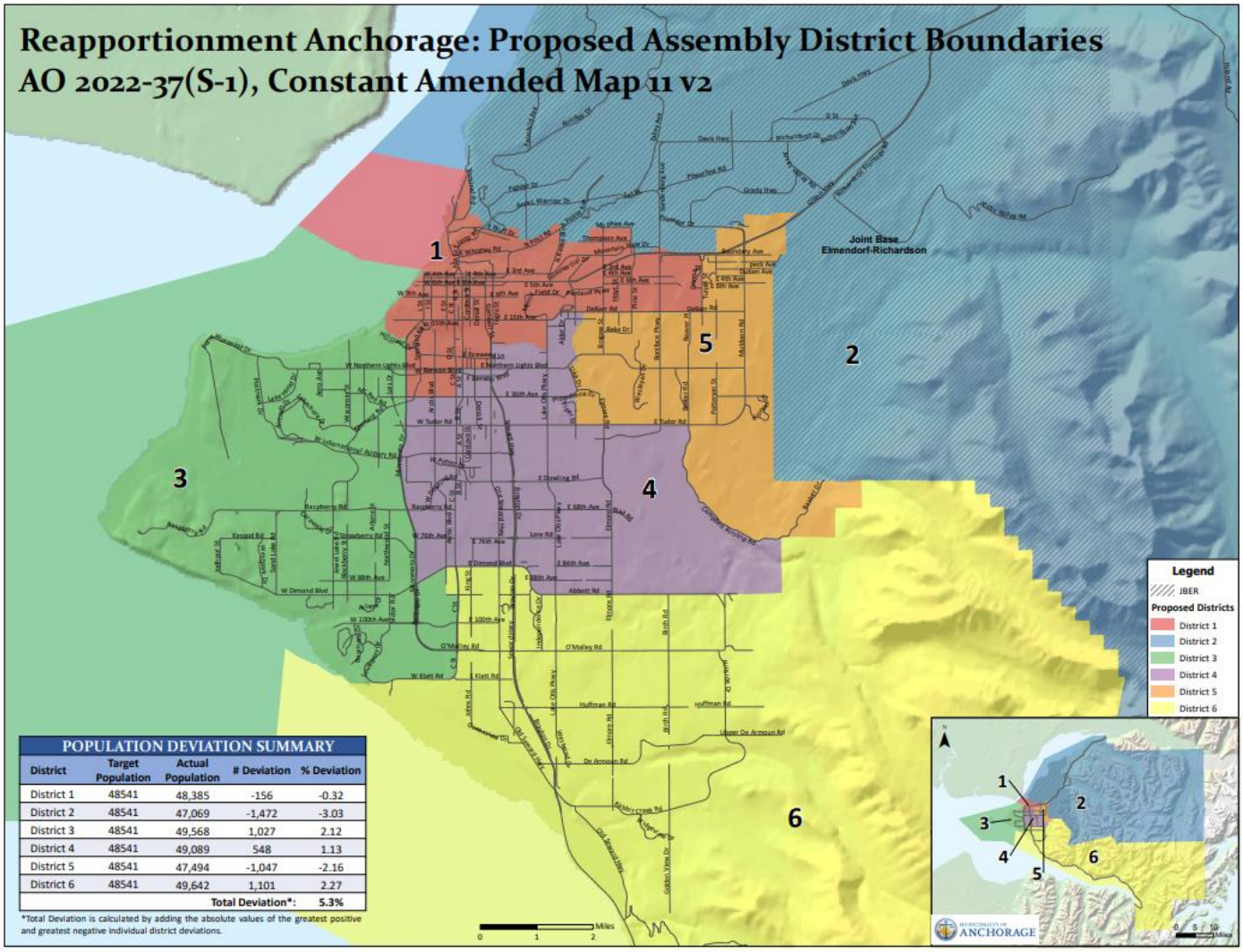
Assembly Meeting, March 23, 2022

Five amendments were discussed and voted on. The map that was adopted was Map 11 v2 AO 2022-37(S-1) Constant Amended Map 11 v2. The amendments proposed at the meeting:

- AO 2022-37(S-1) Constant Amended Map 11 v2 (as amended)
- AO 2022-37(S-1) Constant Amended Map 11 v2
- AO 2022-37(S-1) Kennedy Amended Map 11 v2
- AO 2022-37(S-1) Zaletel Rivera Amended Map 11 v2
- AO 2022-37(S-1) Kennedy Amendment to Zaletel-Rivera Map

Additionally, the Assembly voted to update the names for each district and hold a special election in June to elect the 12th Member.

FINAL APPROVED MAP



POPULATION DEVIATION SUMMARY				
District	Target Population	Actual Population	# Deviation	% Deviation
District 1	48541	48,385	-156	-0.32
District 2	48541	47,069	-1,472	-3.03
District 3	48541	49,568	1,027	2.12
District 4	48541	49,089	548	1.13
District 5	48541	47,494	-1,047	-2.16
District 6	48541	49,642	1,101	2.27
			Total Deviation*:	5.3%

*Total Deviation is calculated by adding the absolute values of the greatest positive and greatest negative individual district deviations.

PROJECT TEAM

Reapportionment Committee
Christopher Constant, Chair
Pete Petersen, Member
Crystal Kennedy, Member
Austin Quinn-Davidson, Member
John Weddleton, Member
Felix Rivera, Member

Municipality of Anchorage Support Staff
Clare Ross, Assembly Liaison
Barbara A. Jones, Municipal Clerk
Mandy Honest, Business License Official

Contractors
Dennis Wheeler, Sr. Project Manager, Resource Data
Ashley Rizor, Sr. Project Manager / Sr. Analyst, Resource Data

Public Map Makers
Denny Wells
Robert Hockema
Anchorage Action
Alaskans for Fair Redistricting
Matt Greene
Brice Wilbanks

This report was prepared by Clare Ross with support from Allie Hartman, April 2022

APPENDIX

Part 1

A. List of Reapportionment Related Legislation
B. Maps
C. Legal and Supporting Documents
D. Promotional materials
E. Press releases

Part 2

F. Public Questions from the January 26, 2022 Town Hall Chat
G. Written Comments on Maps at January 27, 2022 Loussac Library Town Hall
H. Written comments submitted through www.ReapportionANC.org Portal
I. Community Council and Organization Resolutions

RABBIT CREEK COMMUNITY COUNCIL (RCCC)
A Forum for Respectful Communication & Community Relations
1057 West Fireweed Lane, Suite 100 / Anchorage, AK 99503

RESOLUTION AND COMMENTS FROM THE RABBIT CREEK COMMUNITY COUNCIL ON THE 2022 ASSEMBLY REAPPORTIONMENT PROCESS

At our February 10, 2022 meeting, the Rabbit Creek Community Council (RCCC) discussed draft maps currently under consideration for the required Assembly Reapportionment process. In doing so, the RCCC reminds the Assembly Reapportionment Committee that: legal requirements compel the Committee to create districts which are "compact and contiguous territory containing as nearly as practicable a relatively integrated socioeconomic area" (Municipality of Anchorage Code of Ordinance, Part I, Article IV, Section 4.01). By a vote of 26 yeas, 3 nays, and 1 abstention, RCCC approved the following resolution:

RESOLUTION

The Rabbit Creek Community Council:

- Affirms that the re-apportionment closely follow the legal requirements to create compact, contiguous, and socioeconomically integrated districts.
- Opposes combination of any portions of the Hillside with Eagle River.
- Emphasizes that Chugach State Park does not create contiguity between the populations of the Hillside and Eagle River, as it is uninhabited. Therefore, reapportionment maps should display it as a distinct, unpopulated area.
- Supports continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River.

JUSTIFICATION

The RCCC strongly opposes any map that would combine the Rabbit Creek and neighboring Hillside areas with Eagle River because these two distinct, separate areas are not integrated through socio-economic interactions, land use patterns, businesses, roads and traffic patterns, or schools. Additionally, these areas are neither compact nor contiguous, thus further failing to meet the requirements of Section 4.01. Travel from the Hillside to Eagle River requires traversing several intervening districts. It is inappropriate to use the large, steep, uninhabited, and in some areas or to some people inaccessible, Chugach State Park as justification to combine Eagle River and Hillside into one Assembly district.

Common issues that distinguish the Hillside from most other parts of the Anchorage Bowl include resident concerns around wildfires and high winds, on-site water and septic systems, Limited Road Service Areas, drainage, water supply and other watershed features on steep slopes. Eagle River has different watersheds, an integrated road service district, its own park district, and facilities that have little or no daily relevance to Hillside residents, including a

Community College, its own branch library, a Wal-Mart, and a central business district. The local roads, trails, and recreation areas we use throughout the Hillside are completely different from the local roads, trails, and recreation areas used by Eagle River residents; the roads we travel to schools and local shopping/businesses, as well as to destinations in Midtown and Downtown, are completely different from the roads used by Eagle River residents.

We remind the Assembly that the 2010 Hillside District Plan (HDP) defines the boundaries of the Hillside. Much thought, effort, and an iterative public process were involved throughout the development of that Assembly-approved plan. The HDP sets a strong precedent for maintaining the cohesion of the RCCC area and the larger Hillside area in one district, with no part of the Hillside combined with Eagle River.

While maintaining a low population deviation between districts is of obvious importance, it is not outlined as a consideration in Section 4.01, and therefore should not be granted more importance than the criteria that are included in Municipal ordinance. Respecting neighborhood continuity is more important than pushing for the smallest deviation in size of each Assembly district and will best achieve fair representation. We do appreciate the difficulty of this effort.

CONCLUSION

In accordance with Anchorage Municipal Ordinance and the strong precedent set by the Hillside District Plan, the RCCC area and larger Hillside of south Anchorage should remain in a single Assembly district with no part of the Hillside combined with Eagle River on the northeast side of Anchorage. Moreover, RCCC recommends that the Assembly take similar care to not split up other neighborhoods throughout Anchorage, and instead, support neighborhood continuity. The Assembly's overarching goal should be to ensure fair and effective representation for all residents.

Ann Rappoport, Co-chair
Rabbit Creek Community Council

Michelle Turner, Co-chair
Rabbit Creek Community Council

Signed: February 13, 2022

Date	Topic	Commenter	Comment
2/8/2022	Eagle River\Hillside	John Yeafoli	Districts should be contiguous to the greatest extent possible, allowing citizens and representatives to focus on common issues. Maps 7 & 8 propose merging parts of District 6 Hillside and District 2 Eagle River. The Hillside has unique traits and issues and I am not in favor of mixing these two districts in order to make the numbers work. There are several other map proposals that balance the numbers without breaking up the District 6 hillside area.
2/8/2022	Map 7 Hockema	John Yeafoli	Maps 7 & 8 propose merging parts of District 6 Hillside and District 2 Eagle River. The Hillside has unique traits and issues and I am not in favor of mixing these two districts in order to make the numbers work. There are several other map proposals that balance the numbers without breaking up the District 6 hillside area.
2/8/2022	Map 8 Alaskans for Fair Redistricting	John Yeafoli	Maps 7 & 8 propose merging parts of District 6 Hillside and District 2 Eagle River. The Hillside has unique traits and issues and I am not in favor of mixing these two districts in order to make the numbers work. There are several other map proposals that balance the numbers without breaking up the District 6 hillside area.
2/8/2022	Eagle River\Hillside	Katie Nolan	I am hesitant to endorse any map as these are not yet set in stone; however, the version submitted by Anchorage Action and the A & B versions of Denny Wells map are the only choices for the Anchorage Hillside. The Anchorage Hillside is a compact, cohesive and well-established area represented by the Hillside District Plan for well over a decade. It has little in in common with Eagle River, and attempts to fly over the mountains and combine the two areas are obscene. Unlike the Anchorage Hillside, Eagle River has their own Parks & Rec department and their own road service area. Please ensure that the Anchorage Hillside is kept in one area, united as we have always been. Thank you.

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Date	Topic	Commenter	Comment
2/20/2022	Eagle River\Hillside	Catherine Giessel	I am OPPOSED to combining any portion of the Anchorage hillside with any portion of Eagle River.
2/21/2022	Eagle River\Hillside	Robert Polley	To whom it may concern: I'm writing to voice my strong opposition to the potential redistricting which could allocate a portion of the Glen Alps neighborhood to the Eagle River district. As a resident of Glen Alps for the past 10 years, I can tell you we have zero connection to Eagle River, geographic or otherwise. Thank you for considering my input. Robert Polley
2/21/2022	Map 7v2 Hockema	Michele Martin	Comment on Map 7v2: Against my better judgement, I'm submitting this comment regarding the idiocy of combining the residents of Glen Alps with Eagle River. Why against my better judgement? Because the assembly is going to do what it wants to do so I'm basically wasting my time and energy on this. I have served on the Glen Alps Road Service Area (GARSA) Board of directors, since 2010, and intend to serve another 3-year term. The residents of Glen Alps have totally different issues than the residents of Eagle River. Just because the land "touches" does not mean they should be joined and put into the same pot. For those who don't live in either Eagle River or the Glen Alps area, you really don't know what you are talking about and you should leave well enough alone. You should rethink this decision; however, I know you won't.

Comments highlighted in yellow oppose the Eagle River/South Anchorage pairing

Date	Topic	Commenter	Comment
2/3/2022	Eagle River\Hillside	Richard Emanuel	To Whom It May Concern: I am writing to strongly object to Maps 1 and 8, which would put my home and neighborhood, presently in Dist 6, into Dist 2. I live in the mid-Hillside, near Huffman and Birch Roads. I know little about local issues as they affect Eagle River, which represents the heart of Dist. 2. Nor do I believe many residents of Dist. 2 know much about where I live. "Contiguous" means "being in actual contact or sharing a common boundary." My neighborhood is NOT in contact with Eagle River. That is an absurd assertion. If there is a "common boundary" here, it seems to be Chugach State Park. Are there any voters in the Park? Are there voting precincts in the Park? No, there are not. Now, I like Eagle River just fine. But the last time I was there was when I stopped at Jitters once last summer. I have friends in Eagle River who consider it a big deal to drive into "Anchorage," by which they usually mean Muldoon, or maybe the Center for the Performing Arts or the 5th Avenue Mall. They don't shop in South Anchorage, at the Dimond Center or anywhere else. They might visit the Alaska Zoo, but even so, neither the Zoo nor the Dimond Center are in Dist. 2 on either Maps 1 or Map 8. These proposals stretch the concept of "contiguous" well beyond the breaking point. Just because you can color in a section of Chugach State Park as if it were part of Dist. 2 does not establish a meaningful connection between Eagle River and my mid-Hillside neighborhood. Maps 1 and 8 are blatantly bogus reapportionment schemes, drawn for reasons I cannot fathom and without regard to reality. They are absurd. At present, I feel very well represented by the assembly persons for District 6. Please do not put me in District 2. The Hon. Jamie Allard would not well represent me or my family on the Assembly. And the representation works both ways: Believe me, Ms. Allard would not want me as a constituent. Vote NO on Map 1 and Map 8!

Date	Topic	Commenter	Comment
12/31/2021	Map Three	Elizabeth Forsman	Map 3. I don't believe JBER should be included in downtown. I do believe the port should be.
1/11/2022	Map Five	Cheryl Lovegreen	I just looked through the map proposals for reapportionment. I may have more comments after I have studied the maps more closely, but today I am concerned about District 5, East Anchorage. In the recent state Redistricting process, East Anchorage was pasted onto Eagle River in a way that diluted the power of its diverse population. In the reapportionment, a similar thing happens in Map 3 by adding some South Anchorage residents and in Map 5 by Eagle River absorbing a section east of Muldoon Road. I hope the committee is sensitive to the integrity of our neighborhoods and "relatively integrated socioeconomic area" of each district.
1/11/2022	Map Three	Cheryl Lovegreen	I just looked through the map proposals for reapportionment. I may have more comments after I have studied the maps more closely, but today I am concerned about District 5, East Anchorage. In the recent state Redistricting process, East Anchorage was pasted onto Eagle River in a way that diluted the power of its diverse population. In the reapportionment, a similar thing happens in Map 3 by adding some South Anchorage residents and in Map 5 by Eagle River absorbing a section east of Muldoon Road. I hope the committee is sensitive to the integrity of our neighborhoods and "relatively integrated socioeconomic area" of each district.
1/20/2022	Map 10 Wells B	Denmer Wells	After reviewing my Map A and thinking about the shortcomings of some of the other maps, I made a second map: Denny's Map B: https://districtr.org/plan/103441 - Even smaller population deviation than Denny's Map A - Compact, mostly following major roads and other natural boundaries, except at the 3-way intersection of Districts 1, 4, and 5, where the boundary follows 36th to Elmore, then across 40th, and finally follows the South Fork of Chester Creek to Boniface. - District 5 includes Russian Jack, as in the current districts. - District 4 is more mid-town and less SW Anchorage. - The District 1/ District 3 boundary is at West Chester rather than the railroad.
1/20/2022	Map One Greene	Denmer Wells	Map 1: Matching Eagle River/Chugiak and upper Hillside with Girdwood/Indian is problematic because those areas are not only discontiguous, but they are significantly culturally different with significantly different issues.
1/20/2022	Map Two	Denmer Wells	Map 2: This map, with almost surgical precision, increases the voting power of Eagle River at the expense of Muldoon by putting disparate population sizes in each district.
1/20/2022	Map Three	Denmer Wells	Map 3: As with Map 2, this map surgically increases the voting power of Eagle River at the expense of Muldoon. But it takes that disparity a step further by including lower Hillside with Muldoon. District 5 in this map is both discontinuous and merges significantly different populations.

Date	Topic	Commenter	Comment
1/20/2022	Map Four	Denmer Wells	Map 4: This map seems specifically targeted at fracturing the voting power of Muldoon. It splits the current Muldoon district into 3 sections – giving one section each to the Downtown and Eagle River districts, and then adding the significantly un-diverse U-Med area and lower hillside to the remaining skeleton of the diverse Muldoon district.
1/20/2022	Map Five	Denmer Wells	Map 5: This takes the problems of Map #4 and amps them up significantly. It is again specifically targeted at splitting the Muldoon district. This time, it gives even more of the district to Eagle River, and adds JBER to the remaining (even smaller) skeleton of Muldoon.
1/20/2022	Unclassified	Denmer Wells	Regarding all 5 proposed maps: In all 5 of the proposed reapportionment maps, my neighborhood along the north shore of Campbell Lake is included in District 6 with south Anchorage and the hillside rather than being included in District 3 with Sand Lake. This is irrational. The area South of Dimond, West of Arlene and North of Campbell Lake should be included in the same district with Sand Lake, as it is now. This area is zoned for Kincaid Elementary school, with our neighbors in Sand Lake. This area is in legislative districts (both current and pending with the new redistricting) with our neighbors in Sand Lake. In order to go from this area to South Anchorage and the rest of the district, we would literally have to transit the Sand Lake district. I understand that someone may draft a proposal with the Sand Lake/South Anchorage boundary at Dimond instead of at Campbell Lake, but that ALL FIVE of the current proposals make this change is irrational and speaks to an underlying problem in the process used to draft these maps. My neighborhood, bounded by Campbell Lake to the south and Dimond Blvd to the north should be included with Sand Lake for our Anchorage Municipal Assembly district. All 5 of these maps are gravely problematic, all in very similar ways. They ALL include the north shore of Campbell Lake with South Anchorage, they ALL advantage Eagle River or pair Eagle River with another dis-similar community in the municipality, and all but Map 1 explicitly disadvantage Muldoon. There is a pattern here. These plans should not be adopted.
1/20/2022	Map 9 Wells A	Denmer Wells	For your consideration, I propose the following map (made using the state redistricting board's tool). Let's call it Denny's Map A https://districtr.org/plan/101570 My proposed map has the following characteristics: - Smaller population deviation from the target than all but the original Map 1 proposal. - It follows major roadways and/or bodies of water for boundaries. No wonky carve-outs. Very compact. - Eagle River is in a district with JBER and Stuckagain Heights. JBER is rational, as it is currently in the Eagle River district, and Eagle River is a bedroom community for JBER. Stuckagain Heights is discontinuous, which is unfortunate, but the demographics and issues there are very similar to the demographics and issues in the neighborhood around the upper reaches of the South Fork of Eagle River.
1/20/2022	Unclassified	Denmer Wells	As a real estate photographer, I have spent time in the homes of families all over Anchorage. I have shot more than 2000 homes in the municipality, in all parts of town, from the tiniest run down single-wide trailer to the most amazing million dollar homes, from places in the densest parts of South Addition to the furthest reaches of the Eagle River valley, from homes so new the paint was not yet dry to homes so old they are on historic building registers. I was mindful of that experience as I crafted my maps. I encourage you to be mindful of the whole community as you draft your final official maps. I urge you to adopt a map that is fair and compact. None of your initial 5 drafts fit those criteria. I believe my proposed maps are a step in the right direction. They are certainly more fair than the current 5 drafts, and much more compact than the 2012 district boundaries.

Date	Topic	Commenter	Comment
1/21/2022	JBER	Briana Sullivan	I am addressing any maps that include Military Land: Does it matter how many people are registered voters? Does it matter if population is considered Alaska Residents?
1/26/2022	Public Comment Process	Gretchen Stoddard	Please provide an email address to submit comments. I can not find an email for comments in your information. Thank you.
1/27/2022	Eagle River\Hillside	Diane Shellenbaum	I live on the lower Hillside, currently in District 6. I have reviewed maps 1-10, and am strongly against any map that groups Eagle River with portions of the Hillside (maps 1 and 8 are the worst.) The issues of Eagle River are very specific and that population should be represented by Assembly members who can represent those. Hillside issues are different and I believe would be overwhelmed by Eagle River issues.
1/27/2022	Map Five	Diane Thompson	Re Map 5: I am concerned about assigning East Anchorage east of Muldoon to Eagle River. I've lived on JBER (back when it was Ft. Richardson) and in Eagle River and Muldoon east of Muldoon road in the impacted area. My experience was that Ft. Rich/JBER was more similar to Eagle River than Muldoon is. I believe people living east of Muldoon Road, but in Muldoon, most closely resemble and would be better served by the same Assembly member as East Anchorage residents west of Muldoon Road.
1/27/2022	Eagle River\Hillside	Diane Thompson	I am concerned about assigning East Anchorage east of Muldoon to Eagle River. I've lived on JBER (back when it was Ft. Richardson) and in Eagle River and Muldoon east of Muldoon road in the impacted area. My experience was that Ft. Rich/JBER was more similar to Eagle River than Muldoon is. I believe people living east of Muldoon Road, but in Muldoon, most closely resemble and would be better served by the same Assembly member as East Anchorage residents west of Muldoon Road.
1/27/2022	Map 8 Alaskans for Fair Redistricting	Elizabeth Ellis	Hello, I support adopting map number eight for Anchorage. Thank you.

Date	Topic	Commenter	Comment
1/28/2022	Eagle River\Hillside	Yarrow Silvers	No part of Muldoon, including the North Muldoon finger, which has been disenfranchised for many years, should be paired with Eagle River. Evidence of the disenfranchisement of the North Muldoon finger can be found in their dismal voter turnout rate, which at 11.5% for the 2020 assembly election, was less than half of the turn out of the rest of Muldoon which averaged 24% turnout in that same election. Residents of the Muldoon finger are so sure that their vote doesn't count that they largely don't even bother to vote. This is an untenable situation and this gerrymander must not be allowed to continue, particularly in light of the ongoing litigation involved in the statewide Eagle River/Muldoon pairing. The two areas are not socio-economically integrated at all and do not share similar concerns and anyone that tries to tell you differently is attempting to maintain a previous gerrymander with no concern for the diverse East Anchorage voters whose voices have been, and would continue to be, muffled. East Anchorage is urban with high density housing, city water and sewer, lower on average incomes, a high proportion of title one schools, high racial diversity, and city maintained roads while Eagle River is largely rural, with large lot, low-density housing, well and septic, affluent households, low racial diversity and LRSA. East Anchorage residents rarely go to Eagle River, and it's doubtful that Eagle River residents do much more than drive through Muldoon on their way to town. This leaves you with two options in the current suite of maps being considered to fill in the Eagle River population - Elmendorf/Fort Rich and the Chugach Mountain area. I would look closely at the socioeconomic integration of the two areas and carefully consider factors such as similarity in income, racial diversity, housing density, rural v/s urban etc. as both are of similar distance from Eagle River, with those on Elmendorf utilizing the Government Hill gate driving 16 miles from the gate to get to Eagle River and those on the Hillside driving 21 miles from Hilltop ski area to get to Eagle River. Thank you for the opportunity to comment, Yarrow Silvers

Date	Topic	Commenter	Comment
1/28/2022	Eagle River\Hillside	Yarrow Silvers	No part of Muldoon, including the North Muldoon finger, which has been disenfranchised for many years, should be paired with Eagle River. Evidence of the disenfranchisement of the North Muldoon finger can be found in their dismal voter turnout rate, which at 11.5% for the 2020 assembly election, was less than half of the turn out of the rest of Muldoon which averaged 24% turnout in that same election. Residents of the Muldoon finger are so sure that their vote doesn't count that they largely don't even bother to vote. This is an untenable situation and this gerrymander must not be allowed to continue, particularly in light of the ongoing litigation involved in the statewide Eagle River/Muldoon pairing. The two areas are not socio-economically integrated at all and do not share similar concerns and anyone that tries to tell you differently is attempting to maintain a previous gerrymander with no concern for the diverse East Anchorage voters whose voices have been, and would continue to be, muffled. East Anchorage is urban with high density housing, city water and sewer, lower on average incomes, a high proportion of title one schools, high racial diversity, and city maintained roads while Eagle River is largely rural, with large lot, low-density housing, well and septic, affluent households, low racial diversity and LRSA. East Anchorage residents rarely go to Eagle River, and it's doubtful that Eagle River residents do much more than drive through Muldoon on their way to town. This leaves you with two options in the current suite of maps being considered to fill in the Eagle River population - Elmendorf/Fort Rich and the Chugach Mountain area. I would look closely at the socioeconomic integration of the two areas and carefully consider factors such as similarity in income, racial diversity, housing density, rural v/s urban etc. as both are of similar distance from Eagle River, with those on Elmendorf utilizing the Government Hill gate driving 16 miles from the gate to get to Eagle River and those on the Hillside driving 21 miles from Hilltop ski area to get to Eagle River.
1/28/2022	Eagle River\Hillside	Yarrow Silvers	This leaves you with two options in the current suite of maps being considered to fill in the Eagle River population - Elmendorf/Fort Rich and the Chugach Mountain area. I would look closely at the socioeconomic integration of the two areas and carefully consider factors such as similarity in income, racial diversity, housing density, rural v/s urban etc. as both are of similar distance from Eagle River, with those on Elmendorf utilizing the Government Hill gate driving 16 miles from the gate to get to Eagle River and those on the Hillside driving 21 miles from Hilltop ski area to get to Eagle River.

Date	Topic	Commenter	Comment
1/28/2022	Eagle River\Hillside	Helene Mikes	Proposed Map#1 makes no sense for anything besides numbers. Picking off the southernmost part of District 6 and putting it into District 2, with which there is no contiguous road, is absurd. I suppose the residents of Goldenview and Potter Valley should hike 2 days to meetings through the Chugach? (sorry, being sarcastic) Why do you want to move JBER into District 1 anyway? Maps 3 and 4 combine Basher (Stuckagain Heights) into District 1, again with no contiguous road. Slightly shorter hike, though. :-) Why? And why on earth would you want to split JBER, which has clear and consistent interests and is administered as a Joint Base? Map 5: Again, why include Basher in District 6? And why put Muldoon in with District 2? If there were concerns about having a driving connection to the rest of the district, neither of these makes any sense. Map 6: Not sure why Independence Park needed to be carved out of District 6. Map 7: I am absolutely opposed to having East Hillside lumped in with District 2. I live in Anchorage, not in Eagle River or Chugiak. Same for Map 8. If the intent is to combine neighborhoods by socioeconomic status, there are plenty of similar places in Anchorage to combine. Has anyone done that sort of analysis, by the way? It would be interesting to see it. Please especially refer my comments to my two assembly members, John Weddleton and Suzanne LaFrance.
1/28/2022	Map One Greene	Helene Mikes	Proposed Map#1 makes no sense for anything besides numbers. Picking off the southernmost part of District 6 and putting it into District 2, with which there is no contiguous road, is absurd. I suppose the residents of Goldenview and Potter Valley should hike 2 days to meetings through the Chugach? (sorry, being sarcastic) Why do you want to move JBER into District 1 anyway?
1/28/2022	Map Three	Helene Mikes	Maps 3 and 4 combine Basher (Stuckagain Heights) into District 1, again with no contiguous road. Slightly shorter hike, though. :-) Why? And why on earth would you want to split JBER, which has clear and consistent interests and is administered as a Joint Base?
1/28/2022	Map Four	Helene Mikes	Maps 3 and 4 combine Basher (Stuckagain Heights) into District 1, again with no contiguous road. Slightly shorter hike, though. :-) Why? And why on earth would you want to split JBER, which has clear and consistent interests and is administered as a Joint Base?
1/28/2022	Map Five	Helene Mikes	Map 5: Again, why include Basher in District 6? And why put Muldoon in with District 2? If there were concerns about having a driving connection to the rest of the district, neither of these makes any sense.

Date	Topic	Commenter	Comment
1/28/2022	Map 6 Anchorage Action	Helene Mikes	Map 6: Not sure why Independence Park needed to be carved out of District 6.
1/28/2022	Map 7 Hockema	Helene Mikes	Map 7: I am absolutely opposed to having East Hillside lumped in with District 2. I live in Anchorage, not in Eagle River or Chugiak.
1/28/2022	Map 8 Alaskans for Fair Redistricting	Helene Mikes	I live in Anchorage, not in Eagle River or Chugiak. Same for Map 8. If the intent is to combine neighborhoods by socioeconomic status, there are plenty of similar places in Anchorage to combine. Has anyone done that sort of analysis, by the way? It would be interesting to see it.
1/28/2022	Public Comment Process	Helene Mikes	Please especially refer my comments to my two assembly members, John Weddleton and Suzanne LaFrance.
1/28/2022	Map Four	Darryl Parks	Within the maps, map 4 makes the most sense from a boundary standpoint. The problem lies that by including JBER in any of the districts, you do that district a disservice. Many, a large portion, of the population on JBER are not registered voters in the state of Alaska, as many service members maintain residency in their home state, even though they benefit from the services provided by the municipality. JBER residents are a transient population with most serving for 3 years, then moving on to their next assignment. Including JBER impacts the voting power of any district that includes portions of the base since many of the residents are not eligible to vote in the district where they reside.

Date	Topic	Commenter	Comment
1/31/2022	Map 6 Anchorage Action	Curtis Smith	I would like to strongly advocate for the adoption of Map #6 proposed by Anchorage Action for many reasons including the following: - Highly compact and contiguous - Closely resembles the current map except for the District 1, which understandably extends into Midtown due to the addition of a second representative - Better than Map #2, the next best map, for reasons that include: o Lower total deviation o District 4 in Map #6 includes the U-Med area while District 4 in Map #2 instead includes areas that nearly all people would normally consider to be associated with South Anchorage (e.g., O'Malley and Birch area in the present District 6) All of the remaining maps have substantial issues including the following: - Not contiguous--e.g., Map numbers 1, 7, 9, 10 all pair Eagle River / Chugiak with parts of South Anchorage and/or Stuckagain Heights - Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families - Not compact--e.g., District 5 in Map #3 extends over an unacceptably large and varied area from the Glenn Highway all the way to Huffman Road None of the proposed maps is perfect, but I believe Map #6 proposed by Anchorage Action is the best option for the reasons mentioned above. Thank you for the opportunity to comment. Curtis Smith
1/31/2022	Eagle River\Hillside	Curtis Smith	All of the remaining maps have substantial issues including the following: - Not contiguous--e.g., Map numbers 1, 7, 9, 10 all pair Eagle River / Chugiak with parts of South Anchorage and/or Stuckagain Heights -
1/31/2022	Map Two	Curtis Smith	District 4 in Map #2 instead includes areas that nearly all people would normally consider to be associated with South Anchorage (e.g., O'Malley and Birch area in the present District 6)
1/31/2022	Map One Greene	Curtis Smith	All of the remaining maps have substantial issues including the following: - Not contiguous--e.g., Map numbers 1, 7, 9, 10 all pair Eagle River / Chugiak with parts of South Anchorage and/or Stuckagain Heights - Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families

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1/31/2022	Map 7 Hockema	Curtis Smith	All of the remaining maps have substantial issues including the following: - Not contiguous--e.g., Map numbers 1, 7, 9, 10 all pair Eagle River / Chugiak with parts of South Anchorage and/or Stuckagain Heights - Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families
1/31/2022	Map 9 Wells A	Curtis Smith	All of the remaining maps have substantial issues including the following: - Not contiguous--e.g., Map numbers 1, 7, 9, 10 all pair Eagle River / Chugiak with parts of South Anchorage and/or Stuckagain Heights
1/31/2022	Map 10 Wells B	Curtis Smith	All of the remaining maps have substantial issues including the following: - Not contiguous--e.g., Map numbers 1, 7, 9, 10 all pair Eagle River / Chugiak with parts of South Anchorage and/or Stuckagain Heights
1/31/2022	Map 6 Anchorage Action	Curtis Smith	District 4 in Map #6 includes the U-Med area while District 4 in Map #2 instead includes areas that nearly all people would normally consider to be associated with South Anchorage (e.g., O'Malley and Birch area in the present District 6)
1/31/2022	Map Two	Curtis Smith	I would like to strongly advocate for the adoption of Map #6 proposed by Anchorage Action for many reasons including the following: - Highly compact and contiguous - Closely resembles the current map except for the District 1, which understandably extends into Midtown due to the addition of a second representative - Better than Map #2, the next best map, for reasons that include: o Lower total deviation o District 4 in Map #6 includes the U-Med area while District 4 in Map #2 instead includes areas that nearly all people would normally consider to be associated with South Anchorage (e.g., O'Malley and Birch area in the present District 6)
1/31/2022	JBER	Curtis Smith	- Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families
1/31/2022	Map Three	Curtis Smith	- Not compact--e.g., District 5 in Map #3 extends over an unacceptably large and varied area from the Glenn Highway all the way to Huffman Road
1/31/2022	Map Four	Curtis Smith	- Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families
1/31/2022	Map Five	Curtis Smith	- Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families

Date	Topic	Commenter	Comment
1/31/2022	Map 7 Hockema	Curtis Smith	- Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families
1/31/2022	Map 8 Alaskans for Fair Redistricting	Curtis Smith	- Placing all or part of JBER in Districts 1 or 5 (e.g., Map numbers 1, 4, 5, 7, 8) when JBER is best placed within District 2, an area that also has a significant presence of military personnel/families
2/1/2022	Map 9 Wells A	Denmer Wells	After the initial rounds of public feedback, I'd like to offer a revised map selection. Let's call this Denny's Neighborhood Cohesion map. I'd like to specifically offer it as a replacement for Denny's Map A, currently hosted as Map 9 on the reapportionment page. This map can be found at It can also be found at https://districtr.org/plan/107533 and an image of it is attached to this comment. The message I heard at the public hearings, and through people who have reached out since, is that keeping neighborhoods together is a high priority for the community. I heard this at last Wednesday's meeting from Assembly Member Zalatel regarding Rogers Park. I heard this from residents who spoke at Thursday's meeting about keeping Hillside together. I heard this from Assembly Member Allard at Thursday's meeting regarding maps that paired Eagle River with distant communities along Hillside or Turnagain Arm. I heard this from Stuckagain Heights residents who reached out expressing a desire to stay connected with Anchorage districts. The public comments online also are generally critical of various Anchorage-Eagle River or Anchorage-JBER pairings. I know that Alaskan's for Fair Redistricting has advocated an extremely low per-district deviation to achieve as much voter-parity as possible. But their map makes clear that holding rigidly to such a target results in a deep disregard for neighborhood integrity. In addition to their unusual boundary splitting neighborhoods across the north end of Russian Jack and Muldoon, their low deviation target drove a really unusual break through the middle of Bayshore, the carving off of a single block in the neighborhood around Vernon Street south of Dimond, a circuitous cut through Goldenview, drawing a line through the middle of the neighborhood south of Campbell Elementary, and they cut Airport Heights in half. I appreciate the precision with which they achieved a low deviation, but I believe their map demonstrates the unintended consequences of only focusing on one measure of equitable districts (low deviation) without considering other measures. Some of the other maps were less concerned with deviation, but they also missed some neighborhood cohesion elements. With my Neighborhood Cohesion map, I stayed with major roadways and waterways as boundaries as much as possible, as with my earlier proposal. I made the districts as compact as possible. Unlike the other maps which extend District 1 either north into JBER or south into Midtown, I paired the existing Downtown district with Turnagain and South Spenard, with the additional boundaries being Minnesota Blvd and International Airport Way. The deviation in this map is 4.42% - higher than my previous maps, but still fairly low, and a reasonable compromise for neighborhood integrity. To put that in perspective, if we were to measure voting power of a member of each district as their proportional share of the votes on the municipal assembly, under this plan, a person residing in districts 2 or 5 has a vote share of 0.0041% of an assembly member's vote, and a person residing in districts 1, 3, 4, or 6 has a vote share of 0.0042% of an assembly member's vote.

Date	Topic	Commenter	Comment
2/1/2022	Eagle River\Hillside	Denmer Wells	The message I heard at the public hearings, and through people who have reached out since, is that keeping neighborhoods together is a high priority for the community. I heard this at last Wednesday's meeting from Assembly Member Zalatel regarding Rogers Park. I heard this from residents who spoke at Thursday's meeting about keeping Hillside together. I heard this from Assembly Member Allard at Thursday's meeting regarding maps that paired Eagle River with distant communities along Hillside or Turnagain Arm. I heard this from Stuckagain Heights residents who reached out expressing a desire to stay connected with Anchorage districts. The public comments online also are generally critical of various Anchorage-Eagle River or Anchorage-JBER pairings.With my Neighborhood Cohesion map, I stayed with major roadways and waterways as boundaries as much as possible, as with my earlier proposal. I made the districts as compact as possible. Unlike the other maps which extend District 1 either north into JBER or south into Midtown, I paired the existing Downtown district with Turnagain and South Spenard, with the additional boundaries being Minnesota Blvd and International Airport Way. This map also has a couple of possible revisions which could be considered, in case you want to further reduce deviation: or further enhance compactness. Variation 1: Deviation Reduction Swap Stuckagain Heights from District 5 to District 2, and swap the census track that encompasses the northern half of Russian Jack Park from District 1 to District 2. This reduces deviation to 3 _ 22%. It retains 2 majority-minority districts. But it does impart significant road travel for the District 2 representatives to visit Stuckagain Heights. Swapping the census track that encompasses the Tikahtnu Commons retail complex from District 2 to District 5 further reduces deviation to 3 19% Variation 2: Compactness Enhancement. Swap the area around Reka and East High with the area around Wesleyan between districts 4 and 5, making the new boundary a north-south line along the Pine Street corridor, bordered by parks on one side of the boundary through its entire course. You could also swap Far North Bicentennial Park from District 5 to either District 4 or District 6 this would be entirety about the appearance of compactness, as there is no population there. Deviation is still 4.22%, but district 5 is now only 49.7% minority, so there is only one majority-minority district. Variation 3: Combine Variation 1 and Variation 2. Deviation is now 3.19%. We again have 2 majority-minority districts, but just barely district 5 is now 50.1% minority. The only way to get a deviation lower than this is to combine Eagle River with some other significant population center either combining Eagle River with a portion of Muldoon, or with a portion of Hillside, or with Girdwood and Indian. The public feedback we have heard to-date suggests those are not good pairings, especial y due to the population advantage Eagle River would have in such a pairing The combined Eagle River-to-Eklutna population is approximately 36,000, yielding a nearly 3-to-one advantage over whatever other community you pair them with in a 48,541 person district. I attempted map drafts that paired the core of Eagle River approximately 25,000 people with parts of Anchorage, leaving Chugiak/Eklutna to pair with either Turnagain Arm communities or JBER and downtown. Those produce profound y convoluted maps that are not compact and do not maintain neighborhood integrity. Combining Eagle with JBER: as I have done: the mathematical minimum possible deviation, with all 5 of the other districts exactly evenly split: is Consider that your baseline. 3.57% deviation is the price we pay to avoid pairing Eagle River with an arbitrary piece of an Anchorage neighborhood. The remaining 0.85% variation in my map is the price we pay to have a compact map that maintains neighborhood integrity as much as possible for the rest of the municipality, and which produces appropriate potential for minority representation. As we have seen from the maps proposed so far, all of the options impart some compromise or imperfection. We could draft maps that minimize deviation, but then we lose compactness and neighborhood cohesion. We could draft maps that directly follow community council boundaries, but the deviation would exceed our 10% threshold. We could draft maps that are perfectly compact, but they may divide neighborhoods. Or we could draft a map like this that attempts to balance compactness, neighborhood cohesion, and population deviation.
2/1/2022	Map 6 Anchorage Action	Doug Robbins	The standards for drawing fair Anchorage reapportionment maps should be the same as the criteria for State Districts in the Alaska constitution. Districts should be near equal population, compact, contiguous, and represent related neighborhoods. By those criteria, the best proposed map is Map 6, submitted by Anchorage Action. The districts in this map are compact, contiguous, and connect related neighborhoods. Proposed Map 2 is also good, but has a higher overall population deviation than Map 6. Map 6: Good. Districts are contiguous and compact, connecting related neighborhoods, with a better population deviation than Map 2.

Date	Topic	Commenter	Comment
2/1/2022	Map Two	Doug Robbins	The standards for drawing fair Anchorage reapportionment maps should be the same as the criteria for State Districts in the Alaska constitution. Districts should be near equal population, compact, contiguous, and represent related neighborhoods. By those criteria, the best proposed map is Map 6, submitted by Anchorage Action. The districts in this map are compact, contiguous, and connect related neighborhoods. Proposed Map 2 is also good, but has a higher overall population deviation than Map 6. Map 2: Good. Districts are contiguous and compact; connecting related neighborhoods.
2/1/2022	Eagle River\Hillside	Doug Robbins	By no means should Eagle River be connected to the Anchorage Hillside, Girdwood, or Stuckagain Heights. These neighborhoods use entirely different municipal infrastructure than Eagle River, have different problems, and cannot be represented well by a single Assembly representative. You shouldn't have to drive through other districts to get from one side to the other side of a district. Maps 1, 7, 8, 9 and 10 are bad because they connect unrelated neighborhoods to Eagle River.
2/1/2022	Map One Greene	Doug Robbins	Maps 1, 7, 8, 9 and 10 are bad because they connect unrelated neighborhoods to Eagle River. Map 1: Bad. Joins SE Anchorage and Girdwood to Eagle River.
2/1/2022	Map Three	Doug Robbins	Maps 3, 4 and 5 are bad because they connect unrelated neighborhoods across Bicentennial Park, or unrelated neighborhoods from north to south across east Anchorage. Map 3: Bad. District 5 extends across unpopulated Bicentennial Park, connecting unrelated neighborhoods north and south from Glenn Highway to South Anchorage.
2/1/2022	Map Four	Doug Robbins	Maps 3, 4 and 5 are bad because they connect unrelated neighborhoods across Bicentennial Park, or unrelated neighborhoods from north to south across east Anchorage. Map 4: Bad. District 5 is not contiguous or compact; it extends across Bicentennial Park, connecting unrelated neighborhoods.
2/1/2022	Map Five	Doug Robbins	Maps 3, 4 and 5 are bad because they connect unrelated neighborhoods across Bicentennial Park, or unrelated neighborhoods from north to south across east Anchorage. Map 5: Bad. District 5 is not compact; it connects JBER with a neighborhood adjacent to Dowling.
2/1/2022	Map 7 Hockema	Doug Robbins	Maps 1, 7, 8, 9 and 10 are bad because they connect unrelated neighborhoods to Eagle River. Map 7: Bad. Stuckagain Heights and the Upper Hillside are connected with Eagle River.
2/1/2022	Map 8 Alaskans for Fair Redistricting	Doug Robbins	Maps 1, 7, 8, 9 and 10 are bad because they connect unrelated neighborhoods to Eagle River. Map 8: Bad. Lower & Upper Hillside, and Stuckagain Heights are connected to Eagle River.
2/1/2022	Map 9 Wells A	Doug Robbins	Maps 1, 7, 8, 9 and 10 are bad because they connect unrelated neighborhoods to Eagle River. Map 9: Bad. Stuckagain Heights is connected to Eagle River.

Date	Topic	Commenter	Comment
2/1/2022	Map 10 Wells B	Doug Robbins	Maps 1, 7, 8, 9 and 10 are bad because they connect unrelated neighborhoods to Eagle River. Map 10: Bad. Stuckagain Heights is connected to Eagle River.
2/1/2022	Eagle River\Hillside	Nicole Branch	After studying the maps presented, Maps 3 and 5 are the most reasonable reapportionment suggestions. 1) JBER is a unique part of our community. JBER falls under a single community commander who is responsible for everything that happens on the base. Dividing JBER into more than one district, whether 1, 2, or 5, will not allow for the base commander to create a unified and cohesive base. The responsibilities of the base commander stretch into the community. The base commander should be focused on their "constituents" and not the juggling the responsibilities associated with multiple districts. Also, one needs to examine the actual number of Alaskan voters on JBER. Dividing them into multiple districts may not provide them with the best representation possible. 2) I also disagree with dividing the Hillside into district 2 or 6. The assumption is that Hillside voters align with ER voters due to lot size among other factors. If the Upper Hillside to Girdwood is placed in District 2, I believe that those in Bird thru Girdwood will be underrepresented. Should they become part of District 2, their representation will be invisible due to the strength of ER. The Hillside should closely mimic the school boundaries set by ASD creating a unified interest. It is nonsensical to have the district 2 representative drive every district to reach both ends of their district. Logic needs to drive the reapportionment, not creating the most favorable boundaries for elections.
2/1/2022	Map Three	Nicole Branch	After studying the maps presented, Maps 3 and 5 are the most reasonable reapportionment suggestions.
2/1/2022	Map Five	Nicole Branch	After studying the maps presented, Maps 3 and 5 are the most reasonable reapportionment suggestions.
2/3/2022	Eagle River\Hillside	Patrick Hoffmann	My concerns are limited to the general neighborhood in which we live, the Upper Hillside. We have nothing in common with Chugiak / Eagle River (CER) but elevation. Therefore I categorically reject any pairing of our neighborhood with CER. This limits my support to Denny Wells A and B, maps #9 and #10, as well as Anchorage Action map #6. Maps 2 & 4 could be tolerated, but the rest are unacceptable.
2/3/2022	Eagle River\Hillside	Patrick Hoffmann	My concerns are limited to the general neighborhood in which we live, the Upper Hillside. We have nothing in common with Chugiak / Eagle River (CER) but elevation. Therefore I categorically reject any pairing of our neighborhood with CER

Date	Topic	Commenter	Comment
2/3/2022	Map 9 Wells A	Patrick Hoffmann	My concerns are limited to the general neighborhood in which we live, the Upper Hillside. We have nothing in common with Chugiak / Eagle River (CER) but elevation. Therefore I categorically reject any pairing of our neighborhood with CER. This limits my support to Denny Wells A and B, maps #9 and #10
2/3/2022	Map 10 Wells B	Patrick Hoffmann	My concerns are limited to the general neighborhood in which we live, the Upper Hillside. We have nothing in common with Chugiak / Eagle River (CER) but elevation. Therefore I categorically reject any pairing of our neighborhood with CER. This limits my support to Denny Wells A and B, maps #9 and #10
2/3/2022	Map Two	Patrick Hoffmann	Maps 2 & 4 could be tolerated, but the rest are unacceptable.
2/3/2022	Map Four	Patrick Hoffmann	Maps 2 & 4 could be tolerated, but the rest are unacceptable.
2/3/2022	Map 6 Anchorage Action	Patrick Hoffmann	Therefore I categorically reject any pairing of our neighborhood with CER. This limits my support to Denny Wells A and B, maps #9 and #10, as well as Anchorage Action map #6.
2/3/2022	Eagle River\Hillside	Catherine Larrea	After review of the proposed redistricting maps, I am strongly against any boundary changes that would lump any part of the Hillside area with Eagle River/Chugiak areas. These are completely different communities. The maps proposals I appose are Map 1, Map 7 and Map 8. I oppose any other current or future redistricting that combine any or all of the Hillside with Eagle River.
2/3/2022	Map One Greene	Catherine Larrea	The maps proposals I appose are Map 1, Map 7 and Map 8.
2/3/2022	Map 7 Hockema	Catherine Larrea	The maps proposals I appose are Map 1, Map 7 and Map 8.
2/3/2022	Map 8 Alaskans for Fair Redistricting	Catherine Larrea	The maps proposals I appose are Map 1, Map 7 and Map 8.

Date	Topic	Commenter	Comment
2/3/2022	Eagle River\Hillside	Deirdre Schwartz	I have reviewed the redistributing maps and want to express concern over extending District 2 into the South Anchorage Hillside beyond the military boundary as shown in Map 8 and others. Eagle River and the non-military areas of Anchorage Hillside are very different politically, demographically, and environmentally. I would not expect an elected Assembly member to be able to fairly represent such diverse interests and priorities. Please do not dilute representation for either community by combining these disparate areas.
2/3/2022	Map 8 Alaskans for Fair Redistricting	Deirdre Schwartz	I have reviewed the redistributing maps and want to express concern over extending District 2 into the South Anchorage Hillside beyond the military boundary as shown in Map 8 and others. Eagle River and the non-military areas of Anchorage Hillside are very different politically, demographically, and environmentally. I would not expect an elected Assembly member to be able to fairly represent such diverse interests and priorities. Please do not dilute representation for either community by combining these disparate areas.
2/3/2022	Eagle River\Hillside	Cathy Foerster	The constituency and needs of the Upper Hillside are very different from those of Eagle River and Chugiak Please do not lump their representation.
2/3/2022	Eagle River\Hillside	Cindy Lelake	Listening to the first (virtual) muni redistricting conversation, I was struck by the fact that Independence Park, where I reside, seems to move at whim from map to map. The precise "character" of Independence Park, which seems to be a perennial question, also permeates state redistricting maps and efforts. In the current state redistricting plan, it joins the Lower Hillside in District 11. My perspective is that, as far as muni redistricting goes, the high-density housing situation of most of Independence Park makes it a poor candidate for combination with the Hillside assembly district, which for the most part consists of individual dwellings on relatively large property parcels. Thanks for considering my input! Cindy Lelake
2/3/2022	Eagle River\Hillside	Stephanie Cornwell-George	Leave Eagle River and Chugiak as they are. We are nothing like hillside or Girdwood. We each have our own concerns, a rep trying to speak for both would not be representative and would limit access. ERCC includes Birchwood, Peters creek, Eklutna and these areas are one of the few places left for anchorage to really grow. Eagle River already wants to separate, lumping us in with another community that has their own unique needs would only push that desire further.

Date	Topic	Commenter	Comment
2/3/2022	Eagle River\Hillside	Richard Emanuel	To Whom It May Concern: I am writing to strongly object to Maps 1 and 8, which would put my home and neighborhood, presently in Dist 6, into Dist 2. I live in the mid-Hillside, near Huffman and Birch Roads. I know little about local issues as they affect Eagle River, which represents the heart of Dist. 2. Nor do I believe many residents of Dist. 2 know much about where I live. "Contiguous" means "being in actual contact or sharing a common boundary." My neighborhood is NOT in contact with Eagle River. That is an absurd assertion. If there is a "common boundary" here, it seems to be Chugach State Park. Are there any voters in the Park? Are there voting precincts in the Park? No, there are not. Now, I like Eagle River just fine. But the last time I was there was when I stopped at Jitters once last summer. I have friends in Eagle River who consider it a big deal to drive into "Anchorage," by which they usually mean Muldoon, or maybe the Center for the Performing Arts or the 5th Avenue Mall. They don't shop in South Anchorage, at the Dimond Center or anywhere else. They might visit the Alaska Zoo, but even so, neither the Zoo nor the Dimond Center are in Dist. 2 on either Maps 1 or Map 8. These proposals stretch the concept of "contiguous" well beyond the breaking point. Just because you can color in a section of Chugach State Park as if it were part of Dist. 2 does not establish a meaningful connection between Eagle River and my mid-Hillside neighborhood. Maps 1 and 8 are blatantly bogus reapportionment schemes, drawn for reasons I cannot fathom and without regard to reality. They are absurd. At present, I feel very well represented by the assembly persons for District 6. Please do not put me in District 2. The Hon. Jamie Allard would not well represent me or my family on the Assembly. And the representation works both ways: Believe me, Ms. Allard would not want me as a constituent. Vote NO on Map 1 and Map 8!
2/3/2022	Map One Greene	Richard Emanuel	To Whom It May Concern: I am writing to strongly object to Maps 1 and 8, which would put my home and neighborhood, presently in Dist 6, into Dist 2. Now, I like Eagle River just fine. But the last time I was there was when I stopped at Jitters once last summer. I have friends in Eagle River who consider it a big deal to drive into "Anchorage," by which they usually mean Muldoon, or maybe the Center for the Performing Arts or the 5th Avenue Mall. They don't shop in South Anchorage, at the Dimond Center or anywhere else. They might visit the Alaska Zoo, but even so, neither the Zoo nor the Dimond Center are in Dist. 2 on either Maps 1 or Map 8. These proposals stretch the concept of "contiguous" well beyond the breaking point. Maps 1 and 8 are blatantly bogus reapportionment schemes, drawn for reasons I cannot fathom and without regard to reality. Vote NO on Map 1 and Map 8!
2/3/2022	Map 8 Alaskans for Fair Redistricting	Richard Emanuel	To Whom It May Concern: I am writing to strongly object to Maps 1 and 8, which would put my home and neighborhood, presently in Dist 6, into Dist 2. Now, I like Eagle River just fine. But the last time I was there was when I stopped at Jitters once last summer. I have friends in Eagle River who consider it a big deal to drive into "Anchorage," by which they usually mean Muldoon, or maybe the Center for the Performing Arts or the 5th Avenue Mall. They don't shop in South Anchorage, at the Dimond Center or anywhere else. They might visit the Alaska Zoo, but even so, neither the Zoo nor the Dimond Center are in Dist. 2 on either Maps 1 or Map 8. These proposals stretch the concept of "contiguous" well beyond the breaking point. Maps 1 and 8 are blatantly bogus reapportionment schemes, drawn for reasons I cannot fathom and without regard to reality. Vote NO on Map 1 and Map 8!
2/4/2022	Map Two	Kenneth Kugel	I support Map 2. The new districts as drawn are compact and maintain neighborhood cohesiveness. There is minimal movement of the existing district boundaries so as to be the least disruptive to the voters.

Date	Topic	Commenter	Comment
2/5/2022	Eagle River\Hillside	Matt Burkholder	Please keep neighborhoods whole and districts contiguous. Please leave Eagle River in Eagle River and don't drag it down into South Anchorage. Thanks.
2/6/2022	Eagle River\Hillside	Julie Coulombe	I strongly object to any of the Hillside being combined with District 2. It is not contiguous. We are also our own separate community with shared interests and history. Large lots, wells and LRSA's do not wholly define a community. Eagle River has its own unique identity and issues that will overshadow the small population being proposed on the Hillside for District 2. Eagle River should be combined with JBER instead of Muldoon or the Hillside. Eagle River has a high percentage of military population living there, and is a much more obvious fit with JBER. I also urge you not to just focus on the variance, but community cohesion. It makes more sense for the Midtown District to move South and West into District 6, than to take off the Hillside to District 2.
2/6/2022	Eagle River\Hillside	charles springer	The idea of combining Eagle River and the Hillside is absurd. Now if your reason is to dilute the representation of the Hillside then it represents the best in gerrymandering.
2/6/2022	Eagle River\Hillside	Julie Coulombe	The Board of HALO has passed, with unanimous vote, the attached resolution against combining any or part of the Hillside with Eagle River (District 2).
2/7/2022	Eagle River\Hillside	Jodi Taylor	Maps that join South Anchorage and Eagle River are putting together two communities with separate needs. Eagle River is clearly a bedroom community of Anchorage vs South Anchorage is part of the city - wishes of residents will be too varied and poor fit. Maps that leave Eagel River with JBER, were families go to school, shop, sports have worked and make sense. Leaving South Anchorage as a group also makes sense for families that shop, children attends same schools and use the same community areas therefore have stronger overlapping concerns. Please keep South Anchorage alone, and group JBER w Eagle River.

Date	Topic	Commenter	Comment
2/7/2022	Map Two	Paula Davis	Hi Reapportionment Committee, Thanks so much for including the public in this very important process, since it could affect us all so much. I'd like to go on record for a preference for Map2 of the options displayed recently at the library. I had a hard time trying to figure out the districts from the movable map on line, so I really appreciated the nice visual, which I"m sure you must display from time to time. In a nutshell, Map 2 seems the best because it seems least disruptive and doesn't stretch out districts to include areas that do not seem related. Thanks for all your hard work. Sincerely, Paula Davis
2/7/2022	Eagle River\Hillside	Cynthia Wentworth	Dear Assembly members, I strongly oppose creating District 2 Chugiak/Eagle River to include much of the eastern Hillside. These are two areas which differ socioculturally and which have very different issues. I feel the Hillside residents would be outnumbered and misrepresented.
2/8/2022	Map Five	Bryan Silva	I would be willing to accept all the apportionment maps as presented except #5. However, Eagle River should not be part of the Muldoon district. These are very different neighborhoods and need to be separated for voting purposes. Let the two neighborhoods be part of more similar voting districts.
2/8/2022	Eagle River\Hillside	John Yeafoli	Districts should be contiguous to the greatest extent possible, allowing citizens and representatives to focus on common issues. Maps 7 & 8 propose merging parts of District 6 Hillside and District 2 Eagle River. The Hillside has unique traits and issues and I am not in favor of mixing these two districts in order to make the numbers work. There are several other map proposals that balance the numbers without breaking up the District 6 hillside area.
2/8/2022	Map 7 Hockema	John Yeafoli	Maps 7 & 8 propose merging parts of District 6 Hillside and District 2 Eagle River. The Hillside has unique traits and issues and I am not in favor of mixing these two districts in order to make the numbers work. There are several other map proposals that balance the numbers without breaking up the District 6 hillside area.

Date	Topic	Commenter	Comment
2/8/2022	Map 8 Alaskans for Fair Redistricting	John Yeafoli	Maps 7 & 8 propose merging parts of District 6 Hillside and District 2 Eagle River. The Hillside has unique traits and issues and I am not in favor of mixing these two districts in order to make the numbers work. There are several other map proposals that balance the numbers without breaking up the District 6 hillside area.
2/8/2022	Eagle River\Hillside	Yarrow Silvers	**BROAD CONSIDERATIONS** · Majority Minority districts – Current maps have two – districts 1 and 5. It is an important VRA consideration to maintain two majority minority districts in the new maps. From the link provided: "In practice, Section 2 essentially requires that at least the same number of minority opportunity districts in a previous redistricting plan must be drawn in a new redistricting plan. There are two exceptions: In areas where minority populations have grown, such as Latino communities in Texas, more minority opportunity districts may be required under Section 2. The Supreme Court has ruled that it is permissible for states and localities to draw such districts to avoid litigation. In areas where minority populations have decreased, it may be impossible to draw a minority opportunity district. In this case, a minority opportunity district may not be required." http://www.publicmapping.org/what-is-redistricting/redistricting-criteria-the-voting-rights-act Smaller deviations more closely follow one person/one vote principles. Maps should give weight to socio-economic considerations, compactness, deviation and contiguity. **THE MAPS 1. Matt Greene** A Girdwood and Eagle River pairing does not make a lot of sense due to the driving times across the district as a whole. Map does have low deviations, two majority minority districts and pairs similarly rural areas. **2. Muni map 1** This map has unacceptable deviations at 7.75%. It also takes out what appears to be about 1/3 of the historical midtown, including University area. **3. Muni map 2** By moving district 5 down into South Anchorage this map loses the second majority minority district by a wide margin. Midtown and East Anchorage are both changed significantly in character and communities of interest are not respected. **4. Muni map 3** District 5 is not compact and oddly shaped where it reaches in and grabs a section of midtown. Part of East Anchorage is unacceptably placed in an Eagle River district with which it is not socio-economically integrated. The portion of East Anchorage that is combined with Eagle River includes a large census block with median incomes of just $21,000 per year. Much of Eagle River is over $150,000 per year. For more on the socio-economic considerations of combining parts of East Anchorage with Eagle River please see my previous public comment. **5. Muni Map 4** This is a terrible map. I could write pages why but I think everyone knows it. It is another map that loses the second majority minority district by a large margin.

Date	Topic	Commenter	Comment
2/8/2022	Unclassified	Yarrow Silvers	**BROAD CONSIDERATIONS** Majority Minority districts – Current maps have two – districts 1 and 5. It is an important VRA consideration to maintain two majority minority districts in the new maps. From the link provided: "In practice, Section 2 essentially requires that at least the same number of minority opportunity districts in a previous redistricting plan must be drawn in a new redistricting plan. There are two exceptions: 1. In areas where minority populations have grown, such as Latino communities in Texas, more minority opportunity districts may be required under Section 2. The Supreme Court has ruled that it is permissible for states and localities to draw such districts to avoid litigation. 2. In areas where minority populations have decreased, it may be impossible to draw a minority opportunity district. In this case, a minority opportunity district may not be required." http://www.publicmapping.org/what-is-redistricting/redistricting-criteria-the-voting-rights-act Smaller deviations more closely follow one person/one vote principles. Maps should give weight to socio-economic considerations, compactness, deviation and contiguity.
2/8/2022	Map One Greene	Yarrow Silvers	**Matt Greene** A Girdwood and Eagle River pairing does not make a lot of sense due to the driving times across the district as a whole. Map does have low deviations, two majority minority districts and pairs similarly rural areas.
2/8/2022	Map One Greene	Yarrow Silvers	**2. Muni map 1** This map has unacceptable deviations at 7.75%. It also takes out what appears to be about 1/3 of the historical midtown, including University area.
2/8/2022	Map Two	Yarrow Silvers	**3. Muni map 2** By moving district 5 down into South Anchorage this map loses the second majority minority district by a wide margin. Midtown and East Anchorage are both changed significantly in character and communities of interest are not respected.

Date	Topic	Commenter	Comment
2/8/2022	Map Three	Yarrow Silvers	**4. Muni map 3** District 5 is not compact and oddly shaped where it reaches in and grabs a section of midtown. Part of East Anchorage is unacceptably placed in an Eagle River district with which it is not socio-economically integrated. The portion of East Anchorage that is combined with Eagle River includes a large census block with median incomes of just $21,000 per year. Much of Eagle River is over $150,000 per year. For more on the socio-economic considerations of combining parts of East Anchorage with Eagle River please see my previous public comment.
2/8/2022	Map Four	Yarrow Silvers	**5. Muni Map 4** This is a terrible map. I could write pages why but I think everyone knows it. It is another map that loses the second majority minority district by a large margin.
2/8/2022	Map 9 Wells A	Yarrow Silvers	**9. Denny Wells Map A replacement map found in public comments.** This map badly damages West Anchorage, placing the bulk in with downtown and creating what are essentially 2 South Anchorage Districts. One testimony I heard often with respect to statewide redistricting is that Turnagain/Spenard residents did not want to be paired with downtown.
2/8/2022	Map 10 Wells B	Yarrow Silvers	**9. Denny Wells Map B** Good deviations and compact shapes. Moves Midtown further south than I would like to see, removing University as well Airport Heights and Rogers Park.
2/8/2022	Map 6 Anchorage Action	Yarrow Silvers	6. Map 6 Anchorage Action This map was created with community input and with the initial prerequisite that Anchorage not cross into Eagle River. This stipulation is not without drawbacks, the most obvious of these being that going with the status quo completely ignores that JBER is also a part of Anchorage, and that Elmendorf in particular is quite far removed from Eagle River. It is unlikely that the people residing here and utilizing the Government Hill Gate go to Eagle River on any regular basis, nor are they socio-economically integrated with District 2. JBER is urban in nature, diverse and residents have a median household income of $61,000 annually. We tried to stretch District 1 fairly equally into districts 3, 4, and 5 so as to do the least amount of harm to communities of interest but you will find that it is impossible not to pull parts of these into District 1 with downtown doubling in size. A small section of Spenard is removed from 3, Rogers Park and Airport Heights from 4 (although we were able to keep University area in Midtown) and parts of the NW section of East Anchorage from 5. I would have liked to have kept Independence Park with its traditional district 6, but the density of population there coupled with Midtown and Downtown both being slightly underpopulated made that difficult. Nevertheless, I believe this map is the best of the options that follow the status quo with regards to District 2 and most closely keeps the districts as they have been. In tightening the deviations of this map, we inadvertently dropped district 5 slightly below a majority minority district. To fix this issue as well as tighten the deviations further, I would go back and place Basher/Stuckagain Heights in with South Anchorage.

Date	Topic	Commenter	Comment
2/8/2022	Map 7 Hockema	Yarrow Silvers	**7. Map 7 Robert Hockema** In map 7 Robert addressed some of the issues that inherently arise from trying to maintain the status quo of one district while doubling the size of another into the remaining districts. Elmendorf is reunited with the Government Hill community with which it is most socioeconomically integrated while Fort Rich remains with Eagle River. This allows less impacts on districts 3, 4, and 5 but does represent a change for district 6, which has some of its Chugach Mountain areas combined with Eagle River. This is the area of Anchorage that is most socio-economically similar to Eagle River. This also allows for tighter deviations and more socioeconomic integration than there is with the status quo, which pairs diverse, urban, lower income communities on public utilities with rural, large lot, less diverse and more affluent communities largely using well and septic. This map has low deviations and two majority minority districts. I want to discuss one further issue with respect to the higher deviations of the status quo maps. These deviations are mostly the result of Eagle River being significantly underpopulated, which begins to move away from the one person/one vote principle. Underpopulation results in a greater strength of district 2 votes. This unequal voting power is further magnified by being paired with an area where the majority of its residents vote in their home states. JBER had a population of 12,915 as of 2019 census data. In the 2020 assembly election JBER had 515 votes cast. This in combination with the underpopulation of district 2 creates significant disparities in voting power between district 2 voters and voters in Anchorage's other 5 districts. This map addresses this issue by allowing Eagle River to be less underpopulated and by splitting JBER with another district.
2/8/2022	Map 8 Alaskans for Fair Redistricting	Yarrow Silvers	**8. Map 8 AFFR** The AFFR map appears to have also recognized and addressed some of the issues discussed above but places all of JBER in with district 1, as well as the areas outside of the JBER gates with high proportions of service members . It achieves remarkable deviations and includes two majority minority districts.
2/8/2022	Eagle River\Hillside	Katie Nolan	I am hesitant to endorse any map as these are not yet set in stone; however, the version submitted by Anchorage Action and the A & B versions of Denny Wells map are the only choices for the Anchorage Hillside. The Anchorage Hillside is a compact, cohesive and well-established area represented by the Hillside District Plan for well over a decade. It has little in in common with Eagle River, and attempts to fly over the mountains and combine the two areas are obscene. Unlike the Anchorage Hillside, Eagle River has their own Parks & Rec department and their own road service area. Please ensure that the Anchorage Hillside is kept in one area, united as we have always been. Thank you.
2/8/2022	Map 6 Anchorage Action	Katie Nolan	I am hesitant to endorse any map as these are not yet set in stone; however, the version submitted by Anchorage Action and the A & B versions of Denny Wells map are the only choices for the Anchorage Hillside.

Date	Topic	Commenter	Comment
2/8/2022	Map 9 Wells A	Katie Nolan	I am hesitant to endorse any map as these are not yet set in stone; however, the version submitted by Anchorage Action and the A & B versions of Denny Wells map are the only choices for the Anchorage Hillside.
2/8/2022	Map 10 Wells B	Katie Nolan	I am hesitant to endorse any map as these are not yet set in stone; however, the version submitted by Anchorage Action and the A & B versions of Denny Wells map are the only choices for the Anchorage Hillside.
2/8/2022	Eagle River\Hillside	Nicholas Mazzolini	I believe that the combining of the hillside and Eagle River marginalizes the voters of these areas. For this reason, i would like to oppose this reapportionment. Nick Mazzolini and household
2/8/2022	Eagle River\Hillside	John Kaufman	This is John Kaufman of Hillside O'Malley HOCC. I have read the maps and comments. The maps and comments for maps A and B are excellent. Map 10 is also excellent. Above all, please observe the boundaries of the Hillside District Plan. Do not merge Eagle River with any portion of Hillside. Few population changes or movements exist that would justify dividing our traditional associations and boundaries into separate districts. Thank you
2/8/2022	Map 10 Wells B	John Kaufman	The maps and comments for maps A and B are excellent. Map 10 is also excellent.
2/8/2022	Map 9 Wells A	John Kaufman	The maps and comments for maps A and B are excellent.

Date	Topic	Commenter	Comment
2/9/2022	Eagle River\Hillside	Huffman O'Malley Community Cou HOCC c/o Gretchen Stoddard	The Huffman O'Malley Community Council board met on 2/8/22 and unanimously passed a resolution related to Municipal Reapportionment. The HOCC supports reapportioned districts which keep the lower and upper Hillside together forming a district with boundaries similar to the Hillside District Plan and with road access to support community functions . The signed resolution is attached and has sent by email to the municipal assembly email addresses. Thank you Gretchen Stoddard President, Huffman O'Malley Community Council
2/9/2022	Eagle River\Hillside	Katie Nolan	The addition of several new potential reapportionment maps has provided a map that meets the Hillside's unique needs. The John Weddleton Map 11 meets the needs of the Anchorage Hillside, most follows the boundaries of the Hillside District Plan, and keeps our distinct neighborhoods together. I urge endorsement of this map. Thank you.
2/12/2022	Eagle River\Hillside	Peter Johnson	I have been following the reapportionment map proposals and am very concerned about maps that join Eagle River (district 2) with parts of the Anchorage Hillside (district 6). because of the population density of Eagle River and the low density of the Hillside, those from district 6 being placed in district 2 would lose any political voice they now have. Additionally, the Anchorage Hillside is a coherent community with common interests and values. Splitting the hillside into different districts does not make sense and must not be done. Of the maps presented, I support Anchorage Action V2. I am adamantly against the Robert Hockema V2 and the Anchorage for Fair Redistricting maps. Both of those maps will result in beefing up Eagle River's political influence and decrease South Anchorge's political voice.
2/13/2022	Eagle River\Hillside	Kim Mazzolini	I strongly disagree with the re-apportionment concept of combining Eagle River and the hillside. The very fact that these two communities are on polar opposite sides of multiple issues and the demographics are drastically different are are reason enough not to force them into the same voting district. In addition, growth in the anchorage area is in the direction of eagle river which will quickly create an imbalance. The combining of these two districts will also lead to a drastic marginalization of many of these citizens' votes and is not in the best interest of either of these districts. Reapportionment is not to be used as a political tool in an attempt to strengthen a liberal majority. Once again your push to control the Anchorage area voters needs to be called out. Unfortunately this constant conflict the assembly creates with the people of Anchorage is outrageous and needs to stop!

Date	Topic	Commenter	Comment
2/13/2022	Eagle River\Hillside	EG Paul Mazzolini	I strongly disagree with the re-apportionment concept of combining Eagle River and the hillside. The very fact that these two communities are on polar opposite sides of multiple issues and the demographics are drastically different are are reason enough not to force them into the same voting district. In addition, growth in the anchorage area is in the direction of eagle river which will quickly create an imbalance. The combining of these two districts will also lead to a drastic marginalization of many of these citizens' votes and is not in the best interest of either of these districts. Reapportionment is not to be used as a political tool in an attempt to strengthen a liberal majority. Once again your push to control the Anchorage area voters needs to be called out. Unfortunately this constant conflict the assembly creates with the people of Anchorage is outrageous and needs to stop!
2/13/2022	Eagle River\Hillside	Ann Rappoport, Co-chair	RESOLUTION AND COMMENTS FROM THE RABBIT CREEK COMMUNITY COUNCIL ON THE 2022 ASSEMBLY REAPPORTIONMENT PROCESS At our February 10, 2022 meeting, the Rabbit Creek Community Council (RCCC) discussed draft maps currently under consideration for the required Assembly Reapportionment process. In doing so, the RCCC reminds the Assembly Reapportionment Committee that: legal requirements compel the Committee to create districts which are "compact and contiguous territory containing as nearly as practicable a relatively integrated socioeconomic area" (Municipality of Anchorage Code of Ordinance, Part I, Article IV, Section 4.01). By a vote of 26 yeas, 3 nays, and 1 abstention, RCCC approved the following resolution: RESOLUTION The Rabbit Creek Community Council: • Affirms that the re-apportionment closely follow the legal requirements to create compact, contiguous, and socioeconomically integrated districts. • Opposes combination of any portions of the Hillside with Eagle River. • Emphasizes that Chugach State Park does not create contiguity between the populations of the Hillside and Eagle River, as it is uninhabited. Therefore, reapportionment maps should display it as a distinct, unpopulated area. • Supports continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River. JUSTIFICATION The RCCC strongly opposes any map that would combine the Rabbit Creek and neighboring Hillside areas with Eagle River because these two distinct, separate areas are not integrated through socio-economic interactions, land use patterns, businesses, roads and traffic patterns, or schools. Additionally, these areas are neither compact nor contiguous, thus further failing to meet the

Date	Topic	Commenter	Comment
2/13/2022	Map 10 Wells B	Ann Rappoport, Co-chair	• Supports continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River
2/13/2022	Map 9 Wells A	Ann Rappoport, Co-chair	• Supports continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River
2/13/2022	Eagle River\Hillside	Ann Rappoport, Co-chair	While maintaining a low population deviation between districts is of obvious importance, it is not outlined as a consideration in Section 4.01, and therefore should not be granted more importance than the criteria that are included in Municipal ordinance. Respecting neighborhood continuity is more important than pushing for the smallest deviation in size of each Assembly district and will best achieve fair representation. We do appreciate the difficulty of this effort.
2/14/2022	Map 10 Wells B	Courtney Weaver	As the deadline draws near for the approval of new district maps for Anchorage, I would like you all to consider approving district map 10. This map draws the boundaries of the districts at distinct and specific road systems. Anchorage residents can rely on map 10 because the boundaries are laid out along most major roadways and intersections. This map ensures all residents are equally represented on the assembly regardless of political leaning, beliefs, or creed. Please consider the approval and use of district map 10.
2/14/2022	Eagle River\Hillside	Vicki Herman	I do not support combining Eagle River and the Hillside into one district.
2/14/2022	Map 11v2 Weddleton	Nicole Branch	To whom it may concern: I would like to place a rank order for preference of the remaining three reapportionment maps. 1. Weddleton map. Boundaries are clear and concise between districts. 2. Anchorage Action v2. Maintains integrity within the hillside. District 4 boundaries between Lake Otis and New Seward create some confusion in an otherwise cohesive area. 3. Hocksma v2. District 4 boundary has the same issue as the Anchorage Action map. Also, a portion of Hillside is placed in district 2. Not optimal for fair representation. Thank you, Nicole Branch

Date	Topic	Commenter	Comment
2/14/2022	Map 6v2 Anchorage Action	Nicole Branch	2. Anchorage Action v2. Maintains integrity within the hillside. District 4 boundaries between Lake Otis and New Seward create some confusion in an otherwise cohesive area.
2/14/2022	Map 7v2 Hockema	Nicole Branch	3. Hocksma v2. District 4 boundary has the same issue as the Anchorage Action map. Also, a portion of Hillside is placed in district 2. Not optimal for fair representation.
2/14/2022	Eagle River\Hillside	Scott Herman	I oppose combining the hillside and eagle river into one voting district.
2/14/2022	Map 11v2 Weddleton	Irene Bortnick	As residents of the Rogers Park Community Council, our preference is for map 11 which leaves most of out community council intact. Irene and Alex Bortnick
2/14/2022	Map 6v2 Anchorage Action	Sandra Blomfield	Reapportionment Committee, I have reviewed the criteria and maps presented for consideration. I would like to endorse MAP #6. However, you might consider minor changes to the midtown area. Boundaries for a midtown area logically could include: NORTH BOUNDARY DEBAR ROAD SOUTH BOUNDARY TUDOR ROAD EAST BOUNDARY BONIFACE ROAD WEST BOUNDARY MINNESOTA The above boundaries offer Midtown residents their own representation and is not included with the Downtown district. Downtown district should include the port JBEAR should be included with Eagle River Strong opposition to moving the Upper Hillside to Eagle River. Thank you for your consideration. Sandy Blomfield

Date	Topic	Commenter	Comment
2/14/2022	Eagle River\Hillside	Sandra Blomfield	Strong opposition to moving the Upper Hillside to Eagle River.
2/14/2022	JBER	Sandra Blomfield	JBEAR should be included with Eagle River
2/15/2022	Map 10 Wells B	Nathan Andrews	I support the adoption and approval of proposed Map 10
2/15/2022	Map 12 Allard	Brad Chastain	I own four properties within the Municipality of Anchorage and fully support Map 12 offered by Assemblywoman Allard.
2/15/2022	Map 6v2 Anchorage Action	David Ferriera	I support map 6 and 7!
2/15/2022	Map 7v2 Hockema	David Ferriera	I support map 6 and 7!
2/15/2022	Unclassified	Daisy Smith	I support Map 11b for the strongest consideration. I see no cause for concern in this map. Districting lines stay mostly along natural lines and none of the current districts are carved up in some radical way. Thanks-
2/16/2022	Eagle River\Hillside	Rebecca Judd	I'm very concerned that our rabbit creek hillside area is being considered in the same district as Eagle River. We have very little in common with people who live in ER other than some of us live in the mountains. We don't share the same services, roads, stores or schools. Their interests and ours are different and sometimes in conflict. Neither area will be represented fairly by the same individual. (I know there are several map revisions taking place, so I am not able to keep track of all of them.)

Date	Topic	Commenter	Comment
2/16/2022	Eagle River\Hillside	Claire Steffens	I live in South Anchorage and request that the South Anchorage area be retained as a single, cohesive district, not broken into parts and pieces with other areas. I also request that the prevailing philosophy in re-districting returns to the values supporting what is good for our residents, not what is good for an individual Assembly member's political philosophy. Our grand children and great grand children deserve high integrity from political servants (which is what each Assembly member is - a political servant of his/her constituents). Let's get back to what is good in the long run, and makes common sense, not what is expedient at the moment. Thank you for listening.
2/16/2022	Eagle River\Hillside	JOHN RILEY	I oppose the combination of any portions of the Hillside with Eagle River. I want to emphasize that Chugach State Park does not create contiguity between the populations of the Hillside and Eagle River, as it is uninhabited. Therefore, reapportionment maps should display it as a distinct, unpopulated area. I support continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River.
2/16/2022	Map 10 Wells B	JOHN RILEY	I support continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River.
2/16/2022	Map 9 Wells A	JOHN RILEY	I support continued work with maps proposed by Denny Wells and Brice Wilkins that: work to keep neighborhoods intact across Anchorage; are considerate and encompassing of other Assembly member concerns; and keep the Hillside together in one district, separate from Eagle River.
2/16/2022	Eagle River\Hillside	Scott Bailey	I am submitting comments on Map 11b. This map should be adopted maintaining five contiguous communities including those of Eagle River/Chugiak. These communities have different neighborhood issues, infrastructures and are under a seperate Chapter of Title 21 from the rest of Anchorage. Birchwood, Peters Creek and Eklutna anchor the NE section of this Assembly District.
2/16/2022	Map 11v2 Weddleton	Scott Bailey	I am submitting comments on Map 11b. This map should be adopted maintaining five contiguous communities including those of Eagle River/Chugiak. These communities have different neighborhood issues, infrastructures and are under a seperate Chapter of Title 21 from the rest of Anchorage. Birchwood, Peters Creek and Eklutna anchor the NE section of this Assembly District.
2/17/2022	Map 6v2 Anchorage Action	Cindy Lelake	Map 6v.2 is my favorite so far, because it preserves the integrity of Independence Park as a member of Abbott Loop rather than the Hillside.

Date	Topic	Commenter	Comment
2/17/2022	Map 6v2 Anchorage Action	Jennifer Harlos	I support Map6v2. It keeps things more continuous, stays true to historic districts, and just makes sense. Putting this section of Anchorage with Eagle River makes no sense.
2/17/2022	Map 7v2 Hockema	Marc June	As a 35 year Hillside resident, I am outraged at Map 7.v.2 which puts my neighborhood in an Eagle River Assembly district. Effectively, this will mean I am unrepresentative as the Hillside has few, if any, local government issues in common with Eagle River. I encourage you to vote against Map 7.v.2. I support Assembly person Weddleton's proposed map.
2/17/2022	Eagle River\Hillside	Marc June	As a 35 year Hillside resident, I am outraged at Map 7.v.2 which puts my neighborhood in an Eagle River Assembly district. Effectively, this will mean I am unrepresentative as the Hillside has few, if any, local government issues in common with Eagle River.
2/17/2022	Eagle River\Hillside	Jennie Bostick	I do not support any map that joins South Anchorage/Hillside with Chugiak/Eagle River. Thank you
2/17/2022	Eagle River\Hillside	Gennifer Moreau	OPPOSE redistricting Glen Alps to be part of Eagle River.
2/18/2022	Eagle River\Hillside	Shannon Wileman	I have looked at the maps that are for up for consideration for reapportionment. Please do not combine Hillside with Eagle River. Those communities are not contiguous and have vastly different needs.
2/18/2022	Eagle River\Hillside	Trina Lovdahl	I am opposed to linking Hillside and Eagle River together in the reapportionment maps. Thank you
2/18/2022	Map 11v2 Weddleton	sage cohen	I strongly support Map 11 Version 2 I strongly opposed Map 12

Date	Topic	Commenter	Comment
2/18/2022	Map 12 Allard	sage cohen	I strongly opposed Map 12
2/18/2022	Eagle River\Hillside	James Wileman	If you're going to combine south anchorage and eagle river-which is a stupid idea, just make all assembly seats at large.
2/19/2022	Map 12 Allard	Sandy Blomfield	As you continue to refine the reapportionment maps, and after review I endorse: Map #12
2/19/2022	Map 11v2 Weddleton	Catherine Coward	To whom it may concern, Thank you for taking public testimony regarding assembly boundaries. I have reviewed version 2 of the proposed maps and hope that you will approve Map 11, Version 2 (the John Weddleton map), as it appears to have the most clean cut and compacted districts. I live in East Anchorage, and appreciate that the my district boundaries are sensible. Thank you for your consideration on this matter.

Date	Topic	Commenter	Comment
2/20/2022	Map 11v2 Weddleton	Catherine Giessel	Dear Assembly members, I am writing in SUPPORT OF MAP 11v2. I believe it keeps well-identified neighborhoods intact, which is very important. A second choice is MAP 6v2. This is very much like our Assembly districts are today. It keeps the Hillside District Plan areas together and also seems to align with Community Council areas, which makes sense. I am OPPOSED to combining any portion of the Anchorage hillside with any portion of Eagle River. Thank you for your diligent work on this important issue. Best regards, Cathy Cathy Giessel, MS, RN, APRN, FAANP cgiessel@me.com 907.242.5450 12701 Ridgewood Rd, ANC 99516
2/20/2022	Map 6v2 Anchorage Action	Catherine Giessel	A second choice is MAP 6v2. This is very much like our Assembly districts are today. It keeps the Hillside District Plan areas together and also seems to align with Community Council areas, which makes sense.
2/20/2022	Eagle River\Hillside	Catherine Giessel	I am OPPOSED to combining any portion of the Anchorage hillside with any portion of Eagle River.
2/21/2022	Eagle River\Hillside	Robert Polley	To whom it may concern: I'm writing to voice my strong opposition to the potential redistricting which could allocate a portion of the Glen Alps neighborhood to the Eagle River district. As a resident of Glen Alps for the past 10 years, I can tell you we have zero connection to Eagle River, geographic or otherwise. Thank you for considering my input. Robert Polley

Date	Topic	Commenter	Comment
2/21/2022	Map 7v2 Hockema	Michele Martin	Comment on Map 7v2: Against my better judgement, I'm submitting this comment regarding the idiocy of combining the residents of Glen Alps with Eagle River. Why against my better judgement? Because the assembly is going to do what it wants to do so I'm basically wasting my time and energy on this. I have served on the Glen Alps Road Service Area (GARSA) Board of directors, since 2010, and intend to serve another 3-year term. The residents of Glen Alps have totally different issues than the residents of Eagle River. Just because the land "touches" does not mean they should be joined and put into the same pot. For those who don't live in either Eagle River or the Glen Alps area, you really don't know what you are talking about and you should leave well enough alone. You should rethink this decision; however, I know you won't.
2/21/2022	Map 7v2 Hockema	Joy Boston	I do not support map 7 version 2. Please do not divide Hillside community by combining it with Eagle River. Districts should be contiguous, not interrupted by other districts. Constituents should be able to drive across their home district without crossing through another district. Maps 6v2, 11 and 12 are acceptable. I prefer map 11. Thank you
2/21/2022	Eagle River\Hillside	Joy Boston	Please do not divide Hillside community by combining it with Eagle River. Districts should be contiguous, not interrupted by other districts. Constituents should be able to drive across their home district without crossing through another district.
2/21/2022	Map 6v2 Anchorage Action	Joy Boston	Maps 6v2, 11 and 12 are acceptable.
2/21/2022	Map 12 Allard	Joy Boston	Maps 6v2, 11 and 12 are acceptable.
2/21/2022	Map 11v2 Weddleton	Joy Boston	Maps 6v2, 11 and 12 are acceptable. I prefer map 11.
2/21/2022	Map 11v2 Weddleton	Carolyn Gove	Thank you for the opportunity to comment. I have reviewed the proposed maps and consider Map 11, Version 2 to be the best alternative, as its boundaries are compact and follow natural divisions between neighborhoods.

Date	Topic	Commenter	Comment
2/21/2022	Map 11v2 Weddleton	Judy Caminer	I support Assembly Member Weddleton's map. There is no reason to include Glen Alps and areas north of Glen Alps Road in the Eagle River district. His option makes sense and keeps interests aligned with neighborhoods.
2/21/2022	Map 11v2 Weddleton	Julie Coulombe	I'm opposed to Map 7. I will echo what many have been saying, do not combine the Hillside with Eagle River. It does not create equal representation for the people on the Hillside. I favor Map 11 v2.
2/21/2022	Eagle River\Hillside	Julie Coulombe	I will echo what many have been saying, do not combine the Hillside with Eagle River. It does not create equal representation for the people on the Hillside.
2/21/2022	Map 7 Hockema	Julie Coulombe	I'm opposed to Map 7. I will echo what many have been saying, do not combine the Hillside with Eagle River. It does not create equal representation for the people on the Hillside.
2/21/2022	Map 11v2 Weddleton	Gene White	After reviewing the proposed redistricting maps, I highly recommend map #11, revision 2. This seems to be the most compact and makes the most sense. Thank You
2/21/2022	Map 11v2 Weddleton	Maria Williams	I support the Weddleton map. I was born and raised in Fairview and live in South Fairview. I support this approach because it is bipartisan and aligns with geographical boundaries that reflect current Anchorage demographics

Date	Topic	Commenter	Comment
2/21/2022	JBER	Rachel Boudreau	Please see the attached resolution from the Northeast Community Council. Resolution 2022-01 Northeast Community Council (NECC) January 20, 2022 Assembly Reapportionment WHEREAS, the Northeast Community Council (NECC) is the Community Council that is the voce of the people of Northeast Anchorage and includes the following boundaries: Northeast Com munity council 8 WHEREAS, according to Census data, Northeast Anchorage has one of the most ethnically and racially diverse populations in the United States; WHEREAS, according to Census data, the Northeast Community Council area has a population of 29,266; WHEREAS, The target population per district is 48,541. The total deviation in actual population to target population must be less than 10% (federal law), and ideally less than 50/0. WHEREAS, Northeast Anchorage is a distinct and socioeconomically integrated area with strong neighborhood identities very different than that of Eagle River; WHEREAS, Northeast Anchorage is home to many active-duty service members and Veterans who frequent the businesses and services provided along Muldoon Rd and near the Joint Base Elmendorf Richardson (JBER) Muldoon Rd. gate, WHEREAS, in the past, portions of Northeast Anchorage have been included within the Eagle River district that is not socioeconomically similar and have very different legislative interests; NOW, THEREFORE BE IT RESOLVED the NECC respectfully asks the Anchorage Assembly to: 1. Protect our and maintain our ties by including the entire NECC boundaries within one Assembly District; 2. Include Bartlett High School in our District to keep it connected to the families it serves. Date: January 20, 2022 Votes for: 10 Motion Passes President: Votes Against: 0 Abstain: 1 Motion Does Not Pass Secretary: T'Shalla Baker Rachel Boudreau
2/22/2022	Map 11v2 Weddleton	Kathy Kuletz	I am a 30 year resident of Government Hill (Downtown). I have reviewed the proposed redistricting maps and I want the assembly to know that I support Map 11 (v2, Weddleton). This map makes the most sense. I reiterate my strong opposition to any gerrymandered map that was previously proposed, which tried to link a portion of the downtown district to Eagle River. Sincerely, Kathy Kuletz
2/22/2022	Eagle River\Hillside	Kathy Kuletz	I reiterate my strong opposition to any gerrymandered map that was previously proposed, which tried to link a portion of the downtown district to Eagle River.
2/22/2022	Map 11v2 Weddleton	Gene White	After reviewing the proposed redistricting maps, I highly recommend map #11, revision 2. This seems to be the most compact and makes the most sense.

Date	Topic	Commenter	Comment
2/22/2022	Map 7v2 Hockema	Joy Boston	Please do not reapportion any part of the Anchorage Hillside area to Eagle River as depicted in map 7 version 2. Of the remaining maps, 6v2, 11 and 12, I prefer map 11. Any reapportionment should maintain district integrity; constituents should not have to cross into or through other districts to access any and all parts of their own district. Keep districts contiguous and do not combined Hillside with Eagle River.
2/22/2022	Map 6v2 Anchorage Action	Joy Boston	Of the remaining maps, 6v2, 11 and 12, I prefer map 11. Any reapportionment should maintain district integrity; constituents should not have to cross into or through other districts to access any and all parts of their own district.
2/22/2022	Map 11v2 Weddleton	Joy Boston	Of the remaining maps, 6v2, 11 and 12, I prefer map 11. Any reapportionment should maintain district integrity; constituents should not have to cross into or through other districts to access any and all parts of their own district.
2/22/2022	Map 12 Allard	Joy Boston	Of the remaining maps, 6v2, 11 and 12, I prefer map 11. Any reapportionment should maintain district integrity; constituents should not have to cross into or through other districts to access any and all parts of their own district.
2/22/2022	Eagle River\Hillside	Joy Boston	Please do not reapportion any part of the Anchorage Hillside area to Eagle River as depicted in map 7 version 2. Keep districts contiguous and do not combined Hillside with Eagle River.

Date	Topic	Commenter	Comment
2/22/2022	Map 7v2 Hockema	Joseph Connolly	To all who are part of the district reapportionment process. I will keep my thoughts simple and brief about the 3 different plans that have been proposed. Specifically, Map 7v.2 should either be amended or removed from consideration for the following primary reasons: 1) This plan would apparently use Glen Alps Road as a dividing line between District 2 and 6, and divide our neighborhood in half. Essentially, The people across the street from us would be in district 2, and those of us south of Glen Alps road would be in District 6. This creates a host of issues - the obvious being.. if, for example, we are trying to alleviate a concern in our neighborhood, we would have to contact two different assembly members and assume they would work in unison to solve our problems. 2) It also dilutes the voting power of our neighborhood considerably.3) Eagle river is a 45 minute to an hour drive, depending on where you're coming and going from.. which is extremely far away. This would be like pairing Eagle River with Big Lake, or Sutton. We are not very far geographically, but by road and community it is a long way. 4) We are very much a "South Anchorage" community and in no way do we want to be forced to participate in Eagle River meetings or with Eagle River assembly members if we want our voice heard. Thank you for the consideration. Joe Connolly -Glen Alps Resident -Glen Alps Road Service Area Board of Supervisors Chairperson

Date	Topic	Commenter	Comment
2/23/2022	Map 11v2 Weddleton	Jan Carolyn Hardy	9040 Emerald Drive Anchorage, Alaska 99502 February 23, 2022 Honorable Members of the Anchorage Assembly, I am a resident of District 3 and an endorser of Map 11 v2 for the Anchorage Reapportionment of District Boundaries. 1. The Population Deviation Summary indicates there is a fair balance of population numbers in each District without giving preference to any individual group. The Boundaries are logical divisions by major roads and thoroughfares. There is an acceptable deviation of 4.16% +/- for each Districts population count. The shapes of the Districts are compact bounded by straight lines. 2. JBER is in one District as befits a more transient population. 3. East Anchorage is whole. There is no annexation of Stuckagain Heights into the Eagle River District. Stuckagain Heights is not contiguous with Eagle River. 4. Midtown remains its own District. Midtown is distinct from Downtown and South Anchorage. 5. Eagle River and Chugiak remain in their own distinct and unique geographical area. Map 11 v2 respects the integrity of Anchorage's diverse and distinct geographical areas. Neighborhoods and sections of town are not unnecessarily blended. I believe Map 11 v2 will serve Anchorage's needs and communities fairly and equitably. There will be authentic and cohesive representation in each District's elected member of the Assembly.
2/23/2022	Map 11v2 Weddleton	Jan Carolyn Hardy	I am a resident of District 3 and an endorser of Map 11 v2 for the Anchorage Reapportionment of District Boundaries. 1. The Population Deviation Summary indicates there is a fair balance of population numbers in each District without giving preference to any individual group. The Boundaries are logical divisions by major roads and thoroughfares. There is an acceptable deviation of 4.16% +/- for each Districts population count. The shapes of the Districts are compact bounded by straight lines.
2/23/2022	Map 11v2 Weddleton	Jan Carolyn Hardy	JBER is in one District as befits a more transient population.

Date	Topic	Commenter	Comment
2/23/2022	Eagle River\Hillside	Jan Carolyn Hardy	East Anchorage is whole. There is no annexation of Stuckagain Heights into the Eagle River District. Stuckagain Heights is not contiguous with Eagle River. Eagle River and Chugiak remain in their own distinct and unique geographical area.
2/23/2022	Map 11v2 Weddleton	David Kohler	I support the Weddleton Map for redistricting because it appears to be the most sensible and least partisan of the options. Thank you David Kohler Anchorage
2/23/2022	Map 11v2 Weddleton	Tyler Watson	As a resident of East Anchorage I'm writing in support of Map 11. It's important to me that assembly districts represent actual communities in our city. The maps that pair parts of East Anchorage, Stuckagain Heights, and even Hillside with Eagle River divide communities and make the work for assembly members harder. By keeping common sense boundaries for communities constituents get better representation and assembly members can focus their work more effectively. Thanks for considering my testimony.
2/23/2022	Map 11v2 Weddleton	Sergio ACUNA	Dear Assembly members, I appreciate the opportunity to comment on proposed Assembly district boundaries. I live in Midtown and believe the Weddleton redistricting map is the strongest in terms of compactness and logical district boundaries. Using Dimond/Abbott as southern boundary of the new Midtown district creates a clear and understandable boundary, and the Weddleton map as proposed respects Midtown neighborhoods , including where I live near Lake Otis and Campbell Creek. Thank you for work to update Assembly district boundaries.
2/23/2022	Map 11v2 Weddleton	James Dahl	I appreciate that there is an opportunity granted to weigh in on draft redistricting maps. My family and I reside in South Anchorage, and believe that the Weddleton proposal (Map 11) does the best job in establishing compact, logical districts with boundaries that will be clear and understandable for voters. I do not support the Allard gerrymander, which seems clearly designed to manipulate district boundaries for partisan purposes. Thank you.
2/23/2022	Map 12 Allard	James Dahl	I do not support the Allard gerrymander, which seems clearly designed to manipulate district boundaries for partisan purposes.

Date	Topic	Commenter	Comment
2/23/2022	Map 6v2 Anchorage Action	D. Matt Duncan	Dear Assembly Members, I want to thank you for this convenient online forum for everyone to make public comment, as well as thank you for all your hard work serving the citizens of our town. I have looked at the four maps very closely and would like to make comment as a homeowner in Anchorage, a member of Spenard Community Council (SCC) and most importantly community organizer for the Old Hermit Park Neighborhood. I am advocating in this public comment for the adoption of map 6v2. The guiding principle for my advocacy understands that the work of the community councils is vital to the success of our city. Each community council's work and identity is extremely valuable to the city and it is highly desirable to maximize representation for the community councils by not dissecting or diluting them into multiple assembly districts. Map 6v2 is the best map for maintaining integrity of Spenard. Map 7v2 is OK, but not as good as 6v2. Map 11v2 and 12 are unacceptable. The intent and function of maps 11v2 and 12 is to dissect and dilute the SCC. There is no place on earth like Spenard, and it is important that we protect Spenard's voice and identity. Thank you for your time and efforts dealing with these difficult topics. D. Matt Duncan, TSGT, AKANG Vice President Spenard Community Council
2/23/2022	Map 7v2 Hockema	D. Matt Duncan	Map 7v2 is OK, but not as good as 6v2.
2/23/2022	Map 11v2 Weddleton	D. Matt Duncan	Map 11v2 and 12 are unacceptable. The intent and function of maps 11v2 and 12 is to dissect and dilute the SCC. There is no place on earth like Spenard, and it is important that we protect Spenard's voice and identity.
2/23/2022	Map 12 Allard	D. Matt Duncan	Map 11v2 and 12 are unacceptable. The intent and function of maps 11v2 and 12 is to dissect and dilute the SCC. There is no place on earth like Spenard, and it is important that we protect Spenard's voice and identity.
2/24/2022	Map 7v2 Hockema	Victoria Parks	I oppose Map 7v.2, which lumps the East Hillside in with Eagle River. I'm currently in District 5, and I'm happy there. I don't think the East Hillside/Stuckagain Heights area is anything like Eagle River. Eagle River has its own set of problems which should stay in Eagle River. The active Eagle River secession efforts just highlight that; why would you lump Anchorage voters in with a district that might secede? That's completely unfair to voters who don't identify at all with Eagle River, and who are, in fact, geographically, a long way away from Eagle River.

Date	Topic	Commenter	Comment
2/24/2022	Eagle River\Hillside	Victoria Parks	I don't think the East Hillside/Stuckagain Heights area is anything like Eagle River. Eagle River has its own set of problems which should stay in Eagle River. The active Eagle River secession efforts just highlight that; why would you lump Anchorage voters in with a district that might secede? That's completely unfair to voters who don't identify at all with Eagle River, and who are, in fact, geographically, a long way away from Eagle River.
2/24/2022	Map 7v2 Hockema	Dorothy Parks	I'm opposed to map 7v,2. I live in Stuckagain Heights and consider it part of Anchorage and not Eagle River. I feel that East Anchorage and Stuckagain Heights should not be lumped with Eagle River. Geographically we may seem close but politically we are far apart. I have read comments from people in South Anchorage and the Hillside who also do not want to be lumped with ER and I agree it is a very bad idea. Thank you.
2/24/2022	Eagle River\Hillside	Dorothy Parks	I live in Stuckagain Heights and consider it part of Anchorage and not Eagle River. I feel that East Anchorage and Stuckagain Heights should not be lumped with Eagle River. Geographically we may seem close but politically we are far apart. I have read comments from people in South Anchorage and the Hillside who also do not want to be lumped with ER and I agree it is a very bad idea.
2/24/2022	Map 11v2 Weddleton	Jillian Simpson	Greetings Anchorage Assembly, I live in Glen Alps in Anchorage and support either Map 11v2 (Weddleton) or Map 6v2 (Anchorage Action). Both keep our neighborhood fully intact and part of South Anchorage. I encourage you to throw away Map 6 v2 as it pairs us with Eagle River. We are not part of the Eagle River community. In fact, I haven't been to Eagle River since 2015. I have been up the Dalton Highway more frequently than I have taken the exit ramp to Eagle River. While we may have a mountain range in common, that is it. I would like to be represented by an Assembly member who is familiar with the issues and needs of my neighborhood- and preferably one who shares my values. Thank you for your consideration.
2/24/2022	Map 6v2 Anchorage Action	Jillian Simpson	I live in Glen Alps in Anchorage and support either Map 11v2 (Weddleton) or Map 6v2 (Anchorage Action). Both keep our neighborhood fully intact and part of South Anchorage.
2/24/2022	Eagle River\Hillside	Jillian Simpson	I encourage you to throw away Map 6 v2 as it pairs us with Eagle River. We are not part of the Eagle River community. In fact, I haven't been to Eagle River since 2015. I have been up the Dalton Highway more frequently than I have taken the exit ramp to Eagle River. While we may have a mountain range in common, that is it. I would like to be represented by an Assembly member who is familiar with the issues and needs of my neighborhood- and preferably one who shares my values.
2/24/2022	Unclassified	Colby Parks	Concerning area 7V.2: To merge my area (Stuck Again Heights) with Eagle River, is a disgraceful attempt to prevent local government.

Municipal Clerk's Office
Approved
Date: April 12, 2022
Mayoral veto was
overridden on 4-14-22

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING ANCHORAGE SENATE DISTRICTS REVISION OPTION #2 BEFORE THE ALASKA REDISTRICTING BOARD THAT PAIRS HOUSE DISTRICT 17 WITH 23, AND HOUSE DISTRICT 22 WITH 24.

WHEREAS, Alaska State Redistricting happens once a decade, concluding with the Alaska Redistricting Board (ARB) adopting a Final Proclamation of Redistricting (Proclamation) affecting communities for a decade; and

WHEREAS, the adoption of the Proclamation on November 10, 2021, triggered a Charter provision requiring the Anchorage Assembly to determine whether it was malapportioned and also triggered a Charter amendment passed by voters in 2020 directing the Assembly to add a 12th member. On November 23, 2021, with the passage of AR 2021-382 the Assembly declared itself malapportioned and began the reapportionment process; and

WHEREAS, the Assembly conducted extensive public outreach and recorded substantial public testimony between November 23, 2021 and March 23, 2022, concluding when Anchorage Ordinance AO 2022-37 (S-1), As Amended, was approved containing the new apportionment map; and

WHEREAS, in a legal challenge to the 2021 Redistricting Proclamation the Alaska Superior Court in Case No. 3AN-21-08869CI found that the Alaska Redistricting Board's pairing of House Districts 21 and 22 into Senate District K is unconstitutional and that this pairing must be changed on remand to the ARB; and

WHEREAS, the Alaska Supreme Court on March 25, 2022 affirmed the superior court's determination that "the Board's Senate K pairing of house districts constituted an unconstitutional political gerrymander violating equal protection under the Alaska Constitution" and the remand to the ARB to correct it; and

WHEREAS, on remand, the Alaska Redistricting Board adopted proposed revisions to the 2021 Proclamation Plan Anchorage Senate District K (https://www.akredistrict.org/2022-proposed-revisions/), and as of April 8, 2022, Options 2 and Option 3B remain for its consideration; and

WHEREAS, Proposed Option 3B joins south Eagle River with South Anchorage, Girdwood, Turnagain Arm including Portage, and even beyond the borders of the Municipality into Whittier in the Chugach Census Block; and

WHEREAS, during the recent Municipality of Anchorage Reapportionment process, residents from Eagle River, South Anchorage and Girdwood spoke out overwhelmingly against proposals that would combine these communities with scores of comments opposing the combination; and

WHEREAS, the Alaska Redistricting Board should not contemplate a pairing of House districts like presented in Option 3B, that combine**s** geographically and demographically

distinct areas and simply shifts the constitutional infirmity into other areas **and provides only second-class contiguity**; and

WHEREAS, the Anchorage Reapportionment Committee heard from five community councils and scores of individuals regarding their opposition to grouping Eagle River and South Anchorage on the basis that these are distinctly different regions with few shared communities of interest; and

WHEREAS, the Alaska Redistricting Board's Proposed Anchorage Senate Districts Option 2 combines House District 23 which is the Joint Base Elmendorf-Richardson**, Government Hill and downtown Anchorage** area with House District 17 **which is the main [~~covering the~~]** downtown area; and House District 22, the south Eagle River area, with House District 24, the north Eagle River area; and

WHEREAS, the record demonstrates that a plan is possible which adopts all highly contiguous pairings that maintain communities of interest, keeping neighbors with neighbors, including Government Hill and North Downtown Anchorage with South Downtown Anchorage, Chugiak with Eagle River, and South Anchorage with Southwest Anchorage in Option 2; and

WHEREAS, Option 3B offers pairings with only second-class contiguity that connects Chugiak with Government Hill and Downtown, Eagle River with Girdwood, Portage, and Whittier which all have substantial geographic barriers including the Chugach Front Range Mountains, the federally secured borders of JBER, and in some cases hours of highway time; and

WHEREAS, the Assembly has heard no constitutional arguments that are persuasive in justifying the breaking up of natural contiguous communities of interest that can stand in the face of the overwhelming public testimony it received to the contrary; and

WHEREAS, Option 2 more closely joins neighboring communities of**[~~f~~]** common interest that interact through direct road access to shop, work, and play in their respective areas, in clear compliance with the Superior Court's Constitutional directives to respect natural boundaries where possible in describing boundaries (e.g. drainages and mountain ranges), and the testimony from communities of interest, while maintaining contiguity and compactness in drawing such district lines;

NOW, THEREFORE, **BE IT RESOLVED THAT** the Anchorage Municipal Assembly supports the Alaska Redistricting Board's Proposed Anchorage Senate Districts Option 2 which pairs House Districts 17 and 23 to form one Senate district, and House Districts 22 and 24 to form another Senate district.

PASSED AND APPROVED by the Anchorage Assembly this 12th day of April, 2022.

Chair

ATTEST:

Jennifer Veneklasen

Municipal Clerk

Municipality of Anchorage

P.O Box 390
Girdwood, Alaska 99587
http://www.muni.org/gbos

David Bronson, Mayor

GIRDWOOD VALLEY SERVICE AREA BOARD OF SUPERVISORS
Mike Edgington and Briana Sullivan, Co-Chairs
Jennifer Wingard, Amanda Sassi, Guy Wade

Resolution 2022-08

Of the Girdwood Board of Supervisors

A RESOLUTION IN SUPPORT OF THE ALASKA REDISTRICTING BOARD SENATE PAIRING MAPS 1 OR 2, AND OPPOSITION TO SENATE PAIRING MAP 3 OR ANY SIMILAR PROPOSED PAIRINGS WHICH COMBINE EAGLE RIVER AND GIRDWOOD

WHEREAS, the Girdwood Board of Supervisors (GBOS) is the duly elected Anchorage municipal board representing the residents and tax payers of Girdwood Valley Service Area in the provision of multiple local services, and is also recognized under AMC 22.40.035 as representing the Girdwood community in an equivalent capacity to a Community Council; and

WHEREAS, the Alaska Redistricting Board issued a 2021 Proclamation of Redistricting on November 10, 2021; and

WHEREAS, several legal challenges were filed to the 2021 Proclamation and, after rulings by the Superior and Supreme Courts, the Alaska Redistricting Board is now reconsidering senate pairings for the Anchorage area; and

WHEREAS, GBOS reviewed the proposed senate pairing plans (Maps 1, 2 & 3), which were the Alaska Redistricting Board's adopted draft senate pairing plans as of April 5th 2022; and

WHEREAS, maps 1 & 2 maps combine the geographically contiguous and culturally & socio-economically coherent communities of the Hillside, South Anchorage and Turnagain Arm/Girdwood/Whittier into senate seats; and

WHEREAS, map 3, or any similar map which combines Turnagain Arm/Girdwood with Eagle River, does not combine communities of similar interests, nor in any meaningful sense are the house districts contiguous, requiring traversing the width of the roadless Chugach Mountain Range to get from the northern to southern communities.

THEREFORE, the Girdwood Board of Supervisors supports the senate pairings represented by maps 1 or 2, and opposes the senate pairings represented by map 3, or any similar proposal that combines Eagle River with South Anchorage/Hillside/Turnagain Arm/Girdwood.

Passed and approved by a vote of 5 in favor to 0 against this 5th day of April 2022.

Mike Edgington, GBOS Co-Chair

Briana Sullivan, GBOS Co-Chair

Exhibit CH-5
Exhibit 4
Page 1 of 1

WIKIPEDIA

Coordinates: 60°56′33″N 149°09′59″W

Girdwood, Anchorage, Alaska

Girdwood is a resort town within the southern extent of the Municipality of Anchorage in the U.S. state of Alaska. Located near the end of the Turnagain Arm of Cook Inlet, Girdwood lies in a valley in the southwestern Chugach Mountains, surrounded by seven glaciers feeding into a number of creeks, which either converge within the valley or empty directly into the arm. Girdwood is typically accessed by the Seward Highway (Milepost 90), with the main line of the Alaska Railroad paralleling the highway. By road distance, most of the community lies within 35 to 40 miles (56 to 64 km) of Downtown Anchorage. The 2019 American Community Survey estimates a population of 1,742 in the valley.[1]

The valley, as viewed from Mount Alyeska. The Alyeska Highway can be seen at right running across the valley.

Founded as a community to supply miners during the Turnagain Arm gold rushes of the 1890s, Girdwood was mostly a small, quiet place until the middle of the 20th century. Two events drastically altered that. The first was the establishment of Alyeska Resort along the slopes of Mount Alyeska, which became an international destination coincidental with Anchorage's civic promotion of itself as "The Air Crossroads of the World". The second was the 1964 earthquake, which devastated the original townsite located directly along the arm. Following the earthquake, most of the town moved further up the valley to a new townsite, though a few homes remained and a strip mall was later constructed along the Seward Highway. Historically dominated in the years since the resort's opening by seasonally-occupied vacation homes and seasonal activity at the resort, the opening of the Alyeska Prince Hotel during the 1990s has shifted the resort, and hence Girdwood as a whole, more towards year-round activity and a year-round economy. This has led to periodic debates about community growth and affordability of housing for resort workers, many of whom over the years have resorted to camping illegally on public lands.

Girdwood still revolves heavily around seasonal activity, with skiing and snowboarding at Alyeska Resort bringing visitors and their money into the community. Summer activities are also popular, which include hiking, fishing and rafting. The Girdwood Forest Fair, held every July, is the community's most significant visitor attraction apart from resort-related activities. Girdwood is located within the northernmost extent of rain forest on Earth, and also serves as the closest point of access to Chugach National Forest from Anchorage proper.

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History

Originally called "Glacier City," Girdwood was founded as a supply camp for placer gold miners with claims along the creeks feeding Turnagain Arm. It was renamed for Colonel James Girdwood, a Belfast-born, Scots-Irish entrepreneur and linen merchant who staked the first four gold claims along Crow Creek in 1896.

Ted Stevens' house is a fairly typical example of a house in Girdwood.

The town was moved 2.5 miles (4.0 km) up the valley after the devastating Good Friday earthquake of 1964, when the land under the original townsite subsided into Turnagain Arm, putting much of the town below high tide. The nearby settlement of Alyeska was abandoned and most of its inhabitants moved to the new Girdwood townsite as well. The land has not all since been reclaimed, as one can still see inundated cabins in the marshy areas into which the city formerly extended. Significant earthquakes are a relatively common occurrence for Girdwood and the Kenai peninsula. Evidence indicates the area has seen six major quakes in the past 3,300 years.[2]

Girdwood was incorporated as a city in 1961 and was absorbed into the Municipality of Anchorage in 1975, when the Greater Anchorage Area Borough unified with Anchorage and the borough's smaller cities.

The town has served as a backdrop for at least two films: *The Chechahcos*, a 1924 silent film about the Klondike Gold Rush, and Warren Miller's 1997 *Snowriders II*. Girdwood was the home of Alaska's former senior U.S. Senator Ted Stevens, and Girdwood found itself in the media spotlight when the construction projects on Stevens' home became the subject of a federal investigation. Olympic gold and silver medal-winning skier Tommy Moe also called Girdwood home during his high school years, during which he attended Glacier Creek Academy.

Alyeska Highway and sign indicating the post-1964 town site

Girdwood was shown on CBS on January 20, 2008, as the finish line for *The Amazing Race 12*.

Geography

Climate

Climate data for Girdwood (Alyeska Ski Resort), 1981−2010 normals													
Month	**Jan**	**Feb**	**Mar**	**Apr**	**May**	**Jun**	**Jul**	**Aug**	**Sep**	**Oct**	**Nov**	**Dec**	**Year**
Record high °F (°C)	56 (13)	57 (14)	56 (13)	72 (22)	82 (28)	85 (29)	84 (29)	85 (29)	73 (23)	64 (18)	62 (17)	53 (12)	85 (29)
Average high °F (°C)	27.4 (−2.6)	30.1 (−1.1)	35.8 (2.1)	44.2 (6.8)	54.3 (12.4)	62.2 (16.8)	65.1 (18.4)	63.2 (17.3)	55.1 (12.8)	42.6 (5.9)	31.4 (−0.3)	29.4 (−1.4)	45.1 (7.3)
Average low °F (°C)	16.6 (−8.6)	17.8 (−7.9)	20.0 (−6.7)	27.8 (−2.3)	36.2 (2.3)	43.7 (6.5)	48.7 (9.3)	46.7 (8.2)	39.8 (4.3)	30.0 (−1.1)	20.8 (−6.2)	18.9 (−7.3)	30.6 (−0.8)
Record low °F (°C)	−35 (−37)	−38 (−39)	−24 (−31)	−15 (−26)	1 (−17)	29 (−2)	34 (1)	31 (−1)	19 (−7)	−6 (−21)	−21 (−29)	−36 (−38)	−38 (−39)
Average precipitation inches (mm)	8.23 (209)	6.10 (155)	5.45 (138)	5.50 (140)	3.35 (85)	2.32 (59)	2.60 (66)	4.77 (121)	7.80 (198)	7.74 (197)	7.56 (192)	9.27 (235)	70.69 (1,795)
Average snowfall inches (cm)	35.8 (91)	31.7 (81)	36.1 (92)	11.1 (28)	1.1 (2.8)	0 (0)	0 (0)	0 (0)	0 (0)	10.1 (26)	35.0 (89)	57.1 (145)	218 (554.8)
Average precipitation days (≥ 0.01 in)	19.6	16.6	15.9	15.4	13.6	11.2	13.6	16.0	18.5	18.8	17.8	21.4	198.4
Average snowy days (≥ 0.1 in)	12.0	9.7	9.7	4.5	0.4	0	0	0	0	3.5	9.8	13.9	63.5
Source: NOAA [3]													

Demographics

Girdwood first appeared on the 1950 U.S. Census as an unincorporated village. It formally incorporated as a city in 1961 and merged into Anchorage in 1975.

Historical population

Census	Pop.	%±
1950	79	—
1960	63	−20.3%
1970	144	128.6%

U.S. Decennial Census[4]

References

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2. "Recurrent Holocene Paleoseismicity And Associated Land / Sea Level Changes In The Greater Anchorage Area" (https://web.archive.org/web/20130729154047/http://earthquake.usgs.gov/research/external/reports/03HQGR0101.pdf) (PDF). Archived from the original (https://earthquake.usgs.gov/research/external/reports/03HQGR0101.pdf) (PDF) on 2013-07-29. Retrieved 2014-01-03.
3. "National Climatic Data Center" (http://www.ncdc.noaa.gov/). National Oceanic and Atmospheric Administration. Retrieved 2013-07-08.
4. "U.S. Decennial Census" (https://www.census.gov/prod/www/decennial.html). Census.gov. Retrieved June 6, 2013.

External links

- Girdwood travel guide from Wikivoyage
- Alaska Division of Community Advocacy - Community Information Summary (https://www.commerce.alaska.gov/dcra/DCRAExternal/community/Details=Girdwood)
- Official Girdwood Visitor information (https://www.girdwoodchamber.com)

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From Glacier City to Girdwood

Girdwood, originally named Glacier City, was founded as a gold mining town at the turn of the century with several gold claims being staked on Crow Creek and the Virgin and California Creek drainages. As the number of miners increased, a supply camp arose that also supplied a trail stop on the route between Seward and Ship Creek which is now Anchorage. James Girdwood was an Irish immigrant and linen merchant with four gold claims on Crow Creek. He later became the namesake for our mountain community.

Though founded as a mining town, the development of Girdwood was spurred by railroad construction begun by the Federal Government in 1915. The little town boomed with new businesses. Mining in the upper Crow Creek area continued into the late 1930's when mine closures by a World War II presidential order made Girdwood a near ghost town. In 1949, Girdwood again flourished as construction began on the Seward Highway connecting the seaport of Seward to Anchorage. In 1954, eleven local men formed the Alyeska Ski Corporation along with the beginnings of the hard-earned dream of a first-class ski resort. In 1960, the first chair lift and a day lodge was built. Francoise de Gunzburg, a Frenchman and a member of the Rothschild Banking family managed to secure a used chair lift from France that was dismantled, shipped to Alaska and rebuilt at Alyeska.

Tragedy struck on Good Friday in 1964. An earthquake with the magnitude of 9.2 dropped the coastal edges along the Turnagain Arm 8 to 10 feet! As a result, the town site of Girdwood moved 2 1/2 miles up the valley to the present location. In 1967, the resort was sold to Alaska Airlines. Chris von Imhof, then the Director of Tourism for the State of Alaska, was hired to run the resort. The Nugget Inn, the original hotel, was built and a second chair lift was constructed on the upper mountain.

In October 1980, Seibu Corporation purchased Alyeska Resort and invested heavily in its development, including new chair lifts and a 60 passenger aerial tramway. Furthermore, Seibu built The Alyeska Prince Hotel, a luxurious 300 + room

Girdwood Council Home
Supervisors & Committee Officers
History of the GBOS
GBOS Annual Report
Meetings & Directions
GBOS
GBOS Official Muni Web Site
Land Use Committee
Trails Committee
Girdwood Area Plan Review Committee
GBOS Rules and Procedures
Land Use Committee Operating Procedures
Trails Committee Operating Preocedures
Link to other sites
Girdwood Chamber of Commerce

hotel, which opened in August of 1994. Late in 2006, the ski area and hotel were sold to John Byrne III. Under his ownership, ski lifts have been replaced, increasing lift capacity and improving efficiency; furnishings and amenities within the Hotel Alyeska have also been updated. In addition, new elements have been added such as development of downhill biking trails.

Present day Girdwood consists of a diverse population of outdoor enthusiasts, local businesses, services and Anchorage commuters. The town has an exemplary public school for kids from kindergarten through 8th grade, modern playground facilities at the Little Bears Park, numerous developed and rustic hiking and biking trails transecting the valley. Girdwood has much to offer the Alaskan visitor all year-round. Complete with a grocery store, library, post office, a variety of B&B's and shops, restaurants and bars, Girdwood can supply any need any time of the year.

Girdwood CC map

Girdwood.com

Abbott Loop
Airport Heights
Basher
Bayshore/Klatt
Bear Valley
Birchwood
Campbell Park
Chugiak
Downtown
Eagle River
Eagle River Valley
Eklutna Valley
Fairview
Girdwood
Glen Alps
Government Hill
Hillside
Huffman/O'Malley
Midtown
Mountain View
North Star
Northeast
Old Seward/Oceanview
Portage Valley
Rabbit Creek
Rogers Park
Russian Jack
Sand Lake
Scenic Foothills
South Addition
South Fork
Spenard
Taku Campbell
Tudor Area
Turnagain
Turnagain Arm
University Area

Community Councils Center

Community Patrols

Chugiak Eagle River Advisory Board

Federation of Community Councils

Like Us!

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Admin Login

Welcome To Girdwood

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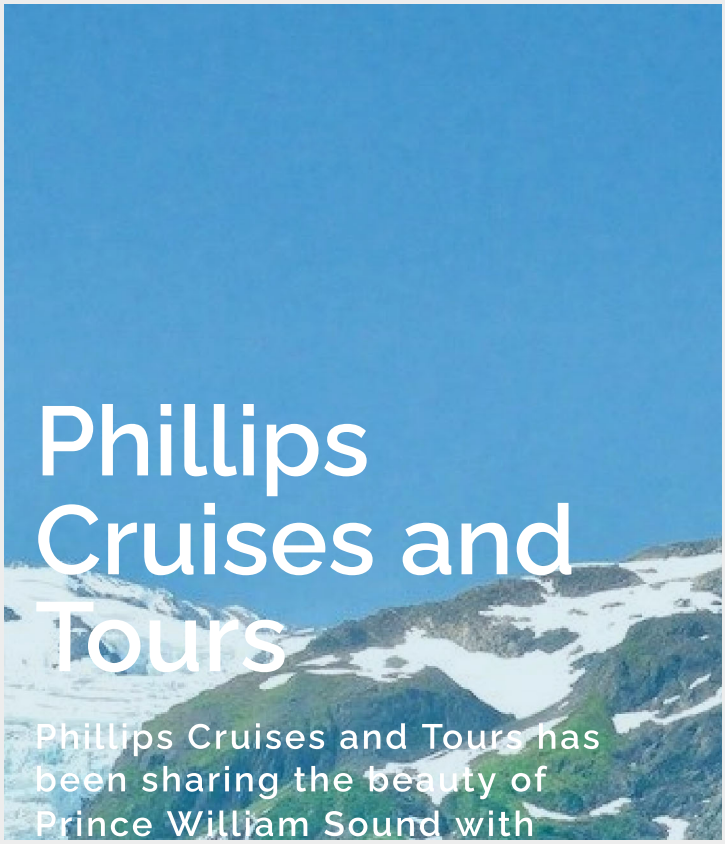
Alpine Air

Alpine Air Alaska offers daily, year-round helicopter flightseeing tours, and glacier dog sledding in the summer

Fly

Upper Alyeska

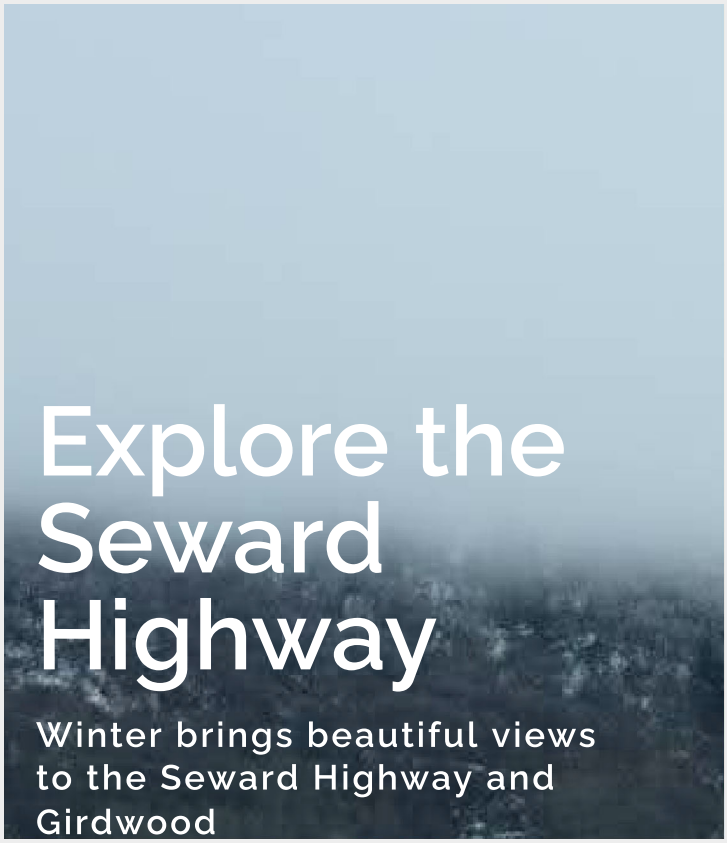


Phillips Cruises and Tours

Phillips Cruises and Tours has been sharing the beauty of Prince William Sound with

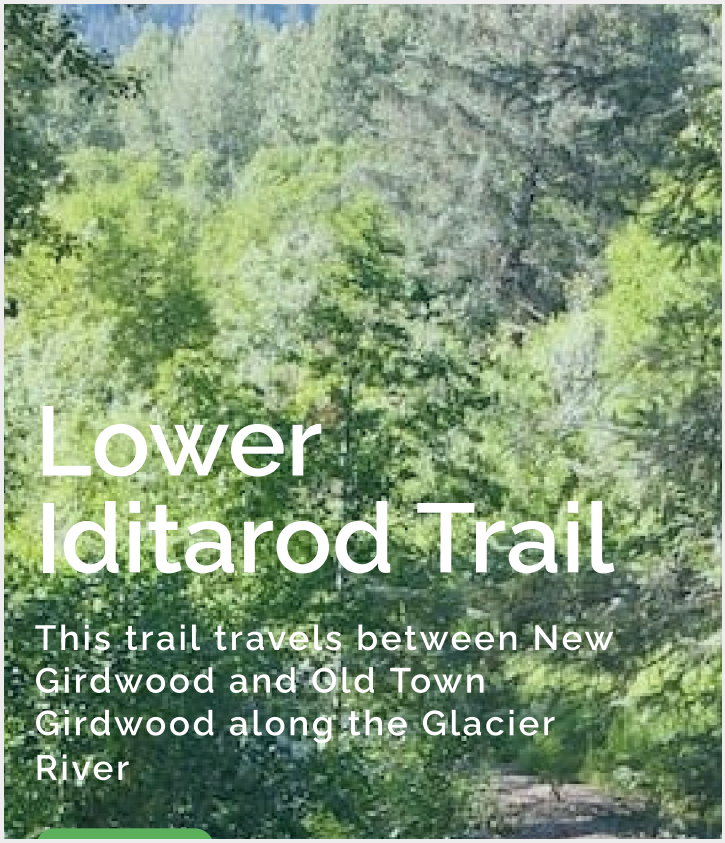
Wildlife

Bike Bird



Explore the Seward Highway

Winter brings beautiful views to the Seward Highway and Girdwood



Lower Iditarod Trail

This trail travels between New Girdwood and Old Town Girdwood along the Glacier River

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Girdwood, Alaska

Where Alaska Comes To Play

Girdwood is "One of the 10 Most Beautiful Towns in Alaska" and located just 25 miles south of Anchorage. We are a very active community offering biking, skiing, rafting, fishing, hiking, gold panning and sightseeing in a beautiful, northern rainforest setting. Glacier Valley is home to Alaska's only major ski resort, Alyeska Resort. Girdwood is an excellent base camp for all your activities in Southcentral Alaska. We are less than 10 miles from Prince William Sound and only 60 miles from the world-famous Kenai River.

Explore Girdwood

What Interests You?

Winter Activities

Summer Activities

Eat

Shop

Stay

Services

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the	)	
	)	
2021 Redistricting Plan.	)	
	)	
_____	)	Case No. 3AN-21-08869CI

ALASKA REDISTRICTING BOARD'S
OPPOSITION TO GIRDWOOD PLAINTIFFS' OPENING BRIEF

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I. INTRODUCTION

The Girdwood Plaintiffs' claims that Senate District E violates the Alaska Constitution's equal protection clause and contiguity requirement fail when tested against the rules this Court articulated in evaluating Senate District K in the last round of redistricting. In recognition of this reality, the Girdwood Plaintiffs ask this Court to ignore those rules and to simply hold that residents in the communities of Eklutna, Chugiak, and Eagle River must be segregated from the other voters within the Municipality of Anchorage. The various arguments they urge in support of this position are erroneous.

The Girdwood Plaintiffs' concession that Senate District E is "technically contiguous" is fatal to their claim that it violates Article VI, Section 6. The only substantive requirement Section 6 imposes on senate districts is that they be comprised, as near as practicable, of two contiguous house districts. Because House Districts 9 and 10 *are* contiguous, Senate District E satisfies Section 6.

As to equal protection, the Girdwood Plaintiffs ask this Court to apply a weight-of-testimony rule to its Section 6 claim even though nothing in that provision requires public testimony. The public-testimony requirement is located in Article VI, Section 10, and the Girdwood Plaintiffs have not asserted any violation of Section 10. Further, this Court should not apply that rule because, on appeal, the Supreme Court held that Skagway's house districts were entirely constitutional even though public testimony weighed in favor of a different district.

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This leaves the Girdwood Plaintiffs hoping this Court will rule that the Municipality of Anchorage communities of Chugiak, Eagle River, and Eklutna constitute an inseparable community of interest and order that they must be placed into a senate district together. This argument invites the Court to ignore the constitutional roles Alaskans articulated in Article VI under which the Alaska Redistricting Board ("Board") is delegated the authority of *drawing* election districts[1] and the court is delegated the traditional authority of judicial review of calling balls and strikes on challenged election districts, but does not draw election districts itself.[2] Nothing in Article VI suggests that a court can draw its own districts.[3]

On the merits of equal protection, Senate District E enhances Girdwood's voting power over every other legal pairing alternative. The Board used an open and transparent process in weighing and adopting Senate District E, and the similar interests and commonalities between House District 9 and 10 make it a rational senate pairing.

This Court should reject the Girdwood Plaintiffs' challenges to Senate District E.

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[1] Alaska Const. art. VI, § 4.

[2] Alaska Const. art. VI, § 11.

[3] *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 18 (Alaska Super. Ct. Feb. 1, 2002) (citing *Gaffney v. Cummings*, 412 U.S. 735, 750-51 (1973)).

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II. ARGUMENT

A. The Board has No Constitutional Obligation to Follow the Weight of Public Testimony and Rationally Adopted Senate District E

The Girdwood Plaintiffs spend much of their brief claiming that Senate District E runs afoul of this Court's inapposite public-testimony rule that was rejected by the Alaska Supreme Court. Specifically, the Girdwood Plaintiffs cite and quote from public testimony that favors their preferred senate district and urge the Court to invalidate Senate District E because it disregarded the "weight of testimony."[4] There are multiple problems with the Girdwood Plaintiffs' invitation to apply that rule to their claims against Senate District E.

First, the weight of public testimony is not relevant to the Section 6 and equal protection claims actually pleaded by the Girdwood Plaintiffs. They do not assert a Section 10 or due process claim. In the last round of litigation over the November 2021 Redistricting Plan, this Court interpreted Section 10 and Alaska's due process clause as requiring the Board to make a "good-faith effort to consider and incorporate the clear weight of public comment, unless state or federal law requires otherwise."[5] But the

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[4] Girdwood Plaintiffs' Opening Br. at 13 (May 6, 2022) ("The vast weight of the testimony favored a map that paired the two Eagle River districts together.").

[5] Findings of Fact and Conclusions of Law at 143 (Feb. 15, 2022) ("In other words, the spirit of Article VI, Section 10, if not the plain text, compels the Board to present the public with a number of equally constitutional redistricting plans and then let the people have a say about which plan they prefer. While the Board need not respond to every single comment received, the Board must make a good-faith effort to consider and incorporate the clear weight of public comment, unless state or federal law requires otherwise. . . . Due process likewise requires the Board to make a good-faith attempt to comply with the procedures it has adopted for itself, so long as those procedures are not preempted by applicable state or federal law.").

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Girdwood Plaintiffs do not challenge Senate District E as violating Section 10 or Alaska's due process clause. The only claims asserted by the Girdwood Plaintiffs are Section 6 and equal protection claims.[6] Neither Section 6 nor Alaska's equal protection clause include any public testimony requirement—the public hearing requirement is in Article VI, Section 10. Senate District E cannot be unconstitutional under Section 6 or equal protection because of the weight of public testimony.

Second, the Alaska Supreme Court rejected this Court's due process and Section 10 rule that mandated the Board to follow the public's desired election districts unless those districts were unlawful.[7] In adjudicating Skagway's challenges to the November 2021 Redistricting Plan, this Court held that House Districts 3 and 4 violated Section 10 and due process because they "ignored the clear weight of public testimony from Skagway and Juneau" that preferred a Skagway-downtown Juneau house district.[8] The Board appealed this ruling, arguing that partisan groups could shepherd significant public testimony to support election districts that served their various political objectives and that it would be improvident to require the Board to adopt election districts desired by the public even if the Board thought a different, constitutional

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[6] Complaint, ¶¶ 24-31 (Apr. 25, 2022).

[7] In the appeal, the State of Alaska, which has been part of this case pursuant to Alaska Civil Rule 90.8(b)(2), submitted a response to the petitions for review asking the Alaska Supreme Court not to adopt the superior court's weight-of-public-testimony standard for state agencies "that conduct public hearings or receive public comment." *See* State's Response to Petitions for Review, Supreme Court No. S-18332, at 2 (Mar. 10, 2022).

[8] Findings of Fact and Conclusions of Law at 146-147.

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district was better. The Supreme Court agreed and reversed this Court's holding and upheld House Districts 3 and 4:

> House Districts 3 and 4 are the subject of two petitions, one by the Board and one by the Municipality of Skagway Borough. We AFFIRM the superior court's determination that the house districts comply with article VI, section 6 of the Alaska Constitution and should not otherwise be vacated due to procedural aspects of the Board's work. We REVERSE the superior court's remand to the Board for further proceedings under the superior court's "hard look" analysis relating to public comments on the house districts. There is no constitutional infirmity with House Districts 3 and 4 and no need for further work by the Board.[9]

The Board's adoption of House Districts 3 and 4, that were different than the desires of the plurality of public testimony, resulted in "no constitutional infirmity with House Districts 3 and 4 and no need for further work by the Board."[10] In other words, this Court's public-testimony rule that sought to effectuate the "spirit" of Section 10 and due process was legal error and should not be invoked a second time.

Third, the crux of what the Girdwood Plaintiffs are attempting to do is use public testimony to counter a conclusion compelled by law: that Girdwood and Eagle River are socio-economically integrated. For example, Girdwood's expert witness, Dr. Hensel, discusses how Girdwood public-school students attend schools in South Anchorage, Girdwood residents shop at South Anchorage Fred Meyers, and that South Anchorage and Girdwood share some emergency services.[11] This is all evidence of

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[9] Order on Petitions for Review, Supreme Court No. S-18332, at 2-3 (Mar. 25, 2022).

[10] *Id*. at 3.

[11] Girdwood's Opening Br. at 15.

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socio-economic integration, which looks to the "significant social and economic interaction among the communities within an election district."[12] But this Court cannot rule that Eagle River and Girdwood do not engage in sufficient social and economic interactions to be in a senate district together because the "communities within the Municipality of Anchorage are socio-economically integrated as a matter of law[.]"[13] Public testimony about community interactions and interests cannot override Alaska Supreme Court precedent that all communities in the Municipality of Anchorage share sufficient social and economic interaction to be in election districts together. For purposes of social and economic interaction, the law dictates that the Girdwood neighborhood can be paired with any other part of the Municipality of Anchorage in a senate district.

This Court should reject the Girdwood Plaintiffs' claim that the Board disregarded public testimony because (1) the Girdwood Plaintiffs do not allege a Section 10 or due process claim; (2) the Alaska Supreme Court rejected the weight-of-public testimony rule applied by this Court in the last round of litigation; and (3) the law establishes that Girdwood and Eagle River have sufficient social and economic interactions to be in a house election district together. In fact, the record shows the Board took significant public testimony on both sides of this issue, considered both

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12 *Hickel v. Southeast Conference*, 846 P.2d 38, 46 (Alaska 1992).

13 *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1091 (Alaska 2002).

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sides, and reached a rational decision. It is not this Court's role to second guess the sagacity of the Board's plan when it selected a rational option.[14]

B. The Girdwood Plaintiffs' Admission that Senate District E is Comprised of Two Contiguous House Districts Forecloses Their Section 6 Claim

The Girdwood Plaintiffs' claim that Senate District E violates Article VI, Section 6's requirements is meritless given the actual wording of that constitutional provision.[15] Section 6 requires only that senate districts be comprised, as near as practicable, "of two contiguous house districts." It does not require senate districts to be compact. The Girdwood Plaintiffs' arguments to the contrary are legal error.

The Alaska Supreme Court has repeatedly directed that "analysis of a constitutional provision begins with, and remains grounded in, the words of the provision itself. [The courts] are not vested with the authority to add missing terms or hypothesize differently worded provisions . . . to reach a particular result."[16] In interpreting the Constitution, a court must "look to the plain meaning and purpose of the provision and the intent of the framers."[17] Specifically, where the "meaning and intent are clear, [courts] do not apply interpretive canons; a canon of construction is

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[14] *In re 2011 Redistricting Cases*, 294 P.3d 1032, 1037 (Alaska 2012) ("We may not substitute our judgment as to the sagacity of a redistricting plan for that of the Board, as the wisdom of the plan is not a subject for review.").

[15] Girdwood Plaintiffs' Opening Br. at 20-24.

[16] *Wielechowski v. State*, 403 P.3d 1141, 1146 (Alaska 2017).

[17] *Id.*; *see also Hickel v. Cowper*, 874 P.2d 922, 926 (Alaska 1994).

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only 'an aid to the interpretation of statutes that are ambiguous or that leave unclear the legislative intent.'"[18]

Starting with the words of the provision itself, Article VI, Section 6 states in relevant part:

> **Each senate district shall be composed as near as practicable of two contiguous house districts.** Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible.[19]

Whether a senate district is comprised of two contiguous house districts is easily confirmed. "Contiguous territory is territory which is bordering or touching."[20] Thus, "[a] district may be defined as contiguous if every part of the district is reachable from every other part without crossing the district boundary (i.e., the district is not divided into two or more discrete pieces)."[21] Contiguity is a visual concept.[22] A district that comprises a single land mass on a map connected by census blocks is contiguous for constitutional purposes, even if transportation barriers such as mountains or waterways physically separate portions of the district.[23]

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[18] *State v. Planned Parenthood of the Great Northwest*, 436 P.3d 984, 993 (Alaska 2019) (quoting *West v. Muni. of Anchorage*, 174 P.3d 224, 229 (Alaska 2007)).

[19] Alaska Const. art. VI, § 6 (emphasis added).

[20] *Hickel v. Southwest Conference*, 846 P.2d 38, 45 (Alaska 1992).

[21] *Id.* (citation omitted).

[22] *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 36 (Alaska Super. Ct. Feb. 1, 2002).

[23] Findings of Fact and Conclusions of Law at 74-75 ("This Court agrees with Judge Rindner's analysis.").

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Nothing in Section 6 requires *maximum* contiguity. A senate district that is comprised of two house districts that share a border fulfills the contiguity requirement. The qualification "as near as practicable" means that the Board can pair non-contiguous house districts together if it is not practicable to adopt contiguous pairings. It does not mean that senate districts shall be composed of two house districts that are as contiguous as possible.

In the same vein, it does not matter if, given current roadways, a resident has to drive outside of their district to reach another part of the district. Contiguity is "not dependent on the vagaries of existing transportation systems."[24] As this Court held in rejecting the "transportation contiguity" urged by the Matanuska-Susitna Borough and Valdez in litigation over House District 29:

> The fact that the road connection between Mat-Su and Valdez meanders in and out of two districts as it traverses around the Chugach mountains does not take away from the fact that every part of the district is physically connected. District 29 is contiguous.[25]

The Alaska Supreme Court's affirmance of this Court's ruling about contiguity[26] ends the inquiry because every part of Senate District E is visually and physically connected, and whether a resident has to drive through other districts to get to every portion of the senate district is of no constitutional import. Alaskans in rural portions of the state have to boat or fly to reach other communities in their senate district. Residents of

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[24] *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 36.

[25] Findings of Fact and Conclusions of Law at 74-75.

[26] Order on Petitions for Review, S-18332, at 3.

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Anchorage can certainly drive short distances on paved roadways across the municipality to reach other portions of their senate district.

Contrary to the Girdwood Plaintiffs' assertions, the Alaska Constitution does not require senate districts be compact. In *Kenai*, Governor Sheffield's reapportionment plan[27] included a two-member senate district[28]—Senate District E—that was comprised of three house districts:[29] the Prince William Sound District, the North Kenai-South Anchorage District, and the Matanuska-Susitna District.[30] *Kenai*'s Senate District E was known as the "Donut" District[31] because of its ring-like shape. The district was challenged, and the Alaska Supreme Court held that the substantive house district requirements did not apply to senate districts: "Therefore, we hold that the provisions of article VI, section 6 which set forth socio-economic integration, compactness, and contiguity requirements are inapplicable to redistricting and reapportionment of senate

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[27] *See Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1355 (Alaska 1987) ("On February 16, 1984, Governor William Sheffield issued an Executive Proclamation of Reapportionment and Redistricting adopting the Board's proposed plan.").

[28] The 1998 Amendment eliminated multi-member election districts and drastically simplified the composition of senate districts to be comprised of two contiguous house districts. *See In re 2001 Redistricting Cases*, No. 3AN-01-8914CI, 2002 WL 34119573, at 48-49 (Alaska Super. Ct. Feb. 1, 2002).

[29] *Kenai Peninsula Borough*, 743 P.2d at 1357. A two-member senate district means that the district had two senators elected at-large to serve in the Alaska Legislature.

[30] *Id*. at 1355. The State of Alaska's Brief of Appellee further explains the house districts that comprised Senate District E: "The principal communities involved include Palmer and Wasilla from District 16, Valdez, Cordova, Seward and Whittier from District 6, and Nikiski and a portion of South Anchorage from District 7." Brief of Appellee State of Alaska, *Kenai Peninsula Borough*, at 35, Case No. S-1207 (Sept. 9, 1986) (available in the State of Alaska Law Library).

[31] *Kenai Peninsula Borough*, 743 P.2d at 1357.

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districts."[32] The Court went even further to state that "[e]ven if article VI, section 6 did apply to senate districts, we would uphold Senate District E under its requirements."[33]

If *Kenai*'s donut-shaped senate district that included areas from three different boroughs—Mat-Su, Anchorage and Kenai—as well as Prince William Sound was socio-economically integrated, compact and contiguous, Senate District E easily passes the same test. Senate District E is formed of two house districts that touch and share a 35-mile border, and is therefore contiguous. If this Court chose to ignore the Alaska Supreme Court's holding that socio-economic integration and compactness requirements do not apply to senate districts, Senate District E still meets those requirements.[34] This Court must reject the Girdwood Plaintiffs' attempt to engraft a compactness requirement on senate districts that is not contained in the plain language of the Constitution.

The Girdwood Plaintiffs improperly attempt to slip in new contiguity requirements in the Alaska Constitution through their expert witness, cultural anthropologist Dr. Chase Hensel. Dr. Hensel spends most of his expert report opining on what "practical contiguity" under the Alaska Constitution means.[35] But what Article

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[32] *Id*. at 1365 & n.21.

[33] *Id*. at 1365 n.21.

[34] In 1998, voters approved a constitutional amendment to Article VI to add just the requirement that senate districts be comprised, as near as practicable, of two contiguous house districts.

[35] Expert Report of Dr. Chase Hensel, at 1-5, attached to Girdwood's Opening Brief.

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VI, Section 6 means when it states "[e]ach senate district shall be composed as near as practicable of two contiguous house districts. . . ." is a pure question of law not subject to expert witness debate. In American courts, the only expert on the law is the judge, and the rules of evidence preclude litigants from eliciting expert witness testimony on the meaning of the law: "an expert witness cannot give an opinion as to her *legal conclusion*, i.e., an opinion on the ultimate issue of law. Similarly, instructing the jury as to the applicable law is the distinct and exclusive province of the court."[36] "The reason for this prohibition is because it is the role of the trial judge to explain the law to the jury."[37]

Dr. Hensel's expert testimony regarding "practical contiguity" in his expert report is a legal conclusion about what he believes Article VI, Section 6 requires for senate districts. Black-letter law precludes Dr. Hensel from testifying as to what Article VI, Section 6 means. This Court should not accept testimony that is directly contrary to its own prior holding in this case that contiguity is a "visual concept," not a practical

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[36] *Nationwide Transport Finance v. Cass Information Systems, Inc.*, 523 F.3d 1051, 1058 (9th Cir. 2008) (emphasis in original) (quoting *Hangarter v. Provident Life & Accident Ins. Co.*, 373 F.3d 998, 1016 (9th Cir. 2004)); *see also Berckeley Inv. Grp. Ltd. v. Colkitt*, 455 F.3d 195, 217 (3d Cir. 2006) ("Although Federal Rule of Evidence 704 permits an expert witness to give expert testimony that 'embraces an ultimate issue to be decided by the trier of fact,' an expert witness is prohibited from rendering a legal opinion.").

[37] *United States v. Xue*, --- F. Supp. 3d ---, ---, 2022 WL 1027634, *5 (E.D. Pa. Apr. 4, 2022) (citing *First Nat. State Bank of New Jersey v. Reliance Elec. Co.*, 668 F.2d 725, 731 (3d Cir. 1981)).

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one,[38] as this Court explained in its prior order.[39] Dr. Hensel's opinion on "practical contiguity" should be excluded or disregarded as legal conclusions are the "distinct and exclusive province of [this] court."[40]

The Girdwood Plaintiffs' admission that House Districts 9 and 10 are "technically" contiguous ends their claim that Senate District E does not meet Section 6's contiguity requirement.[41] The Alaska Constitution does not discuss and does not require "practical" or "meaningful" contiguity, as defined by the Girdwood Plaintiffs. Rather, "contiguity" is a visual concept that is satisfied if a senate district is comprised of a single land mass of touching census blocks, which is why the court easily upheld *Kenai*'s "Donut" District as contiguous. Contiguity is a binary concept: the district is either contiguous or it is not. Two districts are no less contiguous because they share a short border. Senate District E has a long border between House Districts 9 and 10 and meets the criteria for contiguity under the Alaska Constitution.

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[38] *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 36 (Alaska Super. Ct. Feb. 1, 2002).

[39] Findings of Fact and Conclusions of Law at 74-75 ("This Court agrees with Judge Rindner's analysis.").

[40] *Nationwide Transport Finance*, 523 F.3d at 1058 (quoting *Hangarter v. Provident Life & Accident Ins. Co.*, 373 F.3d 998, 1016 (9th Cir. 2004)); *see also Berckeley Inv. Grp. Ltd.*, 455 F.3d at 217 ("Although Federal Rule of Evidence 704 permits an expert witness to give expert testimony that 'embraces an ultimate issue to be decided by the trier of fact, an expert witness is prohibited from rendering a legal opinion.").

[41] Girdwood Plaintiffs' Opening Br. at 20.

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C. Alaska Courts Cannot Draw Election Districts

Under the auspices of this Court's former rulings, the Girdwood Plaintiffs attempt to segregate parts of Anchorage from being in election districts with others. They assert that in the last round of redistricting litigation, this Court ruled that Eagle River/Chugiak/Eklutna is a "community of interest" that must be paired together in a senate district.[42] True to its constitutional limitations, this Court did not dictate the boundaries of any election districts when it adjudicated the November 2021 Redistricting Plan.

Alaska courts do not dictate the boundaries of any election districts; instead, they adjudicate claims brought to them and *invalidate* unlawful districts. The Alaska Constitution gives the Board, not courts, the authority to draw the district lines for house and senate districts. Article VI, Section 4 unambiguously states:

> The Redistricting Board shall establish forty house districts, with each house district to elect one member of the house of representatives. The board shall establish twenty senate districts, each composed of two house districts, with each senate district to elect one senator.[43]

Under Article VI, Section 11, the Board's redistricting plan is subject to judicial review for "error": "Any qualified voter may apply to the superior court to compel the Redistricting Board, by mandamus or otherwise, to perform its duties under this article or to correct any error in redistricting."[44]

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[42] *Id*. at 25-28.

[43] Alaska Const. art. VI, § 4.

[44] Alaska Const. art. VI, § 11.

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This constitutional structure is why in previous redistricting cycles since Section 11's enactment in 1998 no Alaska court has mandated the Board adopt *any* specific house or senate district. Such a ruling would run afoul of separation of powers and the explicit language of Article VI.

During the 2011 redistricting cycle, the Alaska Supreme Court invalidated the Board's first redistricting plan because the Board did not follow the *Hickel* process, and remanded the case "to the superior court with instructions to further remand to the Board to formulate a plan . . . ."[45] The Board adopted a second plan, legal challenges were filed, and again the Supreme Court invalidated the second plan as failing to comply with the *Hickel* process.[46] Notably, however, after invalidation of the Board's second redistricting plan, the Supreme Court did not direct that the court system should promulgate a third plan. The Court remanded the case for the Board to create a third plan: "We affirm the decision of the superior court and require the board to draft a new plan for the 2014 elections."[47] This history of deference to the Board is consistent with the Alaska Constitution's text that the Board, not the courts, "shall establish forty house districts . . . [and] twenty senate districts."[48]

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[45] *In re 2011 Redistricting Cases*, 274 P.3d 466, 466 (Alaska 2012).

[46] *In re 2011 Redistricting Cases*, 294 P.3d 1032, 1033 (Alaska 2012).

[47] *Id*. at 1033.

[48] Alaska Const. art. VI, § 4.

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In this redistricting cycle, the Alaska Supreme Court demonstrated that the courts' role in redistricting is limited to reviewing challenges to election districts, invalidating any unconstitutional districts, and remanding the case to the Board to fix any issues. It is not the courts' role to substantively decide district lines. During the last round of litigation, the inclusion of the "Cantwell Appendage" in House District 36 was challenged. Ultimately, the Supreme Court ruled that the appendage rendered House District 36 unconstitutionally non-compact and told the Board to fix it:

> The Cantwell Appendage renders House District 36 non-compact without adequate justification. House District 36 reaches across a local borough boundary, within which voters are by law socio-economically integrated with other borough voters, to extract Cantwell residents from District 30 and place them in House District 36, based primarily on the proposition that an apparent minority of Cantwell residents — shareholders of the Alaska Native Claims Settlement Act regional corporation headquartered in House District 36 — are more socio-economically integrated with similar shareholder residents in House District 36. But the Board's briefing about House Districts 3 and 4 argues: "Nothing in [article VI, section 6] states that the Board should disregard compactness to increase an already socio-economically integrated area's integration." The Board mentions in its briefing that House District 30 was about 2% overpopulated and that moving the roughly 200 Cantwell residents eliminated about half the overage to the constitutionally targeted house district population of 18,335. This rendered both House Districts about 1% overpopulated. But House District 30's approximately 2% overpopulation with the Cantwell residents included, and House District 36's nearly perfect population without the Cantwell residents included, are well within constitutionally allowable parameters under our case law. We therefore REVERSE the superior court's determination to this limited extent, **<u>and remand to the superior court to remand this aspect of the house districts to the Board to correct the constitutional error.</u>**"[49]

[49] Order on Petitions for Review, S-18332, at 3-5.

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Like prior redistricting cycles, the Supreme Court adjudicated the constitutionality of House District 36, invalidated it, and remanded the matter to the Board to create a new redistricting plan. The Supreme Court did not order the Board to fix the Cantwell Appendage in any certain way. In any event, the Board fixed this issue on remand and that fix has not been challenged.

The Girdwood Plaintiffs are inviting this Court to engage in legal error by asking the Court to "compel" the Board to adopt a specific pairing of house districts.[50] The Alaska Constitution does not permit Alaska courts to dictate the boundaries of election districts, including whether areas within the Municipality of Anchorage like Eklutna, Chugiak, and Eagle River, must be paired together in a senate district. That authority is reserved to the Board.[51]

D. The Board Adopted Senate District E in Recognition of the Similarities Between House District 9 and House District 10

Hoping this Court will segregate the voters of Anchorage they disfavor from being in election districts with others in the municipality, the Girdwood Plaintiffs seek a ruling that Chugiak/Eagle River/Eklutna must be paired together in a senate district.

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[50] Girdwood Plaintiffs' Opening Br. at 30 ("For the foregoing reasons, this Court should rule that the Board has again engaged in improper gerrymandering and again adopted an unconstitutional senate map, reject the Board's Amended Proclamation, and **compel the Board to adopt Option 2** to ensure Alaskans are represented consistent with the requirements of the Alaska Constitution.") (emphasis added).

[51] *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 18 (Alaska Super. Ct. Feb. 1, 2002) (citing *Gaffney v. Cummings*, 412 U.S. 735, 750-51 (1973)); *see also In re 2001 Redistricting Cases*, 47 P.3d 1089, 1091 (Alaska 2002) ("While Eagle River-Chugiak area is socio-economically integrated, its residents have no constitutional right to be placed in a single district.").

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This position is contrary to the plain terms of the Alaska Constitution and the Alaska Supreme Court's holding that while the "Eagle River-Chugiak area is socio-economically integrated, its residents have no constitutional right to be placed in a single district."[52]

As demonstrated in the Board's opening brief,[53] the Alaska Supreme Court has already approved the splitting of Eagle River-Chugiak into multiple election districts. The Court applied the simple logic that, as a matter of law, all communities within the municipality share sufficient social and economic interaction to be in an election district together, and no neighborhood in Anchorage has a right to be in a unified election district.[54] That ruling forecloses the Girdwood Plaintiffs' attempt to segregate Eagle River/Chugiak/Eklutna voters from being in election districts with other residents of the Municipality of Anchorage.

On remand, the Board explained its legitimate purpose in adopting Senate District E. The Board adopted Senate District L (House Districts 23 and 24) because the residents of Joint Base Elmendorf-Richardson (JBER) share significant connections to the Eagle River/Chugiak area.[55] The Board recognized that this military population is a community of interest that serves the employer, wears the same uniform, shops in

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52 *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1091 (Alaska 2002).

53 Alaska Redistricting Board's Opening Brief on Girdwood Challenge at 18-19 (May 5, 2022) ("Board's Opening Br.").

54 *In re 2001 Redistricting Cases*, 47 P.3d at 1091.

55 *See* Board's Opening Br. at 31-37 (quoting and citing public testimony).

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the same place, and obtains medical care in the same place. The Board adopted Senate District E (House Districts 9 and 10) combining the Hillside with Eagle River, as was the case in House District 32 approved by the Alaska Supreme Court in *In re 2001 Redistricting Cases*, because of the similar attributes, geography, lifestyles, challenges, and demography of the residents in these two house districts.[56]

In an effort to manufacture a constitutional problem with Senate District E, counsel for the Girdwood Plaintiffs attack their former expert witness Randy Ruedrich. In the last round of litigation, counsel for the Girdwood Plaintiffs (then representing Calista Corporation) sponsored Mr. Ruedrich as an expert witness on redistricting.[57] Now the Girdwood Plaintiffs quip that Mr. Ruedrich's proposed senate pairings on remand just happen to match Board Member Marcum's proposed senate pairings,[58] and then go on to describe those pairings as "preserv[ing] the gerrymandered division of Eagle River by pairing Eagle River Valley with South Anchorage/Girdwood/Turnagain Arm, and North Eagle River with North Anchorage."[59] In other words, in the eyes of counsel, Mr. Ruedrich had the redistricting experience and qualifications to make him an expert on redistricting during the last cycle, but now with new clients, Mr. Ruedrich is a gerrymanderer who cannot be trusted. This Court should recognize this

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[56] *See id*. at 31-37 (quoting and citing public testimony).

[57] *See* Calista's Pre-filed Expert Testimony of Randy Ruedrich (Jan. 17, 2022).

[58] Girdwood Plaintiffs' Opening Br. at 6-7.

[59] *Id*. at 7-8.

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inconsistency underscores that the Girdwood Plaintiffs' challenges are motivated by politics, not the Constitution.

To attack Senate District E as "gerrymandered," "illegitimate[]," and "partisan,"[60] the Girdwood Plaintiffs are forced to ignore the Alaska Supreme Court's decision in *In re 2001 Redistricting Cases*. In that case, the Alaska Supreme Court held that House District 32, which included Eagle River and the Hillside, was "not unconstitutional in any respect."[61] As the Supreme Court easily concluded, it is rational and constitutional to pair house districts within the same municipality into a senate district. This Court should decline the Girdwood Plaintiffs' invitation to rule contrary to binding precedent.

The fact that some disfavor Senate District E is to be expected in redistricting. But the Board's rationale for adopting Senate District E was stated on the record and is rational. Opposition to an election district does not change the constitutionality of that district.

E. Senate District E Does Not Dilute Girdwood's or House District 9's Voting Power

Finally, while the Girdwood Plaintiffs set out to prove that Senate District E does not lead to more proportional representation, they end up proving the opposite. According to their own math, Senate District E **does** lead to more proportional

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60 *Id*. at 1-2, 13.

61 *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1091 (Alaska 2002).

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representation in the Alaska Senate—they just discount that increased proportionality as "*de minimus*."[62] This portion of the Girdwood Plaintiffs' briefing is riddled with errors and misleading statements.

The challengers attempt to pivot to argue that House District 9 is a "swing" district that cannot be paired with Eagle River that prefers Republican candidates.[63] But this is just a re-packaged argument to segregate Eklutna/Chugiak/Eagle River from being in election districts with other portions of the municipality. As previously discussed, the Alaska Supreme Court has rejected this argument: "While the Eagle River-Chugiak area is socio-economically integrated, its residents have no constitutional right to be placed in a single district."[64] Twenty years ago, the Supreme Court rejected challenges to House District 32 that spanned from Eagle River to the Hillside and held that it was "not unconstitutional in any respect."[65] This Court cannot segregate portions of Anchorage from the rest of its election districts.

Moreover, in no fair sense of the word is House District 9 a "swing" district for Alaska Legislature elections.[66] In the last 20 years, the Anchorage Hillside, in what is

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[62] Girdwood Plaintiffs' Opening Br. at 28 ("In terms of straight population numbers, Dr. Hensel calculated that the difference between Option 2 and Option 3B for the five affected senate districts is *de minimus*. Under Option 2, the average deviation for the five senate districts involved would be -.79%. Under Option 3B, it would be -.72%. The difference of -.07% amounts to a mere 25 voters.").

[63] Girdwood Plaintiffs' Opening Br. at 28-30.

[64] *In re 2001 Redistricting Cases*, 47 P.3d at 1091.

[65] *Id*.

[66] *See* Supplemental Aff. of Peter Torkelson, ¶¶ 3-4 (May 9, 2022).

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now House District 9, has **never** voted for a Democratic candidate for the Alaska Legislature:[67]

Anchorage Hillside Historical Alaska Legislature Election Results		
Election Year	**Senate**	**House**
2002	Con Bunde (R)	Mike Hawker (R)
2004	No race	Mike Hawker (R)
2006	Con Bunde (R)	Mike Hawker (R)
2008	No race	Mike Hawker (R)
2010	Cathy Giessel (R)	Mike Hawker (R)
2012	Cathy Giessel (R)	Mike Hawker (R)
2014	Cathy Giessel (R)	Mike Hawker (R)
2016	Cathy Giessel (R)	Jennifer Johnson (R)
2018	No race	Jennifer Johnson (R)
2020	Roger Holland (R)	James Kaufman (R)

The Anchorage Hillside cannot be reasonably construed as a "swing" district when it reliably elects Republican candidates to represent it in the Alaska Legislature.

The challengers' expert, Dr. Chase Hensel, attempts to get around this inconvenient fact by looking to two elections that have nothing to do with the Alaska Legislature. Specifically, Dr. Hensel points out that in 2014 the Hillside voted for Forrest Dunbar (D) for U.S. Congress and in 2020 for Joe Biden (D) for U.S.

[67] *See* **Exhibit C** attached to Supplemental Aff. of Peter Torkelson.

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President.[68] Dr. Hensel's methodology overlooks that these two victories are outliers, and that the margin of victory in these elections for Dunbar and Biden was smaller than the vote that went to the third-party, Libertarian candidate. Dr. Hensel studiously ignores the election results for the Alaska Legislature where the Hillside elected a Republican candidate every time, and fails to mention that he is plucking outliers from the data and selling that data as a general trend. When it comes to actually electing members to the Alaska Legislature, Dr. Hensel does not claim that House District 9 has ever elected a Democrat to the state legislature.

The Girdwood Plaintiffs make little effort to articulate and apply the "neutral factors" test this Court applied to equal protection claims in the last round of challenges:

> This Court employs a neutral factors test to assess the legitimacy of the Board's purpose in creating a Senate district. The Board's purpose would be illegitimate if it diluted the power of certain voters "systematically by reducing their senate representation below their relative strength in the state's population. In making this assessment, the Court looks to the Board's process in making its decision as well as the substance of the decision. The Court will find suggestive of illegitimate purpose any secretive procedures employed by the Board, evidence of regional partisanship, and the existence of district boundaries which "meander and selectively ignore political subdivisions and communities of interest."[69]

The reason that the Girdwood Plaintiffs chose to ignore the neutral factors test is that its application shows that Senate District E does not dilute any area of the Municipality

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[68] Dr. Chase Hensel Expert Report at 7-8 ("The voters in PD 9 have voted largely Republican but voted for the Democratic candidate in the 2014 US House election and for President Biden in the 2020 election.").

[69] Findings of Fact and Conclusions of Law at 54 (quoting *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1372 (Alaska 1987)).

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of Anchorage's voting power. As shown in the Board's opening brief, Senate District E enhances Girdwood's voting strength relative to its population,[70] and pairing House District 9 with House District 13 (as desired by the Girdwood Plaintiffs) reduces Girdwood's voting strength.[71] The Board's process on remand was transparent and methodical: the Board took public testimony, adopted two proposed plans for Anchorage senate districts, took more public testimony, and voted to approve proposed plan "Option 3B."[72] Senate District E does not split *any* political subdivisions. Under the neutral factors test, Senate District E is constitutional.

The Girdwood Plaintiffs also incorrectly state that the Board's plan gives Eagle River control over 20% of the senate districts in Alaska.[73] There are 20 total senate districts in Alaska.[74] It requires four senators to make up 20% of the Alaska Senate.

There is no evidence, or even argument, on which to conclude that Senate District E's next senator will reside in Eagle River versus the Anchorage Hillside versus Girdwood. Indeed, Representative Mike Hawker represented the Hillside and Eagle River in House District 32 and he resided on the Hillside.[75] Alaska Senator Con Bunde

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70 Board's Opening Br. at 24-25.

71 *Id*. at 24.

72 *Id*. at 4-8.

73 Girdwood Plaintiffs' Opening Br. at 9, 30 (quoting Board Member Borromeo).

74 Alaska Const. art. VI, § 4.

75 Supplemental Aff. of Peter Torkelson, ¶ 5.

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represented Senate District P that covered the Hillside and Eagle River and he likewise lived on the Hillside.[76]

The Girdwood Plaintiffs fail to explain the glaring conflict between their arguments and their expert's conflicting public testimony. In their briefing to this Court, the Girdwood Plaintiffs argue that Senate District E acts to "increase Eagle River's Senate representation,"[77] and they rely on Dr. Chase Hensel's analysis to support their arguments. But less than a month before they filed their complaint, on April 8, 2022, Dr. Chase Hensel submitted public testimony to the Board claiming the exact opposite:

> Eagle River forms an obvious and clearly defined community of interest. It is our opinion that dividing a community of interest creates both dilution and friction in the political process.
>
> Division of the Eagle River community of interest would dilute its voting power by splitting it between two districts. This harms the community thus divided. Residents would lose the ability to have their collective interests efficiently and effectively represented.[78]

According to Dr. Hensel on April 8, Senate District E would *dilute* Eagle River's voting power. But, by May 6, Dr. Hensel has changed his mind and Senate District E would now *enhance* Eagle River's voting power. The Girdwood Plaintiffs dutifully ignore this inconsistency. As with the about-face on the value of Mr. Ruedrich's redistricting

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[76] *Id.*, ¶ 5.

[77] Girdwood Plaintiffs' Opening Br. at 3.

[78] *See* Exhibit E at 5 to East Anchorage Motion to Reject Amended Redistricting Proclamation Plan and for Modification of Order on Remand (Apr. 18, 2022).

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expertise, the Girdwood Plaintiffs' expert's reversal on whether Senate Districts E and L will enhance or diminish Eagle River's voting power reveals that adherence to the Constitution is not the goal of this challenge.

F. Senate District E Does Not Disregard Local Political Boundaries

Grasping for means to show that Senate District E is unconstitutional, the Girdwood Plaintiffs claim that Senate District E "disregards local government boundaries" because it places South Anchorage High students located in House Districts 9 and 13 into two senate districts.[79]

As an initial matter, high-school attendance boundaries within the Anchorage School District are not "local government boundaries" because all students within the Anchorage School District are governed by the same political entity. Anchorage School District students from Chugiak, to South Anchorage, to West are all governed by the Anchorage School District School Board.[80] All members of the school board are elected on an at-large basis from across the municipality so that each member serves all of the municipality's schools, and not just one region of Anchorage.[81] Because the Anchorage School District governs and operates all public schools within the

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[79] Girdwood Plaintiffs' Opening Br. at 24.

[80] *See* Article VI of the Anchorage Municipal Charter (available at: https://library.municode.com/ak/anchorage/codes/code_of_ordinances?nodeId=PTICH_ARTVIED_S6.01PUSCSY) ("The system of public schools for the municipality shall be operated by a school board of seven persons elected at-large from seats designated as seat A, seat B, seat C, seat D, seat E, seat F, and seat G.").

[81] *See* Article VI, Section 6.01 of the Anchorage Municipal Charter.

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Municipality of Anchorage, attendance boundaries for elementary, middle, and high schools within the district are not separate "local political boundaries."

Further, if the Court invalidates Senate District E on the basis it ignores local political boundaries by placing residents whose children attend South Anchorage High into two senate districts, then all of the Anchorage senate districts must be invalidated. Indeed, all of the Anchorage house districts must be re-visited, too. House districts are the building blocks for senate districts and the Anchorage house districts do not conform to Anchorage School District attendance areas for elementary, middle and high schools.[82] The following is a chart showing which senate districts form portions of Anchorage School District attendance boundaries:

ASD High School	**2022 Senate Districts**
Bartlett High	I, J, K and L
Chugiak High	E and L
Dimond High	G and H
East Anchorage High	E, F, G, I, and J
Eagle River High	E and L
Service High	F and G
South Anchorage High	E, F, and G
West High	G, H, I, J and L

The Board's house districts do not respect Anchorage School District attendance boundaries, and therefore neither do the senate districts. If respecting Anchorage

[82] *See* Supplemental Aff. of Peter Torkelson, ¶¶ 6-7.

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School District attendance boundaries is a constitutional requirement of Section 6 or equal protection, Anchorage needs to be re-drawn starting with the house districts.

The Court should reject a new requirement for the Board to draw election districts that respect elementary, middle, and high school attendance area boundaries within a unified school district that would unduly complicate the Board's already Herculean task.

III. CONCLUSION

For the foregoing reasons, this Court should reject the Girdwood Plaintiffs' Section 6 and equal protection challenges to Senate District E.

DATED at Anchorage, Alaska, this 10th day of May, 2022.

SCHWABE, WILLIAMSON & WYATT, P.C.
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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of May, 2022, a true and correct copy of ALASKA REDISTRICTING BOARD'S OPPOSITION TO THE GIRDWOOD PLAINTIFFS' OPENING BRIEF (31 pages) was served upon the following by:

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the 2021 Redistricting Plan.	))))))	Case No. 3AN-21-08869CI

SUPPLEMENTAL AFFIDAVIT OF PETER TORKELSON

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

I, Peter Torkelson, being first duly sworn, depose and state as follows:

1. My name is Peter Torkelson, and I am the age of majority. The following testimony is based on my personal knowledge.

2. I am the Executive Director of the Alaska Redistricting Board.

3. To respond to the Girdwood Plaintiffs' legal challenges to Senate District E, I reviewed the State of Alaska's General Election Official Results from 2002 to 2020. All of these official election results are available on the Division of Elections' website here: https://www.elections.alaska.gov/doc/info/ElectionResults.php.

4. From 2002 to 2010, the Anchorage Hillside was in House District 32 and Senate District P. In 2012, the Anchorage Hillside was in House District 27 and Senate District N. From 2014 through 2020, the Anchorage Hillside was in House District 28 and Senate District N. Attached to this affidavit as **Exhibit C** is a tabulation of who

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the Anchorage Hillside elected to represent it in the Alaska Legislature from 2002 to 2020. From 2002 to 2020, the Anchorage Hillside has always elected a Republican to represent it in both the Alaska House of Representatives and the Alaska Senate.

5. I reviewed the Official Election Pamphlets published by the Alaska Division of Elections for the 2002 era redistricting decade. Representative Hawker, who represented the Anchorage Hillside and Eagle River in House District 32 from 2002 to 2012, is listed as residing on the Anchorage Hillside, within the bounds of 2022 House District 9. Likewise, Senator Bunde, who represented the Anchorage Hillside and Eagle River in Senate District P from 2002 to 2010 is listed as residing on the Anchorage Hillside. Historical Official Election Pamphlets are available here: https://www.elections.alaska.gov/Core/officialelectionpamphlets.php and by clicking on the "Region 2 OEP."

6. To respond to the Girdwood Plaintiffs' claims that Senate District E ignores the attendance area boundary for South Anchorage High, I reviewed the attendance area boundaries for Anchorage School District high schools. The Anchorage School District's high-school attendance boundaries are available from its website here: https://www.asdk12.org/demographics-gis/boundaries/ and by clicking on the "High School" link.

7. By choosing the "Download as KML" option, I was able to overlay the Anchorage School District's high-school attendance area maps on top of the Alaska Redistricting Board's maps that depict the 2022 Proclamation election districts within

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the Municipality of Anchorage. The following chart lists senate districts that are part of each Anchorage School District high-school attendance area:

ASD High School	2022 Senate Districts
Bartlett High	I, J, K and L
Chugiak High	E and L
Dimond High	G and H
East Anchorage High	E, F, G, I, and J
Eagle River High	E and L
Service High	F and G
South Anchorage High	E, F, and G
West High	G, H, I, J and L

FURTHER AFFIANT SAYETH NAUGHT.

Peter Torkelson

SUBSCRIBED AND SWORN to before me this 9th day of May, 2022, at Anchorage, Alaska.

JEANINE M. HUSTON NOTARY PUBLIC STATE OF ALASKA

Janine M. Huston
Notary Public in and for the State of Alaska
My Commission expires: 1·31·2024

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of May, 2022, a true and correct copy of the SUPPLEMENTAL AFFIDAVIT OF PETER TORKELSON WITH EXHIBIT (5 pages) was served upon the following by:

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Anchorage Hillside Election Victories

2002

Seat	Candidate	Party
Governor	Murkowski	Republican
US Senate	Stevens	Republican
US House	Young	Republican
Alaska Senate	Bunde	Republican
Alaska House	Hawker	Republican

2004

Seat	Candidate	Party
President	Bush	Republican
US Senate	Murkowski	Republican
US House	Young	Republican
Alaska Senate	No Race	
Alaska House	Hawker	Republican

2006

Seat	Candidate	Party
Governor	Palin	Republican
US Senate	No Race	
US House	Young	Republican
Alaska Senate	Bunde	Republican
Alaska House	Hawker	Republican

2008

Seat	Candidate	Party
President	McCain	Republican
US Senate	Stevens	Republican
US House	Young	Republican
Alaska Senate	No Race	
Alaska House	Hawker	Republican

2010

Seat	Candidate	Party
Governor	Parnell	Republican
US Senate	Murkowski	Republican
US House	Young	Republican
Alaska Senate	Giessel	Republican
Alaska House	Hawker	Republican

2012

Seat	Candidate	Party
President	Romney	Republican
US Senate	No Race	
US House	Young	Republican
Alaska Senate	Giessel	Republican
Alaska House	Hawker	Republican

2014

Seat	Candidate	Party
Governor	Parnell	Republican
US Senate	Sullivan	Republican
US House	Dunbar	Democrat†
Alaska Senate	Giessel	Republican
Alaska House	Hawker	Republican

† Margin of victory 15% of the votes cast for Liberatrian (80 vs 517)

2016

Seat	Candidate	Party
President	Trump	Republican
US Senate	Murkowski	Republican
US House	Young	Republican
Alaska Senate	Giessel	Republican
Alaska House	Johnson	Republican

2018

Seat	Candidate	Party
Governor	Dunleavy	Republican
US Senate	No Race	
US House	Young	Republican
Alaska Senate	No Race	
Alaska House	Johnson	Republican

2020

Seat	Candidate	Party
President	Biden	Democrat††
US Senate	Sullivan	Republican
US House	Young	Republican
Alaska Senate	Holland	Republican
Alaska House	Kaufman	Republican

†† Margin of victory less than half of the votes cast for Libertarian (102 vs 219)

Source: *https://www.elections.alaska.gov/doc/info/ElectionResults.php*

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the 2021 REDISTRICTING PLAN.	)))))	Case No.: 3AN-21-08869 CI

GIRDWOOD PLAINTIFFS' OPPOSITION TO ALASKA REDISTRICTING BOARD'S BRIEF

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I. INTRODUCTION

Louis Theiss, Ken Waugh, and Jennifer Wingard ("Girdwood Plaintiffs") oppose the Alaska Redistricting Board's ("Board") effort to characterize its remand process as proper. This Court and the Supreme Court previously found that the Board engaged in unconstitutional political gerrymandering. Specifically, this Court found "substantial evidence of secretive procedures, regional partisanship, and selective ignorance of political subdivisions and communities of interest… [and] an illegitimate purpose."[1] Yet the Board approaches this case much as it approached the remand: with no contrition, with no acknowledgment of the Court's reprimand, assuming that it is entitled to a full measure of respect and deference. On remand, the Board majority should not be allowed to simply wipe the slate clean[2] of its questionable credibility and improper motivation. The stain of the successful East Anchorage challenge remains on this Board. Accordingly, in evaluating the Board's second attempt to place Eagle River into two senate districts and maximize its influence, this Court must build on the existing record—not just the written record, but the findings and conclusions the Court reached regarding the Board majority's conduct and motives.

The Board's actions are, generally, reviewed under a deferential arbitrary and capricious standard, but this does not mean that the Board is "the ultimate arbiter of reasonableness."[3] As the Court explained in its prior ruling, the Board is accountable to

[1] FFCL at 70.

[2] *See* ARB Opening Brief at 11.

[3] FFCL at 141.

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the public.[4] Its public process is an integral part of the checks and balances imposed by the Alaska Constitution.[5] In the prior case, the Court found that paying lip service to the public hearing requirement was inadequate. As the Court asked, "If the Board could hold public hearings but with no intent to ever listen to or incorporate public comments in the first place, then what purpose would those public hearings serve?"[6] Allowing the Board to pay lip service to public process without listening to it invites "the specter of a 'partisan gerrymander'[.]"[7] Instead, the Board must "either accommodate the clear weight of public opinion or explain why it cannot," which removes "the danger of hidden partisan agendas."[8]

The specter of a partisan gerrymander already looms in this case. The Board raises technical arguments to avoid facing it, but as this brief demonstrates, the Board majority on remand again engaged in secret communications, again pushed through a shared agenda of splitting Eagle River for partisan advantage, and again ignored not just the weight of the testimony, but in some instances the actual borders and geography of the districts at issue. Overwhelmingly, the public asked the Board to keep Eagle River together, to keep South Anchorage together, to keep downtown together. The Board did not accommodate this, and it did not explain why it could not. The Court should find that

[4] *Id.*
[5] FFCL at 140-41.
[6] FFCL at 142.
[7] FFCL at 142.
[8] FFCL at 143.

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the Board acted arbitrarily and capriciously, in a manner that violated the Alaska Constitution.

II. CHALLENGES TO SENATE DISTRICT L ARE PERMISSIBLE AS MODIFYING THAT DISTRICT WAS AN INTEGRAL PART OF EFFECTUATING THE COURT'S ORDER.

The Girdwood Plaintiffs challenged the Board's adoption of Option 3B. Their personal concern is for themselves, as the pairing of Districts 9 and 22 in Senate District E dilutes the vote of Girdwood and District 9; but they are also entitled to challenge the Board's decision to pair Districts 23 and 24 in Senate District L.

The Board argues that "to the degree [Girdwood Plaintiffs] now pursue a backdoor challenge to Senate District L, such a challenge is time barred under the Constitution."[9] The Board ignores this Court's finding that the Board cracked Eagle River to effectuate a partisan gerrymander and incorrectly asserts that "Senate District L was expressly and unsuccessfully challenged in the first round of litigation."[10]

In its February 16, 2022 ruling, this Court found that the 2021 Proclamation ignored the communities of interest in Eagle River and Muldoon,[11] that the primary justification for pairing North Eagle River with JBER was Member Marcum's personal preferences,[12] that "[t]he vast majority of both East Anchorage and Eagle River residents

[9] ARB's Opening Brief at 40.

[10] *Id.*

[11] FFCL at 70.

[12] FFCL at 70.

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were strongly against splitting either region and combining one with the other[,]"[13] that the three Republican appointees on the Board had apparently reached a secret consensus "on the one consistency among Board Member Marcum's proposed maps—splitting Eagle River and pairing North Eagle River with JBER[,]"[14] that the reason for pairing North Eagle River with JBER was to give Eagle River "more representation,"[15] and that "the Eagle River Valley/South Muldoon [pairing] was ultimately a down-the-road consequence of the North Eagle River and JBER pairing."[16]

Consistent with its findings, the Court concluded that "it was not necessary to [pair Eagle River and JBER] under the VRA, the constitution, or any other law"[17] and that in doing so, the Board intentionally discriminated against the voters of the Muldoon community of interest in favor of the Eagle River community of interest, violating the Muldoon voters' rights to fair and effective representation under the equal protection clause of the Alaska Constitution.[18] The Alaska Supreme Court affirmed "the superior court's determination that the Board's Senate K pairing of house districts constituted an unconstitutional political gerrymander violating equal protection under the Alaska Constitution."[19]

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[13] FFCL at 52.
[14] FFCL at 50.
[15] FFCL at 69.
[16] FFCL at 68.
[17] FFCL at 70.
[18] *See* FFCL at 71.
[19] March 25, 2022, Interim Order of the Alaska Supreme Court at 6 (S-18332).

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The Board's argument that Senate District L was affirmed myopically ignores that the reason that Senate District K was an unconstitutional political gerrymander was because it was a downstream consequence of the Board's cracking of the Eagle River community of interest to give Eagle River more representation at the expense of the Muldoon community of interest. The Girdwood Plaintiffs' claim is that the new Senate District E is a similarly unconstitutional downstream consequence of *the exact same political gerrymander*.[20]

The Board relies on *In re 2001 Redistricting Cases* to argue that any challenges to Senate District L are time-barred.[21] In that case, the Alaska Supreme Court held that a challenge to the compactness of a certain house district was untimely because it "could have been raised against the original Proclamation Plan but w[as] not[.]"[22] Here, the Board is judicially estopped from arguing that Girdwood Plaintiffs' claims are untimely,[23] Senate District L was, in fact, successfully challenged in the first round of litigation, and the Girdwood Plaintiffs had no cause to challenge Senate District L after the 2021 Proclamation was released because the downstream consequence of the Board's

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[20] ARB200970 ("When you make the pairings that are described for JBER and Eagle River, it leaves 22 as – you know, with no place to go really except 9.").

[21] *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1092 (Alaska 2002).

[22] *Id.* at 1090.

[23] *See Zwiacher v. Capstone Fam. Med. Clinic, LLC*, 476 P.3d 1139, 1143 (Alaska 2020) ("Judicial estoppel is a discretionary, equitable doctrine used to prevent parties from playing fast and loose with the judicial system. Judicial estoppel bars a party from contradicting previous declarations made during the same or an earlier proceeding if the change in position would adversely affect the proceedings or constitute a fraud on the court." (internal quotation marks and citations omitted)).

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gerrymander was the fair and effective representation of Muldoon voters, not District 9 voters.

Arguing that the Girdwood Plaintiffs cannot challenge the Board's new map is a backdoor attempt to protect the Board's new gerrymander from proper review, which would curtail the Girdwood Plaintiffs' Article VI, §11 right to bring their claims. The Court should reject this effort and consider the claims on their merits.

III. THE BOARD CONSPIRED TO EFFECTUATE ITS PRIOR AGREEMENT TO MAXIMIZE EAGLE RIVER'S INFLUENCE.

The majority Board members who voted to adopt Option 3B appear to have made up their minds early in the process, without waiting for or listening to the public testimony they insisted was so important, and to have communicated their intentions between them. As detailed below, the Board's private correspondence—a portion of which was provided by the Board in this litigation—confirms this.

A. The Three Majority Board Members Were Aligned from the Outset and Engaged in Backchannel Communications throughout the Remand Process.

Based on their e-mail and text correspondence, the majority Board members appear to have had an agreement regarding the timing, process, and outcome of the remand.

The majority Board members were in favor of extending the public process as long as possible, while the minority Board members urged a more expedited timeframe. The majority members appear to have coordinated their approach.

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On March 25, Mr. Torkelson circulated draft agendas to the Board that contemplated meetings on April 2, 4, 5, and 6 if needed, commenting that "if the Supreme Court does not require any changes, or if they require a large scale re-do, then these would be subject to change."[24] The agenda had been drafted in anticipation of an April 1 ruling from the Alaska Supreme Court, but that Court issued its decision a week early, on March 25. The ruling did not require large-scale changes, and in fact required fewer changes than the Superior Court had ordered in its February 16 decision.

On March 28, at 8:30 am, Member Borromeo e-mailed the Board to propose a sooner meeting time in light of the early ruling, stating "I think we should notice a public meeting as early as tomorrow—and every day after—so we can meet as soon as possible."[25] In a follow-up message, she stated her opinion "that this could take 15 minutes to clear up."[26]

Chair Binkley and Member Simpson appear to have had a private phone conversation on March 28, after receiving Member Borromeo's proposal.[27] Subsequently, on March 31, at 3:53 pm, Member Simpson sent an e-mail to the group that urged for a lengthier public process.[28] In response, Mr. Torkelson reiterated that the Board's

[24] ARB2-500139.
[25] ARB2-500117.
[26] ARB2-500117.
[27] ARB2-507073.
[28] ARB2-501465.

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publicly-noticed meeting schedule included meetings for April 4, 5, and 6, and that the notices indicated the Board would adopt a revised plan on April 6.[29]

Early in the morning the next day, April 1, 2022, Members Binkley and Marcum appear to have had a private phone call.[30] Many e-mails followed, with Members Borromeo and Bahnke objecting to drawing out the remand process. Member Bahnke pointed out the urgency of the Board's task on remand:

> This could also smack [of] delay tactics. I've already seen on social media people predicting that the board majority will try to delay as much as possible to force an e[l]ection under the current proclamation. Please advise as to how this will impact the upcoming elections."[31]

At one point, Chair Binkley attempted to cancel the April 2 meeting,[32] but Members Borromeo and Bahnke insisted it take place so that the public testimony process could begin.[33] The Board's attorney participated in these conversations as well but his comments, and certain Board member comments, were redacted from the documents that have been provided.

Ultimately, at its April 4 meeting, the Board settled on a lengthy public process lasting until April 13 or 14. Members Bahnke and Borromeo questioned the need for an extensive process given that the Board had already heard testimony to move quickly and

[29] ARB2-501465-66.
[30] ARB2-507072.
[31] ARB2-500073.
[32] ARB2-500946.
[33] ARB2-500052.

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to use the constitutionally acceptable pairings proposed in November 2021.[34] But Majority Board members insisted on a longer public process "to meaningfully implement the findings of the Supreme Court, "[35] "to give the public their due,"[36] and "allow the public to engage and look at that plan."[37] Member Simpson went so far as to state: "I refuse to be badgered into a decision made on partial information before I'm ready to do it."[38]

Private side communications between the three majority Board members continued throughout the remand process. Very few of them were in writing, perhaps in recognition that they would be requested in any ensuing litigation.[39] In addition to the private phone calls noted above, Member Marcum and Chair Binkley appear to have had a private phone conversation on April 8.[40] Member Marcum and Member Simpson appear to have had a private phone conversation on April 11.[41] Phone records were not provided, so additional conversations may have taken place; these are merely the ones referenced in the members' disclosed text messages. Notably, neither Member Borromeo

[34] ARB2000235-37.

[35] ARB2000240-41.

[36] ARB2000238.

[37] ARB2000232.

[38] ARB2000240.

[39] The Board appears to have been counseled not to put things in writing. On April 1, in an e-mail protesting further delay of the remand process, Member Borromeo commented "And before we go down the 'don't put this or that in email' all of what I'm saying is public record." ARB2-500073.

[40] ARB2-507072.

[41] ARB2-507074.

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nor Member Bahnke appears to have been included in *any* of these post-remand conversations.

During the Board meetings, Chair Binkley and Member Marcum spoke frequently, asking questions and making comments in a manner that demonstrated a strong preference for Option 3B. Member Simpson rarely spoke, but there is at least one indication that he had the same preference early on. On April 6, 2022, just a few days into the remand proceedings, Member Simpson e-mailed Mr. Torkelson requesting changes to the scale of Option 3B that would make it appear more favorable from a constitutional perspective:

> For further public review and as a point of reference, I think it would be good to also have an even larger scale version that shows the whole boundary area between 9 and 22. One map shown today had that. The obvious connection is more apparent when you can see the entire districts.[42]

As explained above, the three majority Board members had insisted on a lengthy public process ostensibly to allow the public to weigh in on the map options. Member Simpson, memorably, had stated on April 4: "I refuse to be badgered into a decision made on partial information before I'm ready to do it."[43] Yet they do not appear to have even listened to the public testimony.

On April 13, at 12:35 pm, a mere twenty-five minutes before the Board's final meeting, where members cast their votes, Member Binkley texted Member Simpson to say "I was wrong… The community adjacent to Eagle River is Chugiak. The Mountains

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[42] ARB2-502750.

[43] ARB2000240 (April 4, 2022).

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and park to the east are the Chugach mountains."[44] The text seemingly referenced a private side conversation between the two members, as the Board itself had not met publicly since April 9, and the location of Chugiak and the Chugach mountain range had not been in question at that meeting. Member Simpson responded with a thumbs-up, and asked "Is Chugiak more properly 23 or 24? I mean 22 or 24."[45] Chair Binkley clarified for him that "It is in 24. Also Peters Creek and Eklutna are in 24."[46] This exchange demonstrates that even heading into their final, crucially important meeting, these two members still lacked an understanding of the basic geography of the districts in question, and were still confused about which communities were where—which district contained Eagle River, which contained Chugiak, where the uninhabited wilderness of Chugach State Park was. In other words, they appear to have paid no attention to the days of written and live testimony from innumerable members of the public *about these very districts*, focusing *on the location of these very communities and geographic features*, as part of the lengthy public process they had insisted was so important.

This disregard for public testimony, and lack of awareness of what was in the districts at issue, show that they did not actually take a "hard look" at the pairing options—instead, they took an outcome-oriented approach, and paid attention to the details only as much as they needed to say the right words on the public record when explaining their choice.

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[44] ARB2-507073.

[45] *Id.*

[46] *Id.*

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Additional evidence supports a finding that the three majority Board members had reached a side consensus on the outcome of the remand process. On April 13, 2022, in the midst of the Board's public deliberations, right after he had shared his comments favoring Option 3B and while the other Board members were commenting, Member Simpson had the following exchange with his wife by text message:[47]

It is telling that Member Simpson and his wife did not say "John is agreeing with you," or "Bethany agrees with you." Instead, they said the other majority members were "doing well," evidently in service of a pre-arranged and pre-discussed common goal.

[47] ARB2-507136.

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B. Member Simpson Considered the Pairings from a Political Perspective and Regularly Reviewed Partisan Political Blogs.

As the Court noted in its prior decision, Member Simpson testified that he was appointed to the Board because "they were looking for a Republican from Southeast[,]"[48] in apparent disregard of the Constitution's requirement in Article VI, § 8(a) that appointments should be made without regard to political affiliation. The Court also referenced the majority Board members' "purported neutrality and ignorance of incumbents,"[49] and that Member Marcum had disavowed any knowledge of incumbents[50] despite later admitting, and being seen in video recordings, receiving incumbent information and discussing it with Member Simpson.[51] This problem—of majority Board members considering and aiming to achieve political outcomes—persisted on remand.

On March 26, 2022, the day after the Alaska Supreme Court issued its decision but before the Board had met to discuss it, Member Simpson sent the following email sharing his candid thoughts on the decision to an undisclosed number of his contacts:[52]

> The Supremes also upheld the Superior Court's ruling that we had politically gerrymandered one Senate district in Anchorage by the way we paired two House districts there. The House districts were not challenged, so we have to double back and find a different pairing. To me this implies that what the

[48] FFCL at 145.

[49] FFCL at 21.

[50] FFCL at 21.

[51] FFCL at 19, 57-58.

[52] The Board failed to produce Member Simpson's original message, which appears to have been sent out to multiple people under multiple subject headings; the e-mails produced by the Board included only responses from recipients, where Member Simpson's original message appeared below. It is therefore unknown how widely Member Simpson distributed this message or if he sent and received other messages regarding his opinions about the remand process.

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> court perceived as a political gerrymander must be replaced with a different political gerrymander more to their liking. The district in question paired two house districts that were both majority non-minority, one of which was reliably republican and the other was republican 2/3 of the time. Not clear to me why this is bad but the Ds will push to dilute both of them to make it easier to elect their candidates.[53]

This e-mail shows two things: (1) that Member Simpson continued to consider the Anchorage senate pairings in partisan political terms, preferring to pair a district aligned with his political party with a swing district; and (2) he lacked respect for the Courts' decisions, and believed that the Courts had not made an impartial decision, but had rather made their rulings to benefit the other political party.

As the Girdwood Plaintiffs pointed out in their Opening Brief, Members Binkley and Marcum had likewise expressed disdain for the Courts' rulings, stating that they disagreed with them and disputing certain of this Court's findings.[54] All three of the majority Board members thus dismissed the Courts' rulings in documented statements. As the Court reviews their actions and reasons for adopting Option 3B, these Board members do not deserve the benefit of the doubt or any presumption that they engaged in their remand work in a good faith effort to comply with the Courts' orders.

In addition, documents provided by the Board in discovery show that during the remand process, Member Simpson's contacts regularly sent him links to articles and posts

[53] ARB2-507161-62.
[54] Girdwood Plaintiffs' Opening Brief at 27 and n.58.

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discussing the Board's work from a political perspective, such as posts from Must Read Alaska (a conservative blog) and the Midnight Sun (a progressive blog).[55]

Member Simpson made his feelings on some of these articles clear, for example responding to one such e-mail by calling Matt Buxton, who operates The Midnight Sun, a "POS" (shorthand for "piece of shit").[56] He forwarded another article to a writer for Must Read Alaska with whom he appears to be friendly, who responded with a one-line comment: "Those 2 women are bitches of the highest order!",[57] presumably referring to Members Bahnke and Borromeo, who had opposed the adoption of Option 3B.

Based on his personal correspondence, Member Simpson appears to have been preoccupied by partisan politics and various political parties' preferences in a way that improperly influenced his vote for Option 3B.

C. Member Marcum Appeared to Have Partisan Objectives.

Member Marcum also appears to have been preoccupied with partisan political goals. The e-mails produced by the Board in this litigation revealed that she subscribed to the mailing list of the National Republican Redistricting Trust ("NRRT"). On Friday, April 8, 2022, Marcum received four identical notices from the National Republican Redistricting Trust ("Notices") in two separate emails, inviting recipients to "join us for

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[55] *E.g.,* ARB2-507140-41, ARB2-507137-38, ARB2-507147, ARB2-507148; Exhibit 3 (articles linked in cited e-mails).

[56] ARB2-507137.

[57] ARB2-507140. The recipients of his email include Win Gruening, who is identified on the Must Read Alaska website as a "senior contributor." *See* Exhibit 4, Must Read Alaska, Tag: Win Gruening, https://mustreadalaska.com/tag/win-gruening/ (last accessed May 9, 2022).

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NRRT's final monthly webinar of the 2020 redistricting cycle."[58] The Notices stated that the webinars were private: "Monthly updates are open to Republican legislators, their staff, and other Republican attendees only. Webinars are not for public consumption and should not be recorded in any way."[59] The NRRT explains its purpose as coordination of the GOP's 50-state redistricting effort, and explains that redistricting is important because:

> The district lines drawn in 2021 and 2022 will be in place for ten years. The legislators and members of Congress elected from those districts will set the policies of our states and our nation for decades to come. How lines are drawn now will matter for the preservation of our shared conservative values for future generations.[60]

No other emails from the NRRT to Member Marcum were produced by the Board, despite the fact that the Trust sent monthly notices. There are two possible explanations: either Member Marcum withheld e-mails from production, or she first joined NRRT during the remand process. Either is problematic. Withholding documents is problematic for obvious reasons that bear on an individual's credibility and good faith. For a Board member to join a partisan organization devoted to affecting legislative maps is problematic from a constitutional perspective. While individual Board members are free to hold their own personal political beliefs, the Constitution requires the redistricting process itself to be nonpartisan, and renders it inappropriate for a Board member to allow

[58] ARB2-502232–35.

[59] ARB2-502232–35.

[60] Exhibit 5, National Republican Redistricting Trust website, *available at*: thenrrt.org/about-us/.

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partisan politics to guide their decision, especially when that decision is contrary to the weight of the public testimony. Being a registered party member does not automatically cross this constitutional line, but joining an organization devoted to achieving a specific political party's goals through redistricting *while serving on Alaska's Redistricting Board*, does cross that line.

Member Marcum's credibility remains an issue. Even in public deliberations on April 13, after having this Court find that she had reviewed incumbent data *as established by her own testimony and video evidence*, Member Marcum denied that she had reviewed incumbent data, stating: "contrary to what has been claimed here, I actually did not read the incumbent data that was e-mailed to all members of the [B]oard. I did not then and I do not now care about incumbents. That is not our role, and I take that seriously."[61]

Member Marcum's involvement with NRRT, coupled with the Court's earlier finding that she had acted to increase Eagle River's representation for partisan objectives and her ongoing denial that she had reviewed incumbent data, renders her vote for Option 3B, and her reasons for that vote, suspect.

IV. THE BOARD DID NOT TAKE A HARD LOOK AT THE OPTIONS; RATHER, ITS STATED JUSTIFICATIONS FOR ADOPTING OPTION 3B ARE CONTRARY TO THE RECORD AND PHYSICAL REALITY.

The Board's justifications for its adoption of Option 3B are tenuous at best and spurious at worst. The record and documents provided in discovery demonstrate that the

[61] ARB2001004.

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adoption of Option 3B was—for the three majority Board members—a foregone conclusion from the outset of the remand proceedings, and a continuation of their prior agreement to maximize Eagle River's Senate representation. The Board majority certainly did not take the requisite hard look at the evidence, because if it had, the majority members could not have reached the conclusions they shared on April 13.

In its prior order, this Court found there had been some justification for pairing North Anchorage with Eagle River; but it also held that Board needed a reason to go against the weight of testimony and community preferences.

At its final meeting on April 13, each Board member put on the record why they were voting for a particular map. All three majority Board members cited the military population on JBER as their primary reason for a 23/24 pairing. Their reasons were largely aligned with each other—but not the record that had been created through public testimony. Rather, as explained below, they consistently went against the weight of the public testimony, and ignored both the preferences and factual realities of the communities who participated in the process.

A. The Board Majority Ignored that JBER Was Already in a District with Downtown.

Much of the Board majority's resistance to Option 2 was that it would place JBER in a district with downtown. Member Marcum stated that "[d]owntown has almost nothing in common with the military base"[62] and downtown "absolutely makes the least

[62] ARB2000980.

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sense of any possible pairing for District 23, JBER."[63] Member Simpson stated that "I think pairing the military bases with downtown overlooks JBER as a significant community of interest[.]"[64] Chair Binkley shared similar comments, explaining that he had considerable familiarity with downtown Anchorage: he had an office there for many years for the Alaska Cruise Association, he owned a condo there, he had familiarity with the railroad infrastructure by virtue of his seat on the Alaska Railroad Board. He stated that based on his experience, he "just [did not] see . . . an enormous connection between those areas and the military population on JBER, as opposed to the military and JBER to the – JBER to the military bedroom communities to the north."[65]

All of these comments ignored that the Board itself *had already placed JBER in a district with downtown*. Although the Board majority attempted to name District 23 the "JBER district" or the "military district," these terms are misnomers—District 24 also includes significant portions of downtown Anchorage, Government Hill, Ship Creek, and Northeast Anchorage, including a portion of North Muldoon. This point was made, repeatedly, by members of the public.[66] It was even the subject of numerous community

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[63] ARB2000980.

[64] ARB2000968.

[65] ARB2000987-988. Despite Chair Binkley's considerable experience with downtown Anchorage, he apparently overlooked the fact that the railroad infrastructure is largely contained, including the main station in Anchorage, within the part of downtown that is districted with JBER in District 23, and the Alaska Cruise Association office, located at K Street and 4th Avenue, is also districted with JBER in District 23, a district that he supported and voted for as being socio-economically integrated.

[66] Some individuals sent in similarly worded comments opposing a downtown division. *E.g.,* ARB2001331, ARB2001332, ARB2001334, ARB2001335, ARB2001338, ARB2001341. Many others—including downtown, Government Hill, and Eagle River residents—provided

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resolutions, including resolutions from the Anchorage Downtown Partnership, the Downtown Community Council, and the Government Hill Community Council, all of which begged the Board to keep the core downtown area together and not pair it with Eagle River.[67] As Yarrow Silvers, one of the East Anchorage Plaintiffs who watched the remand proceedings closely, commented on April 13 while listening to the Board's deliberations: "I have read through the testimony files and listened to the testimony. Not one single JBER resident that I can see has testified and asked to be placed with Eagle River."[68]

Chair Binkley's position is particularly puzzling given the comments he shared about his personal experience with the downtown area. They demonstrate that he was unaware of where the boundaries of District 23 actually are. He characterized downtown as including the Alaska Railroad area and the Alaska Cruise Association office, stating that downtown was focused on tourism and professional workers such as attorneys. But nearly everything he mentioned *is in District 23*: two state courthouses and one federal courthouse are in District 23, the Alaska Railroad Depot is in District 23, the Alaska Cruise Association office is in District 23. A later comment from Member Borromeo revealed that Chair Binkley's condo is in Ship Creek, which is also in District 23.

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detailed personal testimony about downtown. *E.g.*, ARB2001358, ARB2001363, ARB2001373, ARB2001377, ARB2001378, ARB2001386, ARB2001500, ARB2001501, ARB2001561, ARB2001570, ARB2001577-ARB2001578, ARB2001661, ARB2001675.

[67] *Infra* at 28-30.

[68] ARB2001813.

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Despite the utter lack of testimony from JBER residents and the overwhelming testimony from downtown and Government Hill residents and community governments, and despite the fact that the Board had *already* placed JBER in a house district with half of downtown, the Board majority insisted that JBER and downtown could never be paired, and instead paired the entirety of North Anchorage—from downtown, to Ship Creek, to Government Hill, to JBER, to North Muldoon—with Eagle River, solely to preserve the alleged close connection between JBER and Eagle River. Based on the comments shared by Chair Binkley and Member Marcum on April 13, it did this without even a cursory look at the geographic boundaries of District 23. Disregarding or purposefully misrepresenting the actual geography to justify the Board's preferred pairings is certainly an arbitrary and capricious action.

B. The Board Majority Ignored that JBER Was Not Zoned for Any District 24 High School.

Member Binkley cited schools as a reason to pair Districts 23 and 24, stating: "They [military families] send their kids to middle school and high school there[,]" noting that there may be "exceptions to that," but "the overall weight of that testimony was compelling to that pairing."[69] But this comment, again, ignores the actual testimony on that point.

[69] ARB2000968.

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The Board did not receive extensive testimony on the subject of JBER's school zones, but the testimony it did receive is summarized in the following written comment from Denny Wells:

> Representative Lance Pruitt stated that JBER students go to Eagle River High School. This is a factually accurate but misleading and incomplete statement. JBER High School boundaries are not included in maps from the Anchorage School District, but if you look up JBER addresses via the Anchorage School District School finder, you will see that addresses in the Richardson portion of the base, accessed via the Richardson gate, are zoned to Eagle River, while the addresses in the Elmendorf portion of JBER accessed via Government Hill, Boniface, and Muldoon gates are zoned to Bartlett. The Downtown and Government Hill portions of District 23 are zoned to West High School. In total, in district 23, the populations in the various High School boundaries are these:
>
> Bartlett High School (inside District 23) – 8733 people
> West High School (inside District 17 [renumbered 19]) – 4802 people
> Eagle River High School (inside District 22 [renumbered 10]) – 4488 people
>
> Two items of note in this data: (1) Eagle River is the smallest (by population) High School connection for District 23, and (2) even if you find the connection to Eagle River High School persuasive, Eagle River High School is the High School of District 22 [renumbered 10]. The High School of District 24 is Chugiak High School. In fact, the school district boundary between Chugiak High School and Eagle River High School is very similar to the boundary you defined between District 22 and 24. If this High School argument is granted any weight, it should weigh in favor of pairing District 23 with 17 [renumbered 19] first, and District 23 with 22 [renumbered 10] second, and it establishes no particular connection between District 23 and 24.[70]

As Mr. Wells testified, clearly and citing his source for specific details, JBER families are zoned for three schools, *not one of which is in District 24.* Over 75% of the JBER-dwelling population is zoned for West High School in District 19 or Bartlett High School in District 23, while 0% is zoned for District 24. Chair Binkley's statement that he found

[70] ARB2001753. This comment uses the previous district numbering.

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the school relationship between District 23 and 24 "compelling" reveals that he had not actually listened to the testimony. Ignoring geographic reality to achieve a pre-ordained outcome is arbitrary and capricious.

C. The Board Majority Ignored that the Only Portion of JBER Included in District 24 Was Unpopulated.

Chair Binkley and Member Marcum also gave significant weight to the fact that a portion of JBER is physically included in District 24, with Chair Binkley stating that it was "one of the most compelling" facts.[71] Member Marcum stated that because of the geographical overlap, the pairing would "create a full and complete JBER Senate district."[72]

This, again, ignores the factual geography and the actual fact-based testimony that was presented. Mr. Wells testified on April 9 that the corner of JBER inside the District 24 boundary is actually unpopulated:

> The claim that District 24 is a district of JBER is -- is true, only in the most obscure academic sense. District 24 includes a small portion of JBER, but this portion of JBER has exactly zero population except in precisely one census block. And (indiscernible) put that up on the screen. Awesome. That -- that block appears to be noise from the Census Bureau's anonymization efforts. This is the block outlined in red. It is bounded by Eagle River, the squiggly line on the upper right by the Inlet above, and by Otter Lake down to the south. That -- that block has a stated population of 197 people, but no physical infrastructure in which those people might live.[73]

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[71] ARB2001003; ARB2000986.

[72] ARB2001003. It is notable that the area of JBER in District 24 is substantially less than the area of downtown that is districted in District 23, and yet, Marcum did not once consider on the record pairing the two downtown districts as a senate district.

[73] ARB2000837.

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Mr. Wells explained that this was not unique in census data:

> In my map drawing of the Anchorage assembly seats, I spotted several anomalous census blocks like this in the Anchorage Bowl. The most obvious was a block that covered the Hickel/Minnesota Parkway, what name you want to apply to it, between International Airport and Raspberry Roads. It is not a census block that encompasses surrounding land, just the road itself, yet it has a population of 19.[74]

Mr. Wells noted that while the Board was prohibited by statute from adjusting census numbers in its work, it was not precluded "from putting the census numbers in context."[75]

Chair Binkley and Member Marcum appear to have ignored this testimony, which once again was detailed and cited to specific sources and images. There was no contrary testimony; rather, other testimony supported Mr. Wells' comments, such as when other individuals pointed out that there is no access from JBER into District 24: "JBER interacts with the areas where their gates are, which are NOT into Chugiak or Eagle River."[76]

The majority's unbending commitment to keeping the populated portions of JBER in a senate district with its uninhabited corner seems particularly odd in light of its lack of concern for dividing downtown Anchorage in half.

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[74] ARB2000838.

[75] *Id.*

[76] ARB2001772.

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D. The Board Majority Prioritized the Alleged JBER Community of Interest, which Did not Provide Public Testimony, Over the Interests of Affected Communities that Did Provide Testimony.

The Board majority echoed each other in calling JBER a "community of interest."[77] Member Simpson stated that "the overall weight" of testimony supported that "Eagle River, Chugiak, and JBER . . . has essentially developed as a bedroom community for – the military families."[78] The majority members also cited testimony that a significant number of military members reside in District 24.

He commented that pairing North Anchorage with downtown Anchorage would be "partisan" because it would diminish the voice of the military.[79] Chair Binkley said the same, that "putting the more conservative or swing district of the military base with downtown would drown out the military voters" and run contrary to the Superior Court's admonition against "regional partisanship."

The vast weight of the testimony on Senate District L was in favor of pairing downtown (District 19) with North Anchorage (District 23). This testimony came from community councils and community entities as well as individual residents in those districts.

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[77] ARB2000968, ARB2000980-981.

[78] ARB2000968.

[79] ARB2000974.

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The Downtown Community Council ("DCC"), Government Hill Community Council ("GHCC"), and Anchorage Downtown Partnership ("ADP") all formally supported a pairing of downtown with North Anchorage.[80]

The DCC Resolution notes that the Board had divided downtown into separate house districts by drawing a line down Fourth Avenue, and called this "division of our downtown core" "lamentable."[81] It stated that the Board would be "furthering this fracture by putting us in two Senate seats" which would "further dissolve[] the voice of the downtown core[.]"[82] It concluded by requesting that the Board "support a consolidated downtown voice" by pairing Districts 19 and 23 together.[83]

The ADP Resolution mentioned the Downtown Improvement District,[84] which is a special business assessment district established by the Anchorage Assembly in 1998.[85] On a north-south basis, it extends from First Avenue to Ninth Avenue.[86] ADP noted that District 23 included a number of different neighborhoods, including "parts of the Central Business District, Downtown Improvement District, Port of Alaska and Alaska Railroad, JBER, and a commercial district of Mountain View," while District 24 "includes Eagle

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[80] ARB2001782-83 (ADP Resolution); ARB2001381 (testimony from Government Hill Community Council President); Exhibit 1 (Downtown Community Council Resolution).

[81] Exhibit 1.

[82] *Id.*

[83] *Id.* The Resolution referred to District 17, which was the number of the main downtown district before it was renumbered on the April maps.

[84] ARB2001782.

[85] Exhibit 2, AO No. 2000-98.

[86] *Id*. at 5.

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River, which is predominantly rural and residential[.]"[87] ADP concluded by saying that downtown Anchorage was "unique within the Municipality of Anchorage and the State of Alaska as a strong urban core and should have compact and cohesive representation[.]"[88]

The GHCC President wrote in on behalf of the council to support pairing District 23 with District 19 (formerly numbered 17). She stated that "balancing the districts by sheer numbers alone does not give any of us 'fair representation.'"[89] She noted that "the South Chugiak area [District 24] is rural Alaskan in distance, lifestyles, and values, and does not represent Government Hill, JBER, or downtown Anchorage."[90]

The Girdwood Plaintiffs' Opening Brief addresses the testimony from Girdwood, South Anchorage, and other District 9 communities asking not to be paired with Eagle River.[91] It also noted that during the MOA reapportionment, numerous communities on the Hillside and in South Anchorage formally requested that they not be placed in a district with Eagle River, including the Hillside Home and Landowners Organization,[92] Hillside Community Council,[93] and the Huffman/O'Malley Community Council.[94] These resolutions were all provided to the Board.

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[87] ARB2001782

[88] *Id.*

[89] ARB2001381.

[90] *Id.*

[91] Girdwood Plaintiffs' Opening Brief §IV.A.

[92] ARB2-501785.

[93] ARB2-501786.

[94] ARB2-501787.

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By contrast, *no* formal resolutions or messages were received from community councils or other community government bodies in any Eagle River communities—nor were any resolutions or messages received from any community government body or entity representing the JBER population. While a few individual commentors supported a 23/24 pairing or a 9/10 pairing, the majority of the testimony was against it. Actual residents of those districts were overwhelmingly in favor of Option 2.

Residents sent specific personal testimony, such as one individual who wrote: "I live downtown. I work downtown. I walk downtown. Downtown Anchorage is one compact and historic part of the city. Please do not separate this core of the city into separate Senate districts. Maintain Downtown Anchorage in one Senate district."[95] A Government Hill resident wrote:

> Government Hill is moments away from the very epicenter of downtown Anchorage, while the "far north neighborhoods" are as far away as possible, there are very little true commonalities between us and them, with regards to issues such as planning and zoning, infrastructure, and even typical residential lot sizes.
>
> Government Hill and Downtown each share an enormous amount of frontage with the industrial zone: heavy commercial, railroad yard, port of Alaska, and oil tank district that basically split us apart. Still, we face similar issues when dealing with that area, while the "northern neighborhoods" virtually have no interest in what goes on in the downtown area.
>
> To put us in the same group with Chugiak, et. al., would make Government Hill nearly voiceless and not involved with any issues that would affect the Hill and its proximity, while the proposed northern communities would have no interest in our concerns.[96]

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[95] ARB2001501.

[96] ARB2001358.

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Numerous Eagle River residents wrote to object to the North Anchorage-Eagle River pairing. The following is a fairly typical comment:

> I have been a resident of Eagle River for over 10 years. I am very much AGAINST any Senate pairing that puts my house with downtown Anchorage instead of with my community and neighbors. Our home is immediately across the street from the other House seat which I consider my community. I want to be represented by someone who represents the issues of my community. Eagle River should be paired with Eagle River.[97]

These are merely representative samples; the record is replete with other District 19, 23, and 24 residents who testified to the reasons that Eagle River should be paired with Eagle River, and downtown with North Anchorage.[98]

E. The Board Majority Provided No Real Reasons to Pair Districts 9 and 10, Despite Overwhelming Testimony Against It.

Member Simpson, when opening his comments, stated that Board had "sought to find pairings that have some reasonable rational relationship[.]"[99] But that does not appear to be true for Senate District E. The Board provided few reasons to make the District 9 and 10 pairing.

Member Marcum stated that it was a "natural pairing" as the "Chugach Mountain

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[97] ARB2001363.

[98] *E.g.,* ARB2001127; ARB2001239; ARB2001240; ARB2001341; ARB2001358; ARB2001363; ARB2001373; ARB2001375; ARB2001377; ARB2001378; ARB2001500; ARB2001501; ARB2001570; ARB2001594; ARB2001615; ARB20A01631; ARB2001634; ARB2001639; ARB2001653; ARB2001757; ARB2001765; ARB2001810.

[99] ARB2000971.

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district."[100] She also noted that both districts "have their own road services."[101] Chair Binkley similarly stated that the districts both have road service districts, both included the Chugach Mountains, and that citizens of those districts "deal with wildlife closer to their homes," have "higher snow loads," and face "wildfire dangers."[102] Chair Binkley stated that both districts were "large, more rural, and share a really long, physical border," which makes them constitutionally contiguous.[103]

Once again, the Board majority seemed unaware of the districts' actual borders. While all of District 10 may be rural Eagle River, a significant portion of District 9 is urban Anchorage. The road service area connection is similarly misleading, because the road service areas in the two districts are completely separate.[104] Saying Districts 9 and 10 are connected because they both have road service areas is like saying they are connected because they both have roads.[105] By contrast, District 10 shares a dedicated road service district with District 24, the Chugiak, Birchwood, Eagle River Rural Road Service Area ("CBERRRSA").[106]

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[100] ARB2001004, 2001005.

[101] ARB2001005.

[102] ARB2000984.

[103] ARB2000985.

[104] ARB2001577-ARB2001578.

[105] This recognition of similar issues facing different areas is merely an indication of similarity or homogeneity, not actual socio-economic integration in the constitutional sense. *See Carpenter v. Hammond,* 667 P.2d 1204, 1218 (1983) (Matthews, J. *concurring).*

[106] *Id.*

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Indeed, Members Simpson and Marcum openly acknowledged that the Senate E pairing of Districts 9 and 10 was a downstream consequence of the 23 and 24 pairing.[107] Member Simpson justified the pairing solely on grounds of contiguity, a reason also cited by Chair Binkley. It bears noting that Member Simpson adjusted his understanding of contiguity to suit his preferred outcome here: he had previously objected to a proposed Southeast district for having what he called "false contiguity" that connected two population centers via a thinly populated area that included a section of open water,[108] but when it came to Senate District E, he did not think Districts 9 and 10's connection through the uninhabited wilderness of Chugach State Park was "false contiguity."[109] As Plaintiff Louis Theiss testified in his affidavit:

> The only geographic connection between District 9 (South Anchorage/Girdwood/Turnagain Arm) and District 10 (Eagle River Valley) is the uninhabited, uninhabitable, inaccessible mountainous wilderness of Chugach State Park. In a practical sense, connecting District 9 to District 10 using Chugach State Park would be like connecting us to District 24 using Turnagain Arm and Cook Inlet. The park may as well be open sea.[110]

Numerous individuals provided testimony in line with Mr. Theiss's affidavit, pointing out the lack of a practicable connection between District 9 and District 10.[111]

As the Girdwood Plaintiffs argued in their Opening Brief, the Board paired Districts 9 and 10 solely on the basis of technical contiguity, in defiance of a host of

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[107] ARB2000970 (Simpson); ARB2001005 (Marcum).

[108] *See* ARB2000972-973.

[109] ARB2000973.

[110] Theiss Aff. ¶2.

[111] *See* Girdwood Plaintiffs' Opening Brief §§IV.A-B.

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reasons, factual reality, and overwhelming testimony, in favor of pairing Eagle River with Eagle River and District 9 with its true neighbors in East Anchorage.

F. Member Simpson Demonstrated a Basic Misunderstanding of the Court's Ruling and the Concept of Fair Representation, Ignored Actual Testimony About Vote Dilution, and Improperly Relied on the Prior Map.

Member Simpson commented that there was no "real advantage to the Eagle River districts, in terms of splitting them or combining them."[112] He also demonstrated a lack of understanding of the concept of fair representation, stating that numerical population was all that mattered: "whichever two you pair for a senate district, there's going to be 37 – or 36 or 37,000 people in it, and they all get a vote, and they're all going to have a senator and a representative."[113] These comments disregarded this Court's ruling that providing Eagle River with two senators would increase its voting strength, and dilute the strength of districts with which it was paired.[114] They also demonstrated a lack of understanding of the principle of fair representation, which is "the right to group effectiveness or an equally powerful vote."[115]

If Member Simpson ignored the Court, perhaps it is not surprising that he similarly ignored the public who provided testimony. Numerous residents of downtown, Government Hill, Girdwood, and South Anchorage testified that their vote would be overwhelmed by a pairing with an Eagle River district; and as noted above, not a single

[112] ARB2000969.
[113] ARB2000970.
[114] FFCL at 69.
[115] FFCL at 101.

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JBER resident testified against being paired with downtown. Despite this, Member Simpson disregarded this testimony, instead commenting that adopting Option 2 would "diminish the voice" of the military and concluding that this would, in some unexplained way, be "partisan." [116]

Member Simpson provided one final improper justification for his vote: He stated it was important that Districts 23 and 24 were paired in the 2021 Proclamation, because candidates may have already formed their expectations and plans based on the prior map, so if the pairing stated in place, "it's just one less thing to be changed."[117] There was no testimony on this in the record, and it is nonsensical for a Board to retain a pairing from an unconstitutional map based solely on speculation that some potential candidate may have relied on it, despite the extensive public remand process to explore other options. Moreover, it is also true that the same number of senate districts change under each plan, so while Districts 23 and 24 are the same, others necessarily changed, upending expectations and plans. Member Simpson's purported justification simply shows more Eagle River favoritism.

V. SENATE DISTRICTS E AND L DILUTE THE VOTING POWER OF DISTRICTS 9 AND 23 WHILE MAXIMIZING THE POWER OF DISTRICTS 10 AND 24.

The Board argues that the Girdwood Plaintiffs' challenge to Senate District E must fail "because Girdwood lacks sufficient population to control even who is elected to

[116] ARB2000974.

[117] ARB2000970.

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represent its house district let alone a senate district." As an initial matter, no Alaska court has held that a class of voters must have sufficient voting strength to control its own house or senate district to be "politically salient." To the contrary, the question is whether the right of "individual members of a geographic group or community [to have] their votes protected from disproportionate dilution by the votes of another geographic group or community" has been impaired.[118] The Board's argument also misses the point: the Girdwood Plaintiffs brought their claim to protect the voting strength of District 9 as a whole, not solely those of their own community. As discussed below, and as explained in the Supplemental Report of Dr. Hensel, the Board's pairing South Anchorage/Girdwood/Turnagain Arm with Eagle River Valley does, in fact, dilute District 9 voters' right to proportional representation.

The Board elides the substantial differences in voting patterns between District 10 and Districts 11 and 13, the other possible pairings for District 9 where Girdwood is located, and it mischaracterizes the voting patterns of District 9. The Board asserts, by looking exclusively at election data from 2018, that "[v]oters in the 2022 Proclamation House District 10 have similar candidate preferences to the Anchorage Hillside."[119] Even under the 2018 data, although it is true that Districts 10, 11, and 13 did choose the same candidates in the 2018 election, the margins were significantly smaller in Districts 11 and 13, indicating that whereas pairing District 9, which leans Republican, "but voted for the Democratic candidate in the 2014 US House election and for President Biden in the 2020

[118] *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1371 (1987).
[119] ARB Opening Brief at 30.

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election[,]" with Eagle River Valley would dilute the proportional representation of Girdwood insofar as strongly Republican Eagle River would overwhelm Girdwood's influence in the senate, pairing District 9 with Districts 11 or 13 would give Girdwood a meaningful opportunity to influence state senate elections at the margin.[120]

As Dr. Hensel wrote, "[o]ne confident prediction we can make, then, is that since the boundaries of House Districts 10 and 24 and their politically conservative voting pattern have changed little since 2013, their influence on a paired district will be strongly conservative."[121] Accordingly, splitting Eagle River across two senate districts will drown out the influence of Districts 9 and 23. The discrimination in favor of conservative interests is clear under the Board's argument that Girdwood's population is too small to influence a house or senate district, as the same is true of the JBER population, and yet the three Board members who voted in favor of Option 3B all based their decision on concern that the "military" vote would be diluted if District 23 were paired with downtown.[122]

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[120] Hensel Report at 7–8.

[121] Hensel Supplemental Report at 2.

[122] *Id.* at 1 ("As concerns JBER, if we assume that most of the military members legally residing there vote in the JBER #2 precinct in District 23 (consisting of Ship Creek, Government Hill, Northeast Muldoon and JBER), then they comprise approximately one quarter of the voters in District 23, or one eighth of any senate district in which they are included."); ARB2000968:1–4; ARB2000980:22–ARB2000981:7, ARB2000989:14–ARB2000990:13.

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JBER voters are demographically diverse, which belies "the ARB's stance that the military has such strong connections and affinity with Eagle River that other possible pairings would be prejudicial."[123]

> While ethnic/racial and income characteristics of higher-ranking military members resemble those of the Eagle River population, officers comprise only 18% of the armed forces. The population characteristics of the military's majority more closely resemble those of other parts of the municipality. In terms of ethnic/racial diversity, 77% of all officers and 88% of those in the higher ranks identify as white, as compared to 67% of all enlisted personnel. Andrew Gray testified to the ARB that, based on his analysis and comparison of census tracts and precinct boundaries, JBER's population, "with 60.7% of the voting age population identifying as white and just under 40% identifying as non-white," is even more diverse than that of the military overall.[124]

Because of that diversity, and because, as Mr. Torkelson cautioned, voting data regarding 2020 precinct level voting preferences is unreliable going back to 2014, "we cannot reliably predict how precincts JBER #2 or Girdwood would vote in state elections."[125]

Thus, the majority Board members' identification of the military as a politically salient class insofar as it identified the military as a community of interest, without data, and based on little more than Marcum's personal opinion, that must be protected is best understood as a pretextual rationale for pairing District 23 with District 24, and pairing District 9 with District 10 for partisan purposes. Although the future voting patterns of Districts 9 and 23, and future voting patterns of the purported military community of

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[123] *Id.* at 3.

[124] *Id.* at 3 (quoting ARB2-500282).

[125] *Id.* at 2. To clarify, the district-level voting information, which Dr. Hensel relied on in his prior Report, is reliable; the precinct-level information is ambiguous. *See id.* at 2.

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interest, are uncertain and unpredictable, the solidly conservative voting patterns of Districts 10 and 24 are not.[126] By splitting the natural pairing of Districts 10 and 24 to enhance conservative voting power in the senate, Girdwood's votes are diluted and Girdwood voters are deprived of their right to "fair and effective representation" in that the possibility that they could influence a senate election is virtually foreclosed.[127]

VI. CONCLUSION

The Board should not be permitted to repeat its gerrymander by reciting lengthy reasons that eschew reality and disregard the extensive public process on remand. This would work an injustice on the State of Alaska for the next decade by allowing partisan maps to dominate, while providing a guidebook for future Boards to launder gerrymandered maps through the courts.

If there were more time, the Girdwood Plaintiffs would develop and present a more extensive case; but the impending June 1 deadline for candidate filing constrains the scope of their arguments and evidence. The Girdwood Plaintiffs therefore ask the Court to take a close look at the Board's conduct, stated rationale, and as much of the record as it can

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[126] Hensel Supplemental Report at 2.

[127] *Hickel v. Se. Conf.*, 846 P.2d 38, 47 (1992), *as modified on reh'g* (Mar. 12, 1993) ("In the context of voting rights in redistricting and reapportionment litigation, there are two principles of equal protection, namely that of 'one person, one vote'—the right to an equally weighted vote—and of 'fair and effective representation'—the right to group effectiveness or an equally powerful vote. The former is quantitative, or purely numerical, in nature; the latter is qualitative." (quoting *Kenai Peninsula Borough,* 743 P.2d at 1366–67)).

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reasonably review on the given timeframe, and render a fair decision that takes into account the prior record and ruling in this action.

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the 2021 Redistricting Plan	) Case No.:	3AN-21-08869 CI 4BE-21-00372 CI

AFFIDAVIT OF CHASE HENSEL, PH.D.

STATE OF ALASKA)
)
THIRD JUDICIAL DISTRICT)

I, Chase Hensel, being first duly sworn under oath, depose and say:

1. I was retained to provide expert testimony in this matter on behalf of the Girdwood Plaintiffs.

2. I am presenting my supplemental opinion in the form of the attached report, which I ask the Court to accept as my testimony in this case.

Chase Hensel

SUBSCRIBED AND SWORN to before me this 13 day of May, 2022.

GRETTA MEYER NOTARY PUBLIC STATE OF ALASKA

NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires: 04-29-2023

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SUPPLEMENTAL EXPERT REPORT

In the Matter of the 2021 Redistricting Plan
3AN-21-08869 CI

Chase Hensel, Ph. D.

May 10, 2022

I submit this supplement to my report after reading the following documents in case 3AN-21-08869 CI: *Girdwood Plaintiffs' Opening Brief*; the *Alaska Redistricting Board's Opening Brief on Girdwood Challenge*; and the Affidavit of Peter Torkelson.

1. To understand the impacts of this pairing, we need to consider the relevant district populations in their entireties.

In his affidavit, Mr. Torkelson takes Girdwood as a separate and distinct entity for the purposes of the Alaska Redistricting Board's ("ARB's") consideration. By disregarding the entirety of District 9 (consisting of South Anchorage and Turnagain Arm, including Girdwood), he creates and then takes down a straw man. For this reason, it is my opinion that most of Mr. Torkelson's affidavit can be disregarded without further comment.

However, the argument the Board dismisses with respect to Girdwood is the same as the argument it advances with respect to JBER. To this extent, Mr. Torkelson's discussion raises relevant points. As concerns JBER, if we assume that most of the military members legally residing there vote in the JBER #2 precinct in District 23 (consisting of Ship Creek, Government Hill, Northeast Muldoon and JBER), then they comprise approximately one quarter of the voters in District 23, or one eighth of any senate district in which they are included. Thus, the situation of JBER voters is the same as that of Girdwood voters. "Girdwood lacks sufficient population to control even who is elected to represent its house district let alone its senate district. Girdwood lacks the population to control *any* state election."[1] The same is true of JBER.

Left out of these calculations are the facts that South Anchorage forms the bulk of the population in the Girdwood/South Anchorage district, and North Anchorage forms the bulk of the JBER/North Anchorage District population. To understand the impacts of this pairing, then, we need to consider that urban neighborhoods comprise the bulk of District 23. The Downtown area, Ship Creek, the Alaska Railroad neighborhood, the Port of Anchorage, Government Hill, and part of Northeast Anchorage including a section of North Muldoon are all part of District 23.

2. The ARB makes an unsupported statement that "if JBER is paired with downtown Anchorage, JBER's ability to elect a senator of its choosing will be usurped by downtown

[1] Alaska Redistricting Board's Opening Brief on Girdwood Challenge, p. 27 (emphasis in original).

Anchorage."[2] In addition to the point made above, that JBER has too small a population to elect a senator, we cannot accurately predict, for reasons described below, how either District 23 including JBER or District 19 (Downtown Anchorage) will vote.

Based on the voting histories of Districts 9 (South Anchorage, etc.), 10 (Eagle River Valley) and 24 (North Eagle River) we have a reasonable sense of how they will vote. However, the voting histories of Districts 19 (Downtown Anchorage) and 23 (North Anchorage, etc.) are unclear and, as a result, so is our ability to predict their likely voting pattern.

When thinking about dilution issues in the creation of senate districts, it would be helpful to project the likely voting patterns of these two house districts and the combined senate district. A district's past voting history ideally provides a basis for such a prediction and if the composition of a new district is little changed from that of a previous district, we may presume continuity in the pattern of its voting history.

One confident prediction we can make, then, is that since the boundaries of House Districts 10 and 24 and their politically conservative voting pattern have changed little since 2013, their influence on a paired district will be strongly conservative.

As far as districts that have experienced substantial change are concerned, there are two compounding factors that limit the ability to make predictions.

First, there have been an increasing number of absentee, early, and questioned ballots. This complicates the ability to track precinct voting history because these categories of ballots are not attributed to precincts. For Districts 19 and 23, roughly a third of the votes in 2014 and two thirds of the votes in 2020 are absentee, early, and questioned ballots.

Second, where a district boundary has changed and encompasses precincts or parts of precincts from previous proclamation maps, precinct voting history becomes increasingly unclear. The less resemblance a district has to earlier maps, the more its history and therefore our ability to project future voting patterns is obscured.

If we knew that a precinct previously voted in a certain way, then we might be able to account for a particular portion of that district that is now in a new district.

But with so many votes no longer associated with the voters' precincts, this is not possible.

This limitation on extrapolations from the precinct level applies to predictions about the voting patterns of precincts JBER #2 and Girdwood, and we would extend Torkelson's caution[3] about the unreliability of 2020-precinct-level-voting preferences back to 2014. Because of this, we have been cautious about predictions of future voting. So, for instance, we cannot reliably predict how precincts JBER #2 or Girdwood would vote in state elections.

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[2] Alaska Redistricting Board's Opening Brief on Girdwood Challenge, p. 1.
[3] Affidavit of Peter Torkelson, p.4, fn. 1.

3. Testimony and other data also do not support the ARB's stance that the military has such strong connections and affinity with Eagle River that other possible pairings would be prejudicial. In fact, commonalities and affinities between different segments of the civilian population and the military correspond to differences in rank, income and social characteristics of the military population.

While ethnic/racial and income characteristics of higher-ranking military members resemble those of the Eagle River population, officers comprise only 18% of the armed forces.[4] The population characteristics of the majority of military personnel more closely resemble those of other parts of the municipality. In terms of ethnic/racial diversity, 77% of all officers and 88% of those in the higher ranks identify as white, as compared to 67% of all enlisted personnel.[5] Andrew Gray testified to the ARB that, based on his analysis and comparison of census tracts and precinct boundaries, JBER's population, "with 60.7% of the voting age population identifying as white and just under 40% identifying as non-white," is even more diverse than that of the military overall.[6]

This diversity shapes, for example, the possibilities for and actual locations of off-base housing choices. On militarytownadvisor.com, "Top 'Off-base' Neighborhoods" for JBER lists ten neighborhoods with user reviews.[7] Of these, only 1 (#5) is an Eagle River location. The others range through the Anchorage area and beyond, including two locations in Wasilla. Officers can afford a wider range of housing and may come from more financially secure backgrounds, but as Andrew Gray points out, recruits most often come from low-income backgrounds: "more than 80% of military recruits come from households unlike those in Eagle River. And if lower enlisted choose to live off base, they inevitably end up in lower-cost housing in Mountain View, north Muldoon, or even in my neighborhood in midtown."[8]

As previously noted, JBER is only one segment of District 23. However, to the extent that the ARB argues that pairing District 23 with District 24 (North Eagle River) best serves the military population, it is important to note that, given its overall ethnic diversity, JBER is not particularly well served by such a pairing.

While we noted above that we cannot predict how Districts 19 and 23 are likely to vote, the military population's demographics suggest that minority issues are much more likely to be of interest and concern to JBER voters than they are to the voters of Eagle River; and the ethnic/racial information provided by the ARB[9] indicates that District 23's population is even more ethnically diverse than that of JBER:

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[4] https://taskandpurpose.com/news/how-many-officers-in-us-military/.
[5] https://crsreports.congress.gov/product/pdf/R/R44321.
[6] ARB2-500282.
[7] https://www.militarytownadvisor.com/off-base-housing/neighborhood-subdivision-review/AK/5/elmendorf-afb/results.
[8] ARB2-501611.
[9] ARB2-501899.

District	%White
19	53
23	57
24	75
10	76

The larger picture is that JBER is currently well-served as an ethnically diverse precinct within an ethnically diverse house district.

Pairing District 23 with District 24 (North Eagle River) risks minority dilution and creates the same problems as did the gerrymandered pairing of Eagle River/Chugiak with South Muldoon.

Report submitted by:

_____

Chase Hensel, Ph.D. **DATE**

Morrow & Hensel Consulting
1674 Red Fox Drive
Fairbanks, Alaska 99709

From: "Melanie Bahnke" <melanie.bahnke@akredistrict.org>
To: "Nicole Borromeo" <nicole.borromeo@akredistrict.org>
Cc: "John Binkley" <john@riverboatdiscovery.com>, "Singer, Matthew" <MSinger@schwabe.com>, "Bethany Marcum" <bethany.marcum@akredistrict.org>, "Budd Simpson" <budd.simpson@akredistrict.org>, "John Binkley" <john.binkley@akredistrict.org>, "Baxter, Lee C." <LBaxter@schwabe.com>, "Peter Torkelson" <Peter.Torkelson@akredistrict.org>
Subject: Re: Thought for procedure going forward--Privileged Communication [IWOV-pdx.FID4635476]
Date: Fri, 01 Apr 2022 21:14:21 -0000
Importance: Normal

I don't see how we are going to get through tomorrow's agenda AND discuss process going forward in a 2 hour time span on Monday. I ask that the board respect my schedule as much as we have Budd's as well as the others who had conflicts that meant we couldn't meet sooner than tomorrow. The public's trust in us is already bruised. If we cancel tomorrow's meeting these emails between us all will likely get FOIA-ed, and nothing in them is privileged. The public will be curious as to why we are delaying when we've had a week to sit on the ruling. Let's meet tomorrow and follow our agenda and I'm willing to wait until Monday to discuss process when we are are in the meeting.

On Apr 1, 2022, at 12:46 PM, Melanie Bahnke <melanie.bahnke@akredistrict.org> wrote:

Peter- has any member of the public expressed concerns with the agendas for all the meetings we have noticed that show our proposed actions? I'm not understanding why we are even contemplating these last minute changes?

On Apr 1, 2022, at 12:42 PM, Melanie Bahnke <melanie.bahnke@akredistrict.org> wrote:

There is nothing on tomorrow's agenda that indicated we would discuss the plan going forward. We can do that Monday morning with all members present. See below the agenda. Let's hold our meeting as planned please and discuss the plan going forward on Monday.

https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=133407
Sent from my iPhone

On Apr 1, 2022, at 12:37 PM, Nicole Borromeo <nicole.borromeo@akredistrict.org> wrote:

With all due respect, John, you don't have the power to cancel a meeting without checking with the rest of the Board.

I insist that this meeting proceeds as scheduled, since no one wanted to move it any sooner.

I'm going to be there at 2:00PM ready to gavel in. I hope that the rest of the Board is ready to proceed, with the exception of Budd, who was excused along time ago for this 'scheduling' meeting.

My big concern is Monday as I'm catching a flight and have to be at the airport by 10am. The sooner the better for these meetings if possible. Can we just notice meetings through this week except the days others are traveling and cancel them if we don't have the remand in hand?

Sent from my iPhone

On Mar 28, 2022, at 5:03 PM, Nicole Borromeo <nicole.borromeo@akredistrict.org> wrote:

I also want to reiterate my December board meeting observation, that this could take 15 minutes to clear up :-)

Sent from my iPhone

On Mar 28, 2022, at 1:56 PM, Peter Torkelson <Peter.Torkelson@akredistrict.org> wrote:

Hi Nicole -- my inbox exploded this morning with folks asking us to move the Apr 2 meeting back to allow attendance at Rep Young's funeral. Would 2pm work?

In terms of meeting earlier this week, I do not believe it will be feasible as we have members traveling Thurs and Friday and need to allow the superior court a little time to pass the ball back to our court.

P.

From: Nicole Borromeo <nicole.borromeo@akredistrict.org>
Sent: Monday, March 28, 2022 8:29 AM
To: Peter Torkelson <Peter.Torkelson@akredistrict.org>
Cc: John Binkley <john.binkley@akredistrict.org>; Melanie Bahnke <melanie.bahnke@akredistrict.org>; Budd Simpson <budd.simpson@akredistrict.org>; Bethany Marcum <bethany.marcum@akredistrict.org>; Singer, Matthew <MSinger@schwabe.com>
Subject: Re: Board Packet for Apr 2 @ 10am

Thanks, Peter. I appreciate you sending this.

I'd like to suggest an alternative path to our meeting. Since we have the Supreme Court decision, and the Superior Court will likely act swiftly in remanding the work to the Board, **I think we should notice a public meeting as early as tomorrow — and every day after — so we can meet as soon as possible**.

They just announced the public service for Congressman Young on Sunday. This is another reason that I do not favor meeting on this date.

I know you said that there was a procedural snafu, that warranted us meeting later. However, we expected the decision on April 1 and had a meeting set up for April 2.

With the exception of 9:00 AM to 10:30 AM on Thursday, I can clear everything else on my calendar.

Best,

From: "Melanie Bahnke" <melanie.bahnke@akredistrict.org>
To: "Singer, Matthew" <MSinger@schwabe.com>
Cc: "E. Budd Simpson" <bsimpson@stsl.com>, "Peter Torkelson" <Peter.Torkelson@akredistrict.org>, "John Binkley" <john.binkley@akredistrict.org>, "Nicole Borromeo" <nicole.borromeo@akredistrict.org>, "Budd Simpson" <budd.simpson@akredistrict.org>, "Bethany Marcum" <bethany.marcum@akredistrict.org>
Subject: Re: Draft Agendas for April 2-6
Date: Fri, 25 Mar 2022 21:56:48 -0000
Importance: Normal

My condolences to you and your wife and your family Budd.

Sent from my iPhone

On Mar 25, 2022, at 1:55 PM, Singer, Matthew <MSinger@schwabe.com> wrote:

Budd,
I suggested the testimony go first. As the Board's lawyer, I don't want to get into a dialogue or debate with public testimony. If I go first, I think we are asking for such exchanges.

Sent from my iPhone

On Mar 25, 2022, at 2:02 PM, E. Budd Simpson <bsimpson@stsl.com> wrote:

Peter,
I would suggest that we schedule Review of the Supreme Court Decision ahead of the Public Testimony portion of the meeting. Seems like that would be a good baseline for any further discussion, public or otherwise. I will likely miss that meeting due to my wife's mother's funeral being that day, in California, but I will catch up with someone to get briefed on it.
Thanks.
Budd

From: Peter Torkelson <Peter.Torkelson@akredistrict.org>
Sent: Friday, March 25, 2022 12:32 PM
To: John Binkley <john.binkley@akredistrict.org>; Nicole Borromeo <nicole.borromeo@akredistrict.org>; Melanie Bahnke <melanie.bahnke@akredistrict.org>; Budd Simpson <budd.simpson@akredistrict.org>; Bethany Marcum <bethany.marcum@akredistrict.org>
Cc: Singer, Matthew <MSinger@SCHWABE.com>
Subject: Draft Agendas for April 2-6

Good morning members,

Please find attached draft agendas for our upcoming potential meetings on April 2, 4, 5 and possibly 6 (if needed). Of course, if the Supreme Court does not require any changes, or if they require a large scale re-do, then these would be subject to change.

From: John Binkley <john@riverboatdiscovery.com>
To: Melanie Bahnke <melanie.bahnke@akredistrict.org>
Cc: "Singer, Matthew" <MSinger@schwabe.com>, Nicole Borromeo <nicole.borromeo@akredistrict.org>, Bethany Marcum <bethany.marcum@akredistrict.org>, Budd Simpson <budd.simpson@akredistrict.org>, John Binkley <john.binkley@akredistrict.org>, "Baxter, Lee C." <LBaxter@schwabe.com>, Peter Torkelson <Peter.Torkelson@akredistrict.org>
Subject: Re: Thought for procedure going forward--Privileged Communication [IWOV-pdx.FID4635476]
Date: Fri, 1 Apr 2022 20:27:36 +0000
Importance: Normal

I agree with Melanie.
The process going forward should be debated in public with all members participating.
Since Budd is not able to be at the meeting tomorrow, I am canceling the Saturday meeting.
We will all be present on Monday and Budd will be able to present his proposal for the process going forward and we can debate that and any other ideas members have.
Enjoy the weekend and we will look forward to seeing everyone at 8:00 Monday morning.
Thanks. John.

On Apr 1, 2022, at 2:12 PM, Melanie Bahnke <melanie.bahnke@akredistrict.org> wrote:

If we don't have consensus on a process going forward we need to debate this in the public eye on Saturday. The public deserves to observe our deliberations on the record. Let's comply with the Open Meetings Act and the court orders. No more deliberations behind closed doors.

On Apr 1, 2022, at 9:54 AM, Melanie Bahnke <melanie.bahnke@akredistrict.org> wrote:

We have publicly noticed our meetings and agendas for those meetings with no negative feedback on our timelines that I am aware of. I insist that we follow our own planned timelines to abide by the court's orders. Changing things at the last minute is going to confuse the public and delay the final proclamation. We owe our state better. We have 3 meetings planned with public testimony available at all 3 meetings and the portal is open for public testimony as of yesterday. That should be sufficient.

On Apr 1, 2022, at 9:35 AM, Melanie Bahnke <melanie.bahnke@akredistrict.org> wrote:

[redacted]

From: "E. Budd Simpson" <bsimpson@stsl.com>
To: Peter Torkelson <Peter.Torkelson@akredistrict.org>, "Singer, Matthew" <MSinger@SCHWABE.com>
Cc: John Binkley <john.binkley@akredistrict.org>, "Baxter, Lee C." <LBaxter@SCHWABE.com>
Subject: RE: Thought for procedure going forward--Privileged Communication
Date: Fri, 1 Apr 2022 00:24:10 +0000
Importance: Normal

I thought part of our problem was that we didn't have a plan circulated in advance that the public could comment on, we just had lots of testimony then popped out a plan.
I don't want to be pressed to put out one plan and take testimony on it by Monday. That's just me. If everyone else want to accelerate, so be it. And if someone does have one they want to put on the table that soon, I'm fine with that, as long as we don't have to vote on it right away. My vote is that we have almost till the 15th.

E. Budd Simpson
Simpson Tillinghast Sheehan, P.C.
One Sealaska Plaza, Suite 300
Juneau, AK 99801
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(907) 586-3065 (Fax)
www.stsl.com

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From: Peter Torkelson <Peter.Torkelson@akredistrict.org>
Sent: Thursday, March 31, 2022 5:04 PM
To: E. Budd Simpson <bsimpson@stsl.com>; Singer, Matthew <MSinger@SCHWABE.com>
Cc: John Binkley <john.binkley@akredistrict.org>; Baxter, Lee C. <LBaxter@SCHWABE.com>
Subject: Re: Thought for procedure going forward--Privileged Communication

HI Budd – we just noticed our meetings for Apr 4, 5 and 6. Not sure we'll use those all, but the schedule they imply is that we would be pretty much wrapping up by Apr 6 (agenda says "Possible Adoption of a Proposed Plan Revision"

Of course, we aren't stuck with anything and can easily postpone/cancel any meeting and notice others. Just letting you know that the sense I have so far in talking with members is a desire to wrap it up well before April

15, and next week if possible, and ideally by mid week – after having multiple public testimony sessions (2 on Sat, 2 on Monday, at least 1 on Tuesday and Wednesday).

I'll let Matt chime in on your weightier concept (such as publishing suggestions that come from the public, waiting and then taking public testimony on them).

P.

From: E. Budd Simpson <bsimpson@stsl.com>
Sent: Thursday, March 31, 2022 3:53 PM
To: Singer, Matthew <MSinger@SCHWABE.com>
Cc: John Binkley <john.binkley@akredistrict.org>; Peter Torkelson <Peter.Torkelson@akredistrict.org>; Baxter, Lee C. <LBaxter@SCHWABE.com>
Subject: Thought for procedure going forward--Privileged Communication

Matt,

Since I won't be able to attend the ARB meeting on Saturday, I just want to share a few thoughts on how we could move forward. Given the court rulings, I believe we should continue to focus on process, and in particular make sure we dedicate some time and space for public input (testimony and written). I doubt that the Cantwell revision will be difficult or controversial, so our main task will be to de-couple Senate District K and make whatever revisions necessarily flow from that. I would like see a meaningful opportunity for the public to submit suggestions. I imagine some members have one or more ideas in mind already, but further input should be welcomed. I suggest that after the planning meeting Saturday we set a deadline a few days after that by which anyone—member or public—can submit proposed pairing solutions. Then we publish those for public comment and leave that period open for a few days, concluding the comment period with a hearing where we take public testimony. We as a board should have at least a couple of days after that to digest the proposals and comments, then meet to have an open discussion and make a decision. The last time around, I think part of our problem was being rushed toward the end product. Here and now, we have a more focused decision and, while the time limit is finite, April 15 is the deadline set by the court and everything I suggested above can be accomplished in that time, with an organized procedure, and without undue haste. If appropriate, please feel free to share this with the other members. It doesn't necessarily need to be confidential, but I wanted to run it through counsel to be sure it's OK before circulating.
Budd

E. Budd Simpson
Simpson Tillinghast Sheehan, P.C.
One Sealaska Plaza, Suite 300
Juneau, AK 99801
(907) 586-1400
(907) 586-3065 (Fax)

From: Kylie Bongaardt <kylie@thenrrt.org>
To: Undisclosed recipients:;
Subject: REMINDER: Register for NRRT April Webinar
Date: Fri, 8 Apr 2022 16:49:07 +0000
Importance: Normal
Attachments: NRRT_April_Webinar_Invitation.pdf
Inline-Images: image003.jpg

NRRT

NATIONAL REPUBLICAN REDISTRICTING TRUST

April Update

April 12th, 2022 at 4PM ET

Please join us for NRRT's final monthly webinar of the 2020 redistricting cycle.

To sign up for the April 12th update, please register here: April Registration. Registration will close at 5PM ET on April 11th. A Zoom link will be provided the morning of the 12th. Only confirmed attendees will be permitted into the meeting.

Monthly updates are open to Republican legislators, their staff, and other Republican attendees only. Webinars are not for public consumption and should not be recorded in any way.

If you have any questions or would like to be removed from future emails, please contact kylie@thenrrt.org.

National Republican Redistricting Trust | 2308 Mount Vernon Ave Ste. 725 Alexandria, VA 22301

NRRT

NATIONAL REPUBLICAN REDISTRICTING TRUST

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April 12th, 2022 at 4PM ET

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If you have any questions or would like to be removed from future emails, please contact kylie@thenrrt.org.

National Republican Redistricting Trust | 2308 Mount Vernon Ave Ste. 725 Alexandria, VA 22301

From: Kylie Bongaardt <kylie@thenrrt.org>
To: Undisclosed recipients:;
Subject: REMINDER: Register for NRRT April Webinar
Date: Fri, 8 Apr 2022 16:46:05 +0000
Importance: Normal
Attachments: NRRT_April_Webinar_Invitation.pdf
Inline-Images: image003.jpg

NRRT

NATIONAL REPUBLICAN REDISTRICTING TRUST

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National Republican Redistricting Trust | 2308 Mount Vernon Ave Ste. 725 Alexandria, VA 22301

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From: E. Budd Simpson
Sent: Wednesday, April 6, 2022 4:16 PM
To: Peter Torkelson <Peter.Torkelson@akredistrict.org>
Subject: RE: 3B

This looks good . For further public review and as a point of reference, I think it would be good to also have an even larger scale version that shows the whole boundary area between 9 and 22. One map shown today had that. The obvious connection is more apparent when you can see the entire districts. Also including 24.
Thanks.
Budd

E. Budd Simpson
Simpson Tillinghast Sheehan, P.C.
One Sealaska Plaza, Suite 300
Juneau, AK 99801
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(907) 586-3065 (Fax)
www.stsl.com

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From: Peter Torkelson <Peter.Torkelson@akredistrict.org>
Sent: Wednesday, April 6, 2022 4:00 PM
To: Budd Simpson <budd.simpson@akredistrict.org>
Subject: 3B

Binkley - Marcum Texts

4:53 LTE

New Message Cancel

To: Bethany Marcum

Fri, Apr 1, 6:59 AM

Good morning, Bethany. Would you have time for a call?

In 5 minutes?

Great. Just call when it's good for you. Thanks.

Fri, Apr 8, 7:42 AM

Text Message

4:53 LTE

New Message Cancel

To: Bethany Marcum

Hi John, wanted to ask you about something when you have a moment. Thx

Ok. I have an 8:00 call.

Okay, feel free to call when you are done

Done with my call.

Wed, Apr 20, 10:04 AM

Text Message

Binkley - Simpson Texts

4:50 LTE

New iMessage Cancel

To: Budd Simpson

Mon, Mar 28, 10:49 AM

Can I call you later?

Yes any time.

Peter is calling you now and I will try a lit-tle later. Thanks

Mon, Mar 28, 1:10 PM

Any time is still ok for me.

iMessage

4:51 LTE

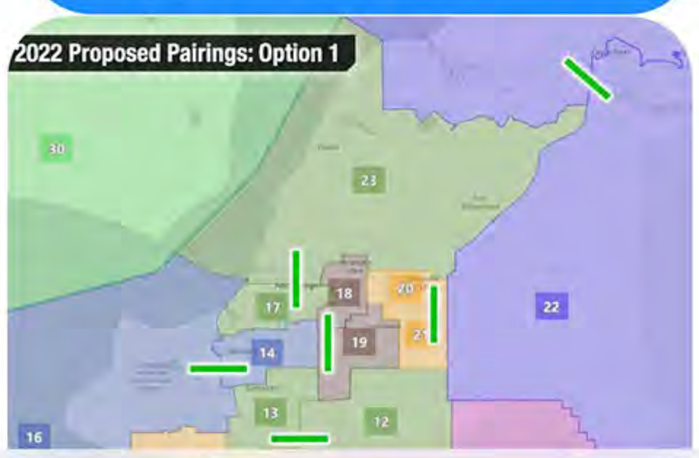
New iMessage Cancel

To: Budd Simpson

Sorry, Budd.
On another call now.
Will call as soon as I can. Thanks

Wed, Apr 6, 7:09 PM

Happened to see this.

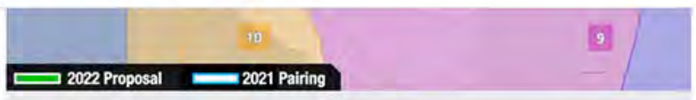


iMessage

4:51 LTE

New iMessage Cancel

To: Budd Simpson



'Bahnke map' is identical map Sen. Tom Begich texted to Nicole Borromeo in November

alaskalandmine.com

Hmm.

Magical coincidence?

Of course. Ask Peter to send you the 3B map that I asked for

iMessage

4:51 LTE

New iMessage Cancel

To: Budd Simpson

map that I asked for this afternoon. I think it is more complete and informative.

Ok. Thanks

Wed, Apr 13, 12:35 PM

I was wrong.... The community adjacent to Eagle River is Chugiak.

The Mountains and

iMessage

4:51 LTE

New iMessage Cancel

To: Budd Simpson

The Mountains and park to the east are the Chugach moun-tains

👍🏻

Is Chugiak more prop-erly 23 or 24?

I mean 22 or 24.

It is in 24. Also Peters Creek and Eklutna are

iMessage

4:51 LTE

New iMessage Cancel

To: Budd Simpson

tains

👍🏻

Is Chugiak more prop-erly 23 or 24?

I mean 22 or 24.

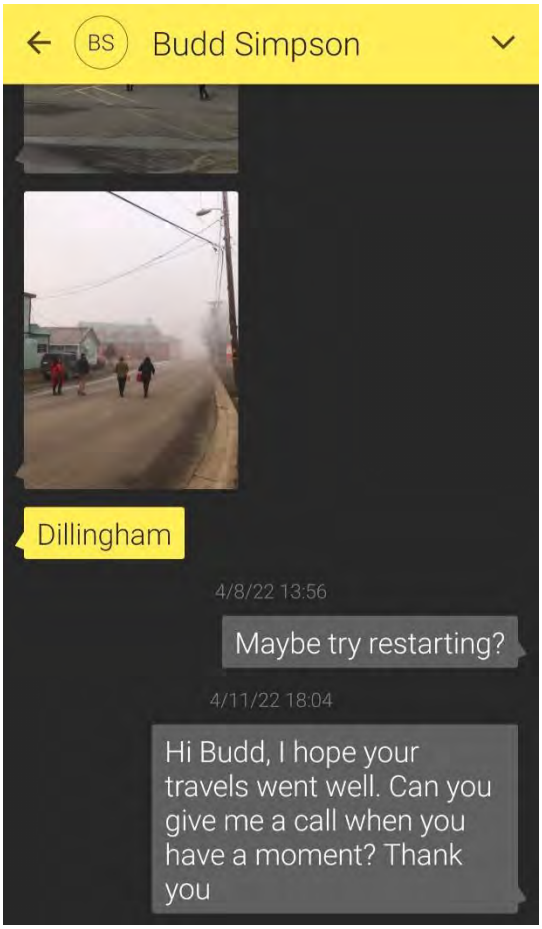
It is in 24. Also Peters Creek and Eklutna are in 24.

Delivered

iMessage

Marcum board member text messages March 25 – April 13

No search terms; all inclusive



Simpson Texts

AT&T 12:04 PM 100%

JB
John

Mon, Mar 28, 10:49 AM

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Yes any time.

Peter is calling you now and I will try a little later. Thanks

Mon, Mar 28, 1:10 PM

Any time is still ok for me.

Sorry, Budd.
On another call now.
Will call as soon as I can.
Thanks

Wed, Apr 6, 7:09 PM

Happened to see this.

iMessage

AT&T 12:05 PM 100%

JB
John

'Bahnke map' is identical map Sen. Tom Begich texted to Nicole Borromeo in November
alaskalandmine.com

Hmm.

Magical coincidence?

iMessage

AT&T 12:08 PM 100%

JB
John

Of course. Ask Peter to send you the 3B map that I asked for this afternoon. I think it is more complete and informative.

Ok. Thanks

Wed, Apr 13, 12:35 PM

I was wrong.... The community adjacent to Eagle River is Chugiak.

The Mountains and park to the east are the Chugach mountains

👍

iMessage

AT&T 12:09 PM 100%

JB
John

I was wrong.... The community adjacent to Eagle River is Chugiak.

The Mountains and park to the east are the Chugach mountains

👍

Is Chugiak more properly 23 or 24?

I mean 22 or 24.

Read 4/13/22

It is in 24. Also Peters Creek and Eklutna are in 24.

iMessage

AT&T 12:12 PM 99%

BM
Bethany

Thu, Dec 2, 4:50 AM

Sent

Mon, Dec 6, 10:31 AM

You are joining this meeting now, right?

Fri, Apr 8, 9:56 AM

Maybe try restarting?

Mon, Apr 11, 2:37 PM

Hi Budd, I hope your travels went well. Can you give me a call when you have a moment? Thank you

Text Message

AT&T 12:11 PM 99%

NB
Nicole

Wed, Feb 16, 4:35 PM

Hi, Budd. I'm wondering if you have time for a 10 minute call later today? Thanks for considering.

—nb

Tue, Apr 12, 9:31 AM

Good morning. Are you coming up for the hearings this week?

Tue, Apr 12, 12:34 PM

Hi Nicole. I'm going to Zoom for these.

Delivered

iMessage

AT&T 12:37 PM 93%

PS
Paulette

aon.com

Wed, Apr 13, 1:47 PM

Good job

How long did I go on that?

Kinda long
But you made up for all the time you kept quiet

John doing well

Is Matt pushing something now?

I don't think so. Bethany doing well too.

iMessage

From: "E. Budd Simpson" <bsimpson@stsl.com>
To: Peter Torkelson <Peter.Torkelson@akredistrict.org>
Subject: FW: Matt Buxton
Date: Sat, 30 Apr 2022 19:38:11 +0000
Importance: Normal

E. Budd Simpson
Simpson Tillinghast Sheehan & Araujo, P.C.
One Sealaska Plaza, Suite 300
Juneau, AK 99801
(907) 586-1400
(907) 586-3065 (Fax)
www.stsl.com

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From: E. Budd Simpson
Sent: Tuesday, April 5, 2022 2:39 PM
To: [redacted]
Subject: RE: Matt Buxton

Some of it is sort of accurate, but obviously he is spinning and selective. POS.

E. Budd Simpson
Simpson Tillinghast Sheehan, P.C.
One Sealaska Plaza, Suite 300
Juneau, AK 99801
(907) 586-1400
(907) 586-3065 (Fax)
www.stsl.com

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From: [redacted]
Sent: Tuesday, April 5, 2022 3:15 PM

To: [redacted] E. Budd Simpson <bsimpson@stsl.com>
Subject: Matt Buxton

In case you are interested, attached is Buxton's Twitter feed during the Redistricting Meeting.

Win

From: "E. Budd Simpson" <bsimpson@stsl.com>
To: Peter Torkelson <Peter.Torkelson@akredistrict.org>
Subject: FW: Alaska Redistricting Board adopts GOP-friendly plan, pairing Eagle River with South Anchorage
Date: Sat, 30 Apr 2022 19:21:15 +0000
Importance: Normal

E. Budd Simpson
Simpson Tillinghast Sheehan & Araujo, P.C.
One Sealaska Plaza, Suite 300
Juneau, AK 99801
(907) 586-1400
(907) 586-3065 (Fax)
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From: Win & Anne Gruening [redacted]
Sent: Wednesday, April 13, 2022 9:30 PM
To: E. Budd Simpson <bsimpson@stsl.com>; Paulette Simpson <paulettem@gci.net>; Win Gruening <wgruening@gmail.com>
Subject: Fwd: Alaska Redistricting Board adopts GOP-friendly plan, pairing Eagle River with South Anchorage

Those 2 women are bitches of the highest order!

Sent from Anne's iPhone

Begin forwarded message:

From: Matt Buxton from The Midnight Sun Memo <akmemo@substack.com>
Date: April 13, 2022 at 7:08:25 PM PDT
To: [redacted]
Subject: Alaska Redistricting Board adopts GOP-friendly plan, pairing Eagle River with South Anchorage
Reply-To: Matt Buxton from The Midnight Sun Memo <reply+v2gy8&36mg1&&e74846ce0eb3037bb4595e8fe15fa31c87d6eeb1875ae64ad7a5e910845746dd@mg1.substack.com>

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Alaska Redistricting Board adopts GOP-friendly plan, pairing Eagle River with South Anchorage

All Alaskans are equal, but some Alaskans are more equal than others.

Matt Acuña Buxton

Apr 14

Good evening, Alaska!

In this edition: The Alaska Redistricting Board has finally made its decision in the redrawing of the Anchorage-area senate maps and, surprise, the conservative majority that approved the plans that were struck down as an unconstitutional partisan gerrymander adopted a plan that opponents say is another unconstitutional partisan gerrymander; Let's break down the day and the fight put up by the opponents; And the path ahead.

Spice level: 🌶️🌶️🌶️🌶️🌶️

'Stop gerrymandering!'

From: "E. Budd Simpson" <bsimpson@stsl.com>
To: Peter Torkelson <Peter.Torkelson@akredistrict.org>
Subject: FW: Skagway challenge denied: Redistricting map will stand - Must Read Alaska
Date: Sat, 30 Apr 2022 18:50:20 +0000
Importance: Normal

E. Budd Simpson
Simpson Tillinghast Sheehan & Araujo, P.C.
One Sealaska Plaza, Suite 300
Juneau, AK 99801
(907) 586-1400
(907) 586-3065 (Fax)
www.stsl.com

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-----Original Message-----
From: Paulette Simpson [redacted]
Sent: Thursday, April 7, 2022 3:40 PM
To: E. Budd Simpson <bsimpson@stsl.com>
Subject: Skagway challenge denied: Redistricting map will stand - Must Read Alaska

https://mustreadalaska.com/skagway/

Sent from my iPhone

From: "E. Budd Simpson" <bsimpson@stsl.com>
To: Peter Torkelson <Peter.Torkelson@akredistrict.org>
Subject: FW: Conservatives needed to support Redistricting Board as it considers two maps of Senate pairings for Anchorage - Must Read Alaska
Date: Sat, 30 Apr 2022 18:42:13 +0000
Importance: Normal

E. Budd Simpson
Simpson Tillinghast Sheehan & Araujo, P.C.
One Sealaska Plaza, Suite 300
Juneau, AK 99801
(907) 586-1400
(907) 586-3065 (Fax)
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-----Original Message-----
From: Paulette Simpson [redacted]
Sent: Thursday, April 7, 2022 5:27 AM
To: E. Budd Simpson <bsimpson@stsl.com>
Subject: Conservatives needed to support Redistricting Board as it considers two maps of Senate pairings for Anchorage - Must Read Alaska

https://mustreadalaska.com/conservatives-needed-to-support-redistricting-board-as-it-considers-two-maps-of-senate-pairings-for-anchorage/

Sent from my iPhone

From: "E. Budd Simpson" <bsimpson@stsl.com>
To: Peter Torkelson <Peter.Torkelson@akredistrict.org>
Subject: FW: 2021 Redistricting Cases
Date: Sat, 30 Apr 2022 17:57:23 +0000
Importance: Normal
Attachments: S18332_2022-03-25-O1.pdf

E. Budd Simpson
Simpson Tillinghast Sheehan & Araujo, P.C.
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From: Scott Spickler [redacted]
Sent: Monday, March 28, 2022 6:03 AM
To: E. Budd Simpson <bsimpson@stsl.com>
Cc: [redacted]; Bob Urata [redacted]
Subject: Re: 2021 Redistricting Cases

Good on you and would say the outcome was very successful.
Now get home so Z can buy us a decent meal!

Sent from my iPhone

On Mar 26, 2022, at 10:28 AM, E. Budd Simpson <bsimpson@stsl.com> wrote:

In case anyone is still interested, the Supreme Court ruled on the Redistricting cases yesterday. Their ruling is attached, and is blessedly short.
Upshot is that all 40 of the Board's House Districts were upheld (with the exception of moving some 200 people in Cantwell back into the Denali Borough district). Significantly, the Court reversed the Superior Court's ruling on Skagway, meaning that my map placing Skagway, Haines and Gustavus with the North end of Juneau is approved and they will be stuck with that arrangement for the next 10 years, at least.
The Supremes also upheld the Superior Court's ruling that we had politically gerrymandered one Senate district in Anchorage by the way we paired two House districts there. The House districts were not challenged, so we have to double back and find a different pairing. To me this implies that what the court perceived as a political gerrymander must be replaced with a

different political gerrymander more to their liking. The district in question paired two house districts that were both majority non-minority, one of which was reliably republican and the other was republican 2/3 of the time. Not clear to me why this is bad but the Ds will push to dilute both of them to make it easier to elect their candidates.

A RESOLUTION OF THE DOWNTOWN COMMUNITY COUNCIL TO SUPPORT A CONSOLIDATED VOICE FOR DOWNTOWN BY COMBINING HOUSE DISTRICTS SEATS 17 AND 23 INTO ONE SENATE PAIR

WHEREAS, the United States Constitution empowers Congress to carry out the census every 10 years to count every person living in the United States and use that count to determine representation in Congress; and

WHEREAS, the Alaska Constitution requires setting new boundaries for the Alaska house districts and senate districts after the decennial census of the United States; and

WHEREAS, for the past ten years the Downtown Community Council has been represented by one House District and one Senate District; and

WHEREAS, the final 2021 redistricting maps divide Downtown Anchorage into two separate House districts; and

WHEREAS, the Alaska Redistricting Board met over for the last several months and in compliance with the Constitution has promulgated a map; and

WHEREAS, that map was challenged by a number of communities and has been heard in the Superior and Supreme Courts; and

WHEREAS, the Alaska Supreme Court found that the pairing of House District 21 and 22 into Senate K is unconstitutional and that this pairing must be changed; and

WHEREAS, On the promulgated maps the Downtown area of Anchorage was divided into house districts 17 and 23 in the 2021 map. Currently, these two districts fall into Senate seats and half of downtown is paired with the Chugiak-Eagle Birchwood; and

WHEREAS, it appears that any pairing of Eagle River and Hillside or Eagle River and Downtown simply shifts the unconstitutional problem from one senate pairing to another, and

WHEREAS, The Downtown Community Council understands that there are a lot of factors the Redistricting Board needed to consider when drawing the maps, but still regrets the division of our downtown core. This situation is lamentable, but the option of furthering this fracture by putting us in two Senate seats is unnecessary and further dissolves the voice of the downtown core; and

NOW THEREFORE IT BE RESOLVED, that the Downtown Community Council hereby requests the Alaska Redistricting Board to support a consolidated downtown voice and to pair House Seat 17 and House Seat 23 downtown into one Senate Seat.

PASSED and APPROVED by the Downtown Community Council this 6th day of April, 2022.

S. Villamides

Signed: Silvia Villamides
Its:President
Downtown Community Council

Submitted by: Chairman of the Assembly
at the Request of the Mayor
Prepared by: Department of Law
For reading: May 23, 2000

CLERK'S OFFICE
AMENDED AND APPROVED
Date: 6-20-00

ANCHORAGE, ALASKA
AO NO. 2000- 98

AN ORDINANCE EXTENDING ASSESSMENT DISTRICT 1SD97 AS A SPECIAL ASSESSMENT DISTRICT FOR SERVICES WITHIN THE AREA OF DOWNTOWN ANCHORAGE ESTABLISHED BY ANCHORAGE ORDINANCE 97-51 MORE SPECIFICALLY SHOWN ON THE SPECIAL ASSESSMENT DISTRICT 1SD97 MAP ATTACHED TO THIS ORDINANCE; AUTHORIZING SAID DISTRICT TO CONTINUE TO PROVIDE SPECIFIED SAFE AND CLEAN SERVICES AND ESTABLISHING THE BASIS AND METHOD OF ASSESSING, ALLOCATING AND APPORTIONING THE COSTS OF SERVICES AND THE RULES AND PROCEDURES FOR ASSESSMENT CALCULATIONS, BILLINGS, PENALTIES, INTEREST, COSTS, APPLICATION OF PAYMENTS AND ENFORCEMENT OF ASSESSMENTS AND DETERMINING TO PROCEED.

WHEREAS, in accordance with Anchorage Municipal Charter Section 9.02, the Anchorage Assembly provided for the creation of assessment districts for public services by Anchorage Ordinance 96-77(S-1) Am., amended by Anchorage Ordinance 96-112 (together herein the "Enabling Ordinance"); and

WHEREAS, a property owners' petition for the continuation/extension of special services Assessment District 1SD97, was duly filed with the Municipal Clerk on the 2nd day of May, 2000; and

WHEREAS, in compliance with Anchorage Municipal Code section 19.20.030 the Mayor has made a report on said petition to the Municipal Assembly with a recommendation that the Assembly approve the continuation of the Downtown Improvement District 1SD97; and

WHEREAS, the Assembly has duly noticed and held a public hearing on the advisability of extending Assessment District 1SD97 and has duly considered and evaluated the evidence and testimony received, including the petition, the Mayor's report and other evidence and information, on the aggregate basis of which the Assembly has made the findings, determinations and conclusions contained in this preamble; and

WHEREAS, the property owners who would bear more than fifty-percent (50%) of the estimated cost of the service have petitioned for and approved extending Assessment District 1SD97 with assessments within Assessment District 1SD97 Map appended to and incorporated herein as a part of this ordinance (herein the "Map"); and

WHEREAS, the purpose of continuing Assessment District 1SD97 is to provide and finance special public services desired and requested by the property owners which are either not generally provided or provided at different levels by the Municipality; and

WHEREAS, the intended purpose of the proposed services for Assessment District 1SD97 is to increase cleanliness, occupancy rates, investment values and lease income, to decrease crime and to generally stimulate economic development and improve the quality of life in the Assessment District area of Downtown Anchorage; and

WHEREAS, the services requested by the property owners and proposed to be financed and provided by Assessment District 1SD97 are public services authorized for service assessment districts under Anchorage Municipal Code section 19.10.020A.2.; and

WHEREAS, the proposed services for Assessment District 1SD97 are enhanced or supplemental public services or new public services not provided by the Municipality generally; and

WHEREAS, neither the proposed services nor Assessment District 1SD97 itself will operate unilaterally or by implication as a substitute for or to reduce or eliminate the nature and extent of services otherwise provided or which may be provided by the Municipality now or in the future; and

WHEREAS, the area within which the proposed services for Assessment District 1SD97 are to be furnished conforms to the zoning district requirements of Anchorage Municipal Code section 19.10.020A.2.; and

WHEREAS, the Assembly finds Assessment District 1SD97 and its proposed services to be reasonably necessary, convenient and in the public interest of the property assessed and its owners; and

WHEREAS, the annual, aggregate assessable cost of the services to be provided by Assessment District 1SD97 are proposed to be as set forth in this ordinance as annual assessments based on the prior year's annual assessment roll; and

WHEREAS, the Assembly finds and concludes that property owners within the geographic boundaries of Assessment District 1SD97 will be specially benefited, either directly or indirectly or both, in proportion to the costs of services assessed and levied against each property utilizing the proposed cost allocation formula with an assessment cap; and

WHEREAS, the Assembly finds and concludes that both the proposed cost apportionment to be fair, just, reasonable and proportional to the benefits to be received by each property owner assessed within the Assessment District 1SD97; and

WHEREAS, the petition process utilized by the property owners has been fair, just, reasonable and in compliance with Anchorage Municipal Code chapter 19.20; now therefore,

THE ANCHORAGE ASSEMBLY ORDAINS

Section 1. Subject to the other provisions of this ordinance, the Assessment District 1SD97, to be hereafter also known as the Downtown Improvement District, an assessment district for services within the Municipality, is hereby extended and continued until lawfully terminated.

Section 2. The Municipality shall proceed with furnishing the authorized public services within Assessment District 1SD97 in accordance with Anchorage Municipal Code Title 19 and this ordinance.

Section 3. Assessment District 1SD97 shall be comprised of the property within the geographic area outlined on the attached Map incorporated herein by reference.

Section 4. The services authorized to be provided within Assessment District 1SD97 are those public services authorized by Anchorage Municipal Code section 19.10.020A.2. of the Enabling Ordinance or any amendment thereof, provided however, that in accordance with Anchorage Municipal Code section 19.10.020B. and C., such services shall only be enhanced or supplemental public services or new public services not generally provided by the Municipality and said services shall not operate unilaterally or by implication as a substitute for or to reduce or eliminate the nature or extent of services otherwise provided by the Municipality now or in the future. Subject to the conditions of this ordinance, Assessment District 1SD97's presently authorized services are:

(a) Maintenance, repair and upkeep of public capital improvements located in the area of Assessment District 1SD97;

(b) Maintenance, snow removal, dust suppression, cleaning, beautification, and decoration of public parks, places and pedestrian and vehicular rights-of-way;

(c) Visitor and tourism services;

(d) Security services, but not including law enforcement services;

(e) Promotion of Assessment District 1SD97 and public events within said assessment district; and

(f) Other closely similar public services which promote the vitality, stability and improvement of the assessment district.

Section 5. The annual, aggregate assessable cost of services provided in Assessment District 1SD97 per year shall not exceed and shall be assessed annually against assessable property within the geographical boundaries of Assessment District 1SD97 based on the assessed valuation thereof in the prior year as follows:

Each assessable parcel within the Assessment District 1SD97 shall be assessed at a mill rate not to exceed 1.5 mills of assessed value ($1.50 per $1,000 of assessed value) up to and including $10,000,000 plus $100 per $1,000,000 of assessed value in excess of $10,000,000;

provided, however, that not less than every five years (at the end of every fifth (5th) calendar year and beginning with year end 2005), the assessment formula and/or the assessment mill rate shall be reviewed and may be revised or amended upon approval of property owners bearing more than fifty percent (50%) of the estimated assessable costs of the services.

Section 6. Property within the geographic area of Assessment District 1SD97 owned by governments, churches, non-profit religious, charitable or educational organizations which are exempt from property taxes shall also be exempt from Assessment District 1SD97 assessments. In addition, the owners of qualified, owner-occupied, single-family residences which have applied for exemption from Assessment District 1SD97 assessment shall also be exempt from such assessment.

g:\wag\bidcontinue\AO2000\final

Section 7. The Assessment Roll for assessing the cost of the services provided to the properties benefited in Assessment District 1SD97 shall be prepared in accordance with Anchorage Municipal Code Title 19, this ordinance and any amendments thereof. Said Assessment Roll shall include and establish the aggregate, annual assessment to be levied against each assessable parcel of property each calendar year based on the assessed valuation of the prior year. Notwithstanding Anchorage Municipal Code section 19.20.240, annual assessments shall be due and payable on and delinquent after a date each year to be determined by the Chief Fiscal Officer, commencing in the year 2000, provided however no payment shall be required before sixty (60) days after Assembly confirmation of the Assessment Roll. Notwithstanding any contrary provisions of Anchorage Municipal Code Title 19, penalties, interest, costs, application of payments and enforcement of these assessments shall be the same as provided for real property taxes in Anchorage Municipal Code Chapter 12.15. Anchorage Municipal Code sections 19.20.240, 19.20.260, 19.20.265, and 19.20.280 shall not apply to Assessment District 1SD97.

Section 8. As a condition of the Assembly approving this ordinance and the extension of Assessment District 1SD97, during the 10th calendar year after passage of this ordinance, property owners within the Assessment District area shall be petitioned with [1] ~~the option of terminating or re-authorizing~~ Assessment District 1SD97 and a report of the results of said petition and an ordinance for [2] ~~termination or reauthorization~~ shall be presented to the Assembly for action.

Section 9. This Ordinance and/or such other documents as may be necessary and appropriate, shall be recorded in the Office of the Recorder for the Anchorage Recording District, Third Judicial District, State of Alaska and shall be sufficient to create a lien on property assessed in favor of the Municipality to secure the payment of the assessment.

Section 10. This ordinance shall become effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 20th day of June, 2000.

Fay Von Gemmingen
Chair of the Assembly

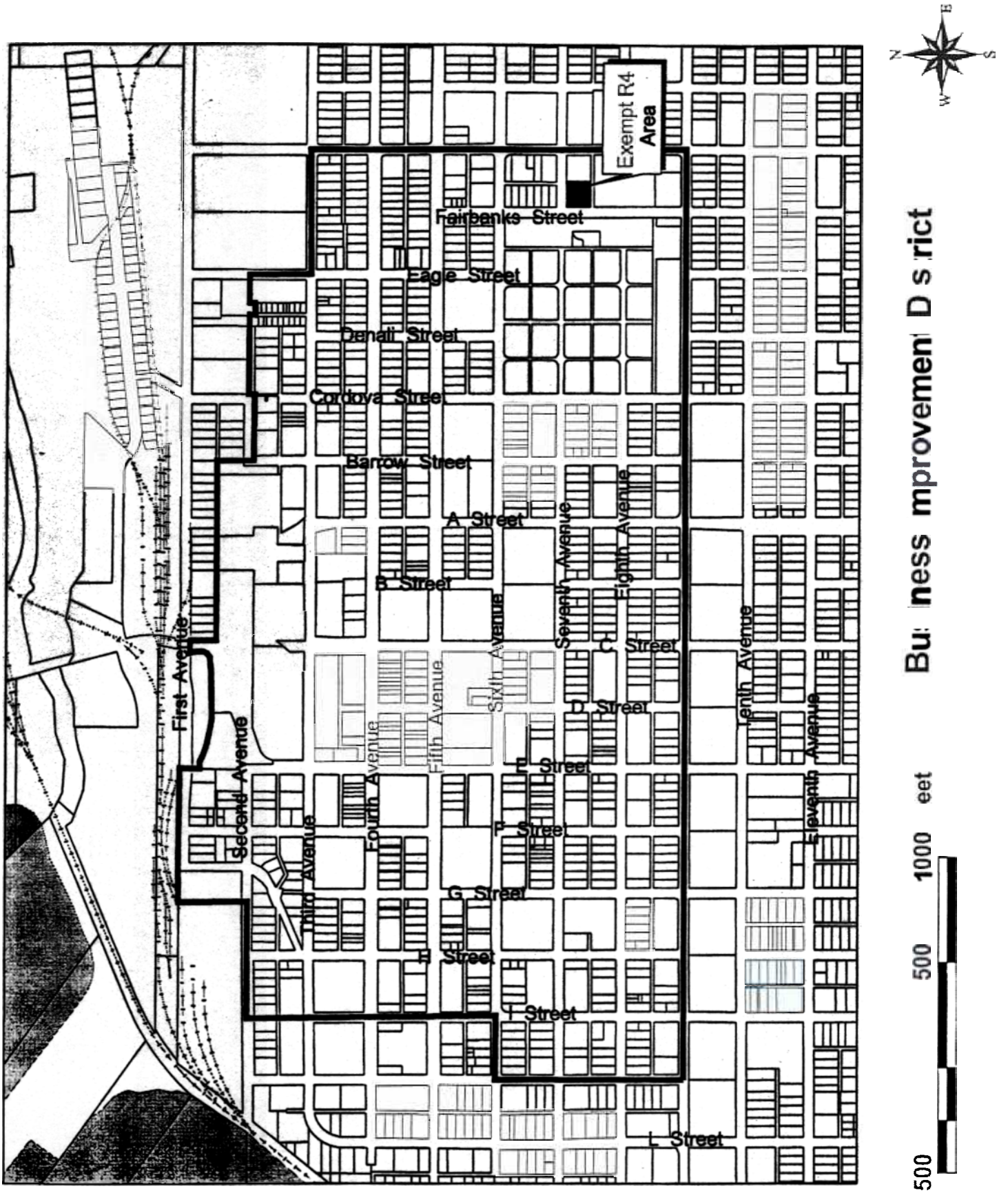
ATTEST

Leslie Ferguson
Municipal Clerk

Insert the following as indicated:
1. simlutaneous option of either continuing or dissolving

2. continuance or dissolution

g:\wag\bidcontinue\AO2000\final


Exempt R4 Area
Fairbanks Street
Eagle Street
Denali Street
Cordova Street
Barrow Street
A Street
B Street
C Street
D Street
E Street
F Street
G Street
H Street
I Street
L Street
First Avenue
Second Avenue
Third Avenue
Fourth Avenue
Fifth Avenue
Sixth Avenue
Seventh Avenue
Eighth Avenue
Tenth Avenue
Eleventh Avenue
Business Improvement District
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MUNICIPALITY OF ANCHORAGE
MUNICIPAL CLERK'S OFFICE

AGENDA DOCUMENT CONTROL SHEET

AO 00-98

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT Ordinance extending assessment district 1SD97	DATE PREPARED 5/23/00
		Indicate Documents Attached [X] AO [ ] AR [X] AM [ ] AIM
2	DEPARTMENT NAME Department of Law	DIRECTOR'S NAME Mary K. Hughes, Municipal Attorney
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY William A. Greene	HIS/HER PHONE NUMBER 343-4534

4	COORDINATED WITH AND REVIEWED BY	INITIALS	DATE
	Mayor		
	Municipal Clerk		
X	**Municipal Attorney**	MKH	5/23/00
	Employee Relations		
X	**Municipal Manager**		5/23/00
	Cultural & Recreational Services		
	Fire		
	Health & Human Services		
	Merrill Field Airport		
	Municipal Light & Power		
X	Office of Management & Budget		5-23-00
	Police		
	Port of Anchorage		
	Public Works		
	Solid Waste Services		
	Public Transportation		
	Water & Wastewater Utility		
	Executive Manager		
	Community Planning & Development		
	Finance, Chief Fiscal Officer		
	Heritage Land Bank		
	Management Information Systems		
	Property & Facility Management		
	Purchasing		
	Other		

M.O.A. CLERK'S OFFICE 00 MAY 23 PM 3:51

5 SPECIAL INSTRUCTIONS/COMMENTS

Addendum

7.B.13. INTRODUCTION

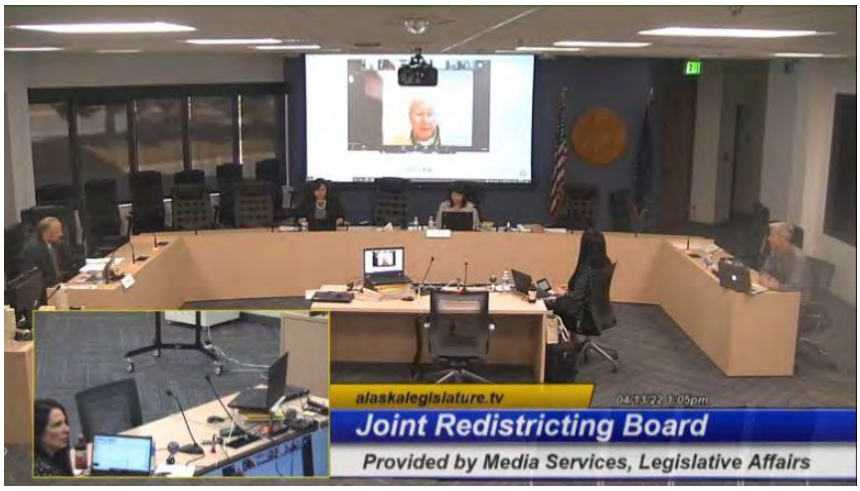
6	ASSEMBLY HEARING DATE REQUESTED	7	PUBLIC HEARING DATE REQUESTED
	5/23/00		6/13/00

00-002 (Rev. 8/98)*

THE MIDNIGHT SUN so you're never in the dark

Alaska Redistricting Board adopts GOP-friendly plan, pairing Eagle River with South Anchorage

TOPICS: Alaska Legislature Redistricting



The Alaska Redistricting Board meets on April 13, 2022.

POSTED BY: MATT ACUÑA BUXTON APRIL 14, 2022

Adapted from **The Midnight Sun Memo**, *a newsletter project from your humble Midnight Sun editor. For everyone who's been asking about keeping up via email or how to support the work we've been doing here, we finally have an answer in this nifty newsletter… which comes with two free editions per week and extras for subscribers (though, as you might have learned from following this blog, the schedule can't be entirely guaranteed).* ***Sign up now!***

The Alaska Redistricting Board voted 3-2 today to adopt the GOP-favored proposal to redraw half of Anchorage's state senate districts in response to the Alaska Supreme Court upholding a ruling that found the initial map "constituted an unconstitutional political gerrymander" because it favored Republicans at the expense of others.

The final map today was approved by the board's three-member conservative majority—chair John Binkley, Budd Simpson and Bethany Marcum—who argued that the most sensible match for the deeply conservative Eagle River house district was not the other deeply conservative Eagle River house district but a conservative-leaning South Anchorage house district. The candidate filing deadline is June 1, and the board has a Friday deadline to update the courts on its efforts to rectify the maps.

Board members Nicole Borromeo and Melanie Bahnke put up fierce opposition to the GOP-favored map, arguing that they hoped the courts would be swift in overturning what they said was another gerrymander to favor Republicans.

"I just think it's very audacious for us to actually think that (Superior Court) Judge Matthews isn't going to sniff this out," Bahnke said.

While the court ruling found the pairing of East Anchorage and Eagle River was unconstitutional and must be reversed, it wasn't prescriptive in the solution. After a week of often heated public testimony, the board adopted two plans that broke up East Anchorage and Eagle River. Both only required four of the city's eight senate districts to be altered and both treated East Anchorage the same by pairing them together. The difference was how each plan handled Eagle River.

One map was proposed by the plaintiffs in the East Anchorage case, which put Eagle River with Eagle River. The other map, which was the one ultimately adopted by the board, was proposed by former Alaska Republican Party chair Randy Ruedrich as well as conservative board member Marcum. That plan would split Eagle River, pairing one district with a South Anchorage/Girdwood house district over

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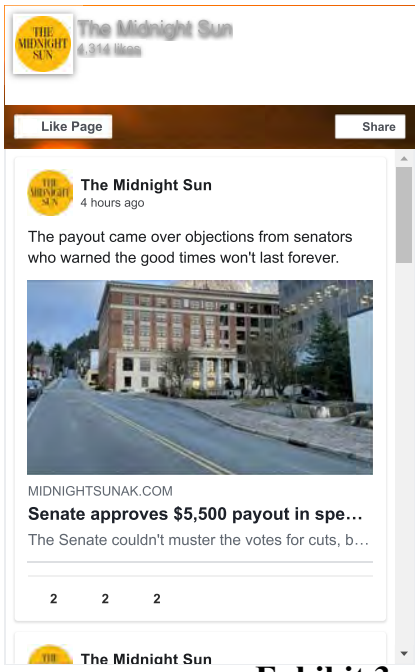
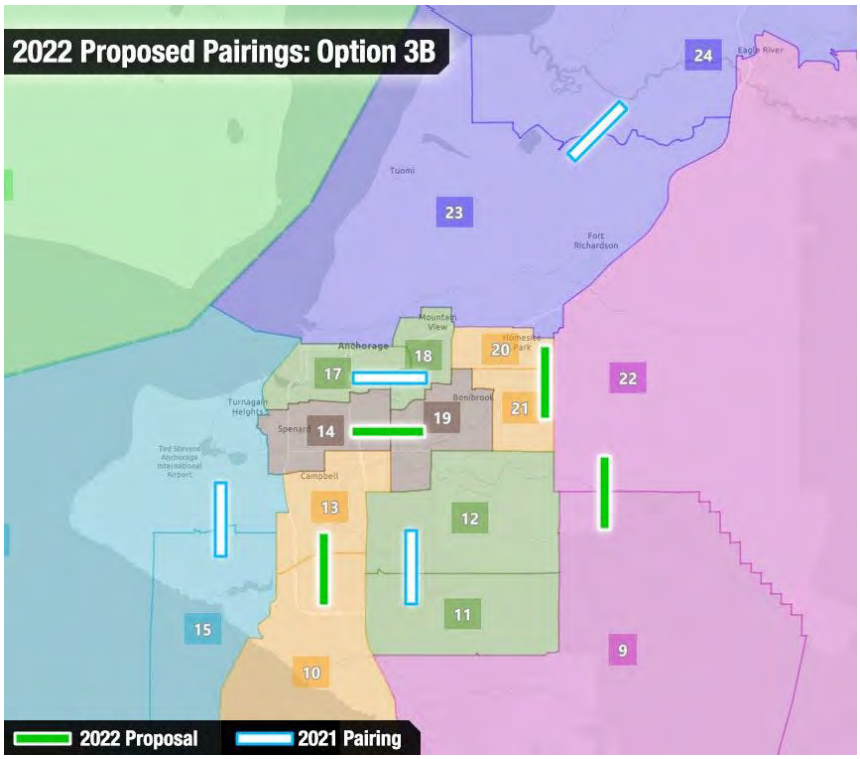


Exhibit 3
Page 1 of 7

the Chugach Mountains and the other with the JBER/Government Hill house district, and essentially keeps the GOP stronghold of in control of two Senate districts.



The map approved by the Alaska Redistricting Board on April 13, 2022.

The conservatives argued they needed to protect the military "community of interest" shared between the JBER/Government Hill district and Eagle River. Board member Budd Simpson, who was considered to be the closes thing to a swing vote, said it was the deciding factor for him and argued that putting the military base with a Democratic-leaning district would disenfranchise military voters (this was a common thread shared by the conservatives, but never explained in any specific detail).

Members Borromeo and Bahnke noted the military isn't actually viewed as a community of interest in the eyes of the law and that it certainly didn't override Eagle River, which *has* actually been identified by the courts as a community of interest. They argued the result of the maps were the same as before, just swapping out East Anchorage voters for South Anchorage voters as the losers in the situation.

"I believe that the court sent this back to us to correct it," Bahnke said of the ruling that found the board had gerrymandered the maps to Republicans' advantage, "not to find a new way to continue to try to give Eagle River more representation."

It should be noted that the conservatives were all appointed Republicans. Borromeo was appointed by former House Speaker Bryce Edgmon, an independent who was formerly a registered Democrat, and Bahnke was appointed by former Supreme Court Chief Justice Joel Bolger.

Binkley and the other conservatives denied the allegations that they were gerrymandering this time around. They also pointed out that Republican Sens. Lora Reinbold and Roger Holland, who represent Eagle River and South Anchorage, had testified against the GOP-favored maps as evidence that there was no partisan ploy.

Borromeo objected. She pointed out that Reinbold and Holland were not favored by the party and would be forced to run against each other in the new maps, ensuring at least one is sent home in this year's elections.

"We were not just accused of partisan gerrymandering last time, in fact we were found guilty not once, but twice," she said. "What we're doing here as a board is we're co-signing the Republican party's cannibalization of themselves. They've got a problem with Sen. Holland because he won't move certain bills out of his committee and Sen. Reinbold is a loose cannon and they can't control her. So, the best option is instead of taking them out in broad daylight at the polls, they're going to come in through the dark of night, under the redistricting cloak to pair them against each other."

Reinbold, who was banned from flying on Alaska Airlines last year over her refusal to mask and has accused Gov. Dunleavy of tyranny with the pandemic, has long been a headache for Republicans. Last year she was temporarily excluded from the Senate activities and was later stripped of her chairmanship over her feuds with the governor. Holland, who's kept a much lower profile since beating former Republican Senate President Sen. Cathy Giessel (who appointed Binkley *and* also opposed this plan (and also lives in the same district as Holland where she's been mounting an effort at a comeback,

RECENT POSTS

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so it'd ultimately be a three-way race)), has recently come under fire for refusing to move anti-trans legislation, drawing fire from Gov. Dunleavy as well as the conservative media machine.

In defense of herself, conservative member Marcum said she wouldn't give into the name-callers who accused her of gerrymandering and change her "very reasonable positions." Borromeo said later that the name fit.

"I appreciate, Bethany, that you've been under a lot of public scrutiny, but the assertion that we're calling you names is absolutely false," she said. "I've called you a gerrymanderer and if you want me to stop calling you a gerrymanderer, then by all means stop gerrymandering."

What's ahead

The East Anchorage plaintiffs have already signaled their opposition to how things have been playing out with the Alaska Redistricting Board, noting that Binkley voted against another court-ordered change where there was no ambiguity on the preferred resolution. It's likely that the plaintiffs will take up the issue with the court once the status update is filed. It's also possible that new legal challenges could materialize—from South Anchorage voters dissatisfied with being lumped together with Eagle River, for example—but they would likely face a longer path to resolution, which could run up against the June 1 candidate filing deadline.

At one point during the hearing, Borromeo accused Binkley of knowingly running out the clock. She claimed that he had been overheard during one of the hearings saying it would be "incredibly difficult" for the courts to require any further alterations to this plan ahead of this year's elections in the event that the latest plans are similarly struck down. It's not without precedence. During the 2010 round, the 2012 election was conducted under one map and the 2014-2020 elections were conducted with another.

"I don't know what you're talking about. Irrelevant," Binkley said, speaking over Borromeo's objections before hurrying to a vote, "We could go on all day about who said what or who felt they overheard somebody."

Borromeo and Bahnke also raised questions about whether the board should take public testimony following the approval of the Senate maps. They claimed that the conservative board members were receptive to taking such testimony after adopting the senate maps but before finalizing the new proclamation—a point they denied, which Bahnke later called up a video clip corroborating her claim. Board counsel Matt Singer said he didn't believe the second round of testimony was needed.

Binkley rejected their appeals for further testimony beyond leaving the board's written testimony portal open. Besides, he said, they already approved a final plan.

"I'm not certain public testimony is going to change that," he said. "I'm not sure the purpose of it."

The plan was ultimately adopted on a 3-2 vote with Bahnke and Borromeo objecting. They similarly objected to the adoption of the new proclamation plan, signing the plan in-person as objectors (the agreed-upon resolution from the initial proclamation plan where Binkley initially suggested they shouldn't be allowed to sign it if they didn't support it). The conservatives signed digitally as supporters.

Borromeo said she hoped that when the courts ultimately find the plan is unconstitutional, the judges think twice about sending it back to the board. She said she hoped the courts would just make a decision themselves because she feared the conservatives would just find another way to bolster Eagle River's representation.

"Don't send it back."

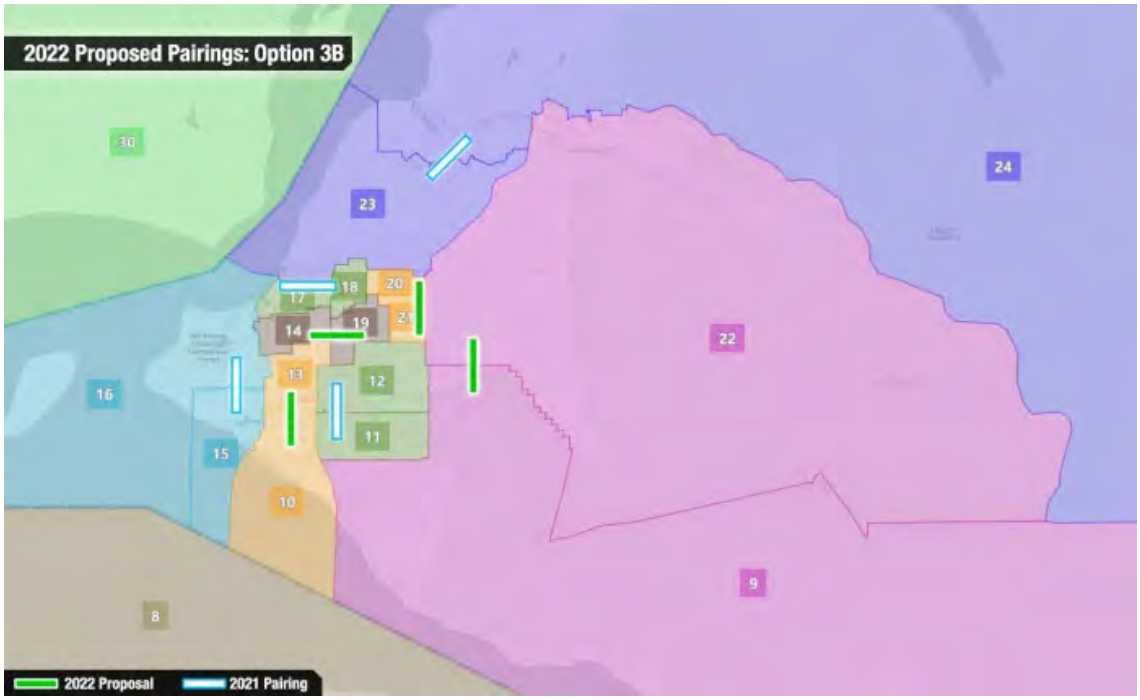
MORE FROM TMS

Senate to vote on GOP bill banning trans youth from girls' sports, backers claim they're protecting cis girls who train hard and 'watch their diet'

Alaska Supreme Court rules against UA students in scholarship case, leaving issue to legislators

Conservatives needed to support Redistricting Board as it considers two maps of Senate pairings for Anchorage

By **Suzanne Downing** - April 6, 2022



Alaska State Sen. Tom Begich, a shadow member of the Alaska Redistricting Board, told the Redistricting Board this week that he was not involved at all in creating a map offered by one of his puppets on the board, Melanie Bahnke. But that is not what the record shows. Text messages show that the Bahnke Plan to divide up Senate districts in Anchorage is the exact plan provided to her by Tom Begich.

That was just one of the many dramas in Alaska redistricting capers this week as the Alaska Redistricting Board continues to try to find a Senate political boundary map that will pass legal muster, after the Supreme Court sent the last map back to the drawing board, saying that not enough time was allotted for public testimony.

Two plans are now being considered. The map offered by Bahnke has been withdrawn.

The first map being considered would give Democrats four Senate seats in Anchorage. It would also quash the military vote by pairing JBER with downtown Anchorage, making it pointless for military members to vote in local and legislative elections, as they would have their votes outnumbered by downtown liberals. If the military voters don't vote, then it can have an effect on presidential races.

The second map, which is less partisan, would maintain three Republican seats and give the Democrats two seats.

Conservatives are needed to testify in support of what is being called the 3-B map, which preserves most of the political boundaries.

Here are the opportunities to testify:

two plans now. pages of testimony bullets to testify.

The Bahnke plan is no more. Two plans left.

Marcum produced a plan for Anchorage that is .

they all agreed not having names on plans is best thing.

Number 2 is hard core Dem.

3-B is the nonparisatan fair plan. it maintains three of the districts – senate pairings as they are in the proclamation plan. only makes changes to four of eight districts. of those, is one almost the same as current district. district 10-13=seat L, almost the same boundaries.

one is same as we currently haven.

going to have new numbers and letters.

one is same s Dem propose., dis. 20-21.

new districts would be with biggest controversy.

dist. 22 major part of eagle river. paired with 9, which is south hillside.

23 district is Uber churciak and Peters creek.

districts 14-19, Spenard midtown and med. university lake

3 opp to tesimoney this week. one or two more next week.

Thursday at noon.

Friday at 10 am

Saturday at noon.

most important meeting is wed. 13 at 10 am., testimony, and then debate and decide.

in person at LIO, call number or written testimony.

Democrats pushing hard for 17 and 23 to go together. most of JBER with downtown. so different. trying to nullify the military vote.

working class vote. vs hoity toity vote.

quad the legislative but get rid of military for presidential race. up ticket down ticket.

Melanie and Nicole badgering and bullying testifiers. make fools of them they don't know answers to.

my testimony is give testimony and hang up.

make case for 9-22 together. eagle river with hillside. socioeconomic does not apply to senate pairings.

we have five republicans now.

plan 2 from democrats gives us 2 republicans. our plan gives us 3.

one more plan is hybrid of these plans, would give the dems four hard d seats. even worse than plan out there.

he is considering this hybrid plan. four hard d seats.

our plan is 3 republican and 2 democrats

theirs 2 republic 3 demo.

hybrid is four d seats.

The Alaska Redistricting Board will meet via Zoom. The public is invited to join the Zoom conference or attend in-person at the Anchorage Legislative Information office. Public testimony will be taken in-person or via teleconference using the phone numbers below.

Zoom Link:
https://us06web.zoom.us/j/89928032095?pwd=aHVxTXdNVEhNNTNvL0xMeVhkaXc3QT09

In-Person Location:
– Anchorage Legislative Information Office
– 1500 W Benson Blvd, Anchorage, AK 99503
– Denali Conference Room, 1st Floor

When:
– **Thursday April 7 at Noon**

The public may listen or testify via the Legislative Teleconference System by dialing:

– Anchorage 563-9085
– Juneau 586-9085
– Other 844-586-9085

Thursday, April 7: 12:00pm (noon)

Public Testimony in Person at LIO or via Dial-in Teleconference

Teleconference public listen-in and testimony phone numbers: Anchorage 563-9085, Juneau 586-9085, Other 844-586-9085

Suzanne Downing

Suzanne Downing had careers in business and journalism before serving as the Director of Faith and Community-based Initiatives for Florida Gov. Jeb Bush and returning to Alaska to serve as speechwriter for Gov. Sean Parnell. Born on the Oregon coast, she moved to Alaska in 1969.

About us

Must Read Alaska is news of people, politics, policy, culture, and happenings in Alaska. It is edited by Suzanne Downing, who first landed in Alaska in 1969, and has called it home ever since.

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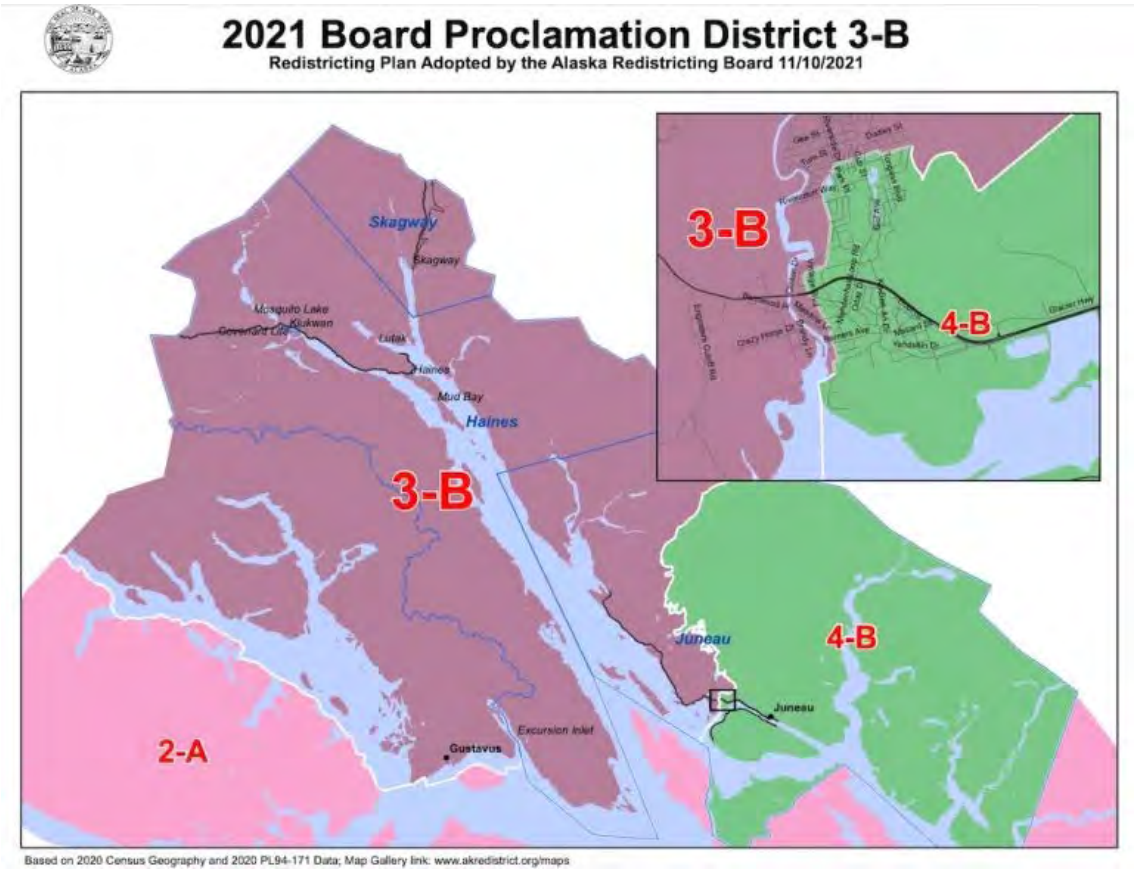
Skagway challenge denied: Redistricting map will stand

By **Suzanne Downing** - April 7, 2022



The Skagway Borough spent nearly $300,000 fighting a redistricting plan that joins it into a House district with north Juneau, rather than downtown Juneau, where city leaders in Skagway feel more at home.

$292,375 and change is the bill so far. That's what the Skagway Borough spent fighting in court the redistricting plan that the Alaska Redistricting Board approved for the Juneau-Skagway political boundaries.

The money went to Anchorage lawyer Robin Brena in three checks. And there may be more bills on the way for Skagway residents to pay. The borough, after being defeated in court, asked the Alaska Supreme Court it to reconsider its decision. That request has now been denied, as of April 7th.

Brena is the law partner of former Gov. Bill Walker, who is running for governor once again, after having lost a humiliating bid for reelection in 2018. He is one of the advocates for higher oil taxes, costing the state tens of millions of dollars as he has mounted campaign after campaign to jack up taxes on oil production in Alaska.

His bill for Skagway pencils out to about $300 per resident for the unsuccessful effort to overturn the redistricting map.

Robin Brena's dirty little secret

Tag: Win Gruening

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1 2 3 ... 6 ›

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AVOCAD
ORGANIC MATTRES

The National Republican Redistricting Trust is the GOP's hub for coordinating a national redistricting strategy.

WHAT IS REDISTRICTING

Constitutional

The United States Constitution mandates that state legislatures redraw districts every decade to adjust for population changes.

Necessary

State legislative and congressional districts are redrawn every decade to adjust for population changes. Redistricting guarantees a more efficient distribution of Americans per district.

WHAT WE DO

The NRRT coordinates the GOP's 50-state redistricting effort.

WHY IT MATTERS

The district lines drawn in 2021 and 2022 will be in place for ten years. The legislators and members of Congress elected from those districts will set the policies of our states and our nation for decades to come. How lines are drawn now will matter for the preservation of our shared conservative values for future generations.

WHY WE'RE DIFFERENT

The NRRT focuses on the unique legal and data demands of redistricting and coordinates a nationwide redistricting strategy with the Republican Party's national and state committees and conservative organizations around the country.

WE NEED YOUR HELP

The National Republican Redistricting Trust needs your help. The district lines drawn over the next couple of years will have a lasting effect on our national and state politics and policies for decades to come. Democrats want to use redistricting to gerrymander their way into permanent majorities so they can enact their radical left-wing agenda unchecked.

CONTACT

DONATE

In the Matter Of:

THE 2021 REDISTRICTING PLAN

ORAL ARGUMENT

May 12, 2022

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1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

2 THIRD JUDICIAL DISTRICT AT ANCHORAGE

3 _____

4 IN THE MATTER OF THE

5 2021 REDISTRICTING PLAN
_____/

6 Case No. 3AN-21-08869CI

7

8 CERTIFIED TRANSCRIPT

9

TRANSCRIPT OF ORAL ARGUMENT

10

BEFORE THE HONORABLE THOMAS MATTHEWS
11 Superior Court Judge

12

Anchorage, Alaska
13 Thursday, May 12, 2022
10:01 a.m.

14

APPEARANCES:

15

For Plaintiff: Eva Gardner, Esq.
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For the Redistricting
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22 907/339-7125

23

24

25

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1 P R O C E E D I N G S
2 -o0o-
3 THE COURT: All right. Good morning, everybody.
4 If we're ready to get started, Madam Clerk.
5 THE CLERK: All right. Parties, we're going to
6 go on record.
7 The Honorable Thomas Matthews presiding.
8 Superior Court is now in session.
9 THE COURT: All right. Good morning, everyone.
10 We are on record of the redistricting matter, Case Number
11 3AN-21-08869 Civil.
12 We have Ms. Gardner here for the Girdwood
13 Plaintiffs, Mr. Singer here for the Board, a number of
14 other people on our Zoom link. We are also live streaming
15 to members of the public and the media.
16 So welcome, everybody. This is time set for
17 oral argument on the Girdwood challenge to the amended
18 redistricting plan.
19 So folks, again, I understand that you have been
20 working on a very compressed time frame, and so thank you
21 all for being ready to go this morning, in addition to
22 getting me all of the information that you did this week.
23 I've been through your materials. Obviously
24 it's been a monumental task for you all, as it has been
25 throughout the year. And so thank you to begin with.

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1 Let's get started, if we're ready.
2 Ms. Gardner, it's your challenge, so I'm going
3 to begin with you.
4 MS. GARDNER: Thank you, Your Honor.
5 Do we know how long we have for oral argument
6 today?
7 THE COURT: I have two hours set aside. My hope
8 is that we don't need nearly that much. But I -- I wasn't
9 going to restrict you, because I recognize that you all
10 waived your -- your reply briefs in this case, so you may
11 have more to speak about in response than you ordinarily
12 would. So I'll give you up to an hour each, but shorter is
13 -- is certainly fine as well.
14 MS. GARDNER: Thank you, Your Honor.
15 And in terms of the order, is it me and then
16 Mr. Singer and then me again, just so we know what to
17 expect?
18 THE COURT: That -- that was my plan. So
19 hopefully that works for you as well.
20 MS. GARDNER: Thank you.
21 Good morning.
22 THE COURT: Good morning.
23 MS. GARDNER: I'm here -- Eva Gardner
24 representing the Girdwood Plaintiffs.
25 During the remand, the Board majority expressed

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1 concerns about litigation, that they were concerned about
2 adopting a map that would lead to more litigation, yet the
3 only threat of litigation they actually received was over
4 Option 3B.
5 They received comments from the public saying
6 there would be another lawsuit if they continued to split
7 Eagle River. They received a letter from the East
8 Anchorage Plaintiffs warning them that splitting Eagle
9 River again would violate the Court's order.
10 They also faced extensive criticism on the
11 record from the two minority Board members, including
12 Nicole Borromeo, who went so far as to call on this Court,
13 at the April 13th hearing, and ask it to intervene.
14 The Board adopted the one map that was certain
15 to land them in court. They walked right into this lawsuit
16 with their eyes open. Why would they do this? When faced
17 with two maps they claimed were constitutional, why would
18 they choose the one guaranteed to lead to litigation?
19 We know the answer. It's the same as it was on
20 November 10th, the day the 2021 proclamation was signed,
21 and it's the same as it was on February 16th, 2022, when
22 this Court issued its findings on the East Anchorage claim.
23 The Board had an ulterior motive, to maximize
24 Eagle River's representation by giving it two senators, to
25 increase its preferred political party's presence in the

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1 Alaska Senate by ensuring that two House districts,
2 representing just 4.9 percent of the state population,
3 could elect 10 percent of its senators.
4 But this time the Board didn't actually fear
5 litigation. They had looked at your decision closely, and
6 this time they had a playbook for their gerrymander. They
7 avoided putting things in writing with just a few slip-ups.
8 They didn't disappear into executive session. Instead,
9 they had their secret side conversations carefully,
10 one-on-one, to avoid triggering the Open Meeting Act.
11 They established a lengthy public process and
12 allowed days and days of testimony, but they didn't listen
13 to the testimony. They allowed it to take place, but they
14 didn't hear it. And then, at the end, confident that they
15 had successfully laundered their gerrymander through the
16 courts in a remand, they brazenly did exactly what they had
17 done the first time.
18 Last time around, on the East Anchorage
19 Plaintiff challenge, when you found that the Board had
20 acted with illegitimate purpose, you based your decision on
21 a number of facts: evidence of secret agreements, partisan
22 influences, disregard of communities of interest, disregard
23 for political subdivisions. We have all of those same
24 things here, as evidenced that the Board majority entered
25 the remand process with the same pre-agreed goal, to split

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1 Eagle River to ensure it could elect two senators.
2 The record checks all the boxes the Court
3 identified in the East Anchorage challenge. Evidence -- we
4 have evidence of secret -- secretive procedures. There
5 were numerous secret side conversations between Members
6 Marcum and Simpson and Chair Bahnke. Some we know about,
7 and others we don't. There were no side conversations
8 between any of those members and the two minority Board
9 members.
10 We know these side conversations affected the
11 course of the remand. For example, the Board had been
12 aligned on having a quick process that would put a new map
13 in place by April 6th, until Member Simpson and Chair
14 Bahnke talked by phone. After that, Member Simpson sent an
15 e-mail proposing a lengthier process, and the new map was
16 not adopted until April 14th.
17 We have text messages indicating that the three
18 majority Board members were in agreement prior to the
19 deliberation about how they would vote. Member Simpson and
20 his wife commented things like, Oh, Bethany is doing well.
21 John is doing well too. Doing well in service is a common
22 goal.
23 We have evidence of partisan influence. We know
24 that Member Simpson was appointed, as he put it, because he
25 was a Republican. We also now know, based on his e-mails,

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1 that he was in close contact throughout the remand process
2 with a conservative log writer and was at the same time
3 making offensive comments about progressive log writers.
4 We know that Member Marcum, based on her
5 e-mails, was involved with the National Republican
6 Redistricting Trust, a nationwide organization devoted to
7 furthering the GOP's goals through redistricting.
8 We also know, from the public records and the
9 deliberation transcript, that the Board ignored political
10 subdivisions and communities of interest. It disregarded
11 pleas from the Downtown Community Council, Anchorage
12 Downtown Partnership, the Government Hill Community
13 Council, the Girdwood Board of Supervisors, the Anchorage
14 Assembly, and numerous South Anchorage and Hillside
15 communities, all of which asked the Board to keep them
16 together, to keep themselves with their close neighbors,
17 and the Board ignored all of that.
18 We also -- this time around, we have more
19 evidence of an illegitimate purpose than we did before.
20 This time we also have truly minimal technical adherence to
21 the constitutional contiguity requirement.
22 False continuity is a concept that's been
23 discussed in this court. While false contiguity across an
24 inaccessible mountain range may be still constitutional in
25 the barest sense of the terms, it raises questions about

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1 why that pairing was chosen when other more practical
2 pairings exist.
3 We have Board member rationale that they put on
4 the record on April 13th that aren't just unsupported by
5 testimony. They're actually contradicted by the testimony.
6 In some cases, they're contradicted by the actual district
7 boundaries the Board itself had already drawn.
8 For example, the Board majority insisted that
9 JBER could not possibly be placed in a district with
10 Downtown, that the communities were too dissimilar,
11 apparently not realizing that they had already put JBER in
12 a House district that begins on Fourth Avenue, yet some of
13 the very things they identified as too different from the
14 base, like the Alaska Railroad, were already in District
15 23.
16 Heading into the final meeting, Tara Binkley
17 didn't even know whether Togiak or the Chugach Wilderness
18 was to the west of Eagle River. Member Simpson didn't know
19 what district Togiak was in. We have basic lack of
20 familiarity with the district boundaries that they -- the
21 House district boundaries that they themselves had drawn
22 that were the subject of weeks -- days and weeks of public
23 testimony.
24 We also have inconsistent justifications that
25 the Board explained, justifications that sought to

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1 privilege certain communities over others. The Board
2 majority was committed to pairing one purported community
3 of interest, JBER, with Eagle River. Inside of that is a
4 core motivation for adopting Option 3B.
5 But JBER didn't participate in the hearing.
6 People from JBER didn't show up saying we need to be with
7 Eagle River. Other communities did show up. I mentioned
8 Downtown, Government Hill, South Anchorage, Girdwood. They
9 all showed up and pleaded with the Board to be kept
10 together. In the case of Downtown, pleaded to be kept with
11 itself, to not be divided in a Senate District, as it had
12 been divided by House district lines.
13 But with the others, they asked to be kept with
14 their natural neighbors. Girdwood with South Anchorage,
15 where it -- where there was a free flow of people between
16 them. Government Hill was Downtown. But the Board ignored
17 this testimony, and it also ignored the numerous community
18 resolutions that were presented to it.
19 In this round of litigation, the Board's
20 argument seems to be what's the harm. They rely on Peter
21 Torkelson, who is not a redistricting or voting-rights
22 expert, to claim that there is no harm in this. There's no
23 dilution of votes.
24 Plaintiffs, by contrast, rely on Dr. Hensel, who
25 is an expert. He makes clear that there is harm from the

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1 Board's gerrymander, that what -- adopting Option 3B
2 diluted the voting strength of both districts that were
3 paired with Eagle River District.
4 As Dr. Hensel writes in his report, District 9,
5 which is the district of South Anchorage, Girdwood, and
6 Turnagain Arm, is a swing district. He described it as
7 Republican leaning but not always Republican electing.
8 Over the past decade it has voted largely
9 Republican but voted for the Democratic candidate in the
10 2014 house election and for Biden in the 2020 election.
11 Dr. Hensel concluded, as when Eagle River Valley was paired
12 with South Muldoon, Eagle River's strongly Republican vote
13 would overwhelm District 9, removing its status as a plane
14 district and depriving it of the ability to choose its own
15 candidate.
16 Dr. Hensel expanded his analysis beyond party
17 politics. He also reviewed the two districts' voting
18 history on municipal bonds, finding that Eagle River has a
19 lower overall level of bond support than either Anchorage
20 as a whole or District 9. This is further evidence that
21 the districts have different voting patterns and that the
22 District 9 vote would be overpowered by a paring with Eagle
23 River.
24 The Board, through Mr. Torkelson, tries to argue
25 the opposite, but this approach has two flaws. First, it

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1 focuses myopically on Girdwood, arguing that its population
2 is too small to make a difference in any vote. As Dr.
3 Hensel stated in his supplemental report, this ignores that
4 his testimony addressed the whole of District 9, not just
5 Girdwood.
6 Second, the Board argues that being paired with
7 Eagle River wouldn't matter because the districts elect the
8 same candidates, but the Board, again, myopically relies
9 only on voting data for the Hillside neighborhood, one part
10 of District 9, ignoring the rest of District 9, and more of
11 our arbitrarily limited data to state House races.
12 Dr. Hensel also addressed the dilution of
13 District 23 and the Board's claim that pairing District 23
14 with the rest of downtown would dilute JBER's voting
15 strength.
16 First, as Dr. Hensel notes, the argument the
17 Board dismisses with respect to Girdwood is the same as the
18 argument it advances with respect to JBER. JBER's
19 population, much like Girdwood, is far too small to have an
20 impact on the outcome of any election, by Dr. Hensel's
21 approach to analysis, looking at the whole of District 9.
22 The Board does not do that with District 23.
23 Dr. Hensel's second point is that the Board's
24 focus on JBER ignores the rest of District 23. It also
25 ignores the actual demographics of JBER itself. He notes

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1 that, because of changes in district boundaries and issues
2 with precinct-level data in the 2020 election, it's
3 difficult to predict exactly how District 23 and District
4 19 would vote, but we do have demographic information that
5 we can use in place of voting information.
6 The demographics of Districts 19 and 23 are most
7 aligned with each other and with JBER. All three are
8 between 47 percent and 40 percent minority population. By
9 contrast, the two Eagle River districts are only 24 percent
10 and 25 percent minority population.
11 As Dr. Hensel states, minority issues are much
12 more likely to be of interest and concern to JBER voters
13 than they are to the voters of Eagle River. This is even
14 more true of the rest of District 23, because its overall
15 population is even more diverse than JBER's.
16 Dr. Hensel reached two conclusions based on this
17 demographic data: JBER is well served as an ethnically
18 diverse precinct within an ethnically diverse House
19 district, and pairing District 23 and District 24, North
20 Eagle River, risks minority dilution and creates the same
21 problems as did the gerrymandered pairing of Eagle
22 River/Chugiak with South Muldoon.
23 The Board's latest gerrymander is not, as it
24 argues, harmless. Being paired with Eagle River would
25 absolutely dilute the vote of District 9, nor would it

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1 achieve the Board's stated end of protecting JBER's vote.
2 Instead Eagle River would overwhelm the diverse voters of
3 JBER and even more diverse voters of the rest of District
4 23.
5 The Board says the Court lacks the authority to
6 compel the Board to adopt a particular plan. The Board
7 targets the Plaintiffs's use of the word "compel,"
8 highlighting in bold text in its brief, in an apparent
9 attempt to demonstrate that the Plaintiffs are overreaching
10 in their requested relief.
11 But we didn't make this up. It's in the Alaska
12 Constitution. Article 6, Section 11, says the Court has
13 the power to compel, by mandamus or otherwise, the
14 redistricting Board to do its job. We don't need a deep
15 dive into constitutional interpretation to understand the
16 meaning.
17 Black's Law Dictionary defines mandamus as a
18 writ issued by a court to compel performance of a
19 particular act by a lower court or a government officer or
20 body. Usually to correct a prior action or failure to act.
21 Mandamus means the court has the power to tell the Board
22 exactly what to do, including telling it to adopt a
23 specific plan.
24 The Board cites no case law contradicting the
25 Constitution's clear language. It points to one case on

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1 the 2001 redistricting plan, but that's not what the case
2 says. It just says the court itself can't draw a new map.
3 The Girdwood Plaintiffs aren't asking the Court
4 to draw a new map. The Board adopted two plans. They
5 illegitimately chose one when it should have chosen the
6 other. We are merely asking the Court to compel the Board
7 to adopt a constitutional ungerrymandered map. The one
8 that it should have adopted, not the one that it did.
9 THE COURT: Ms. Gardner, can I stop you for a
10 question on that point?
11 MS. GARDNER: Sure.
12 THE COURT: So one of the arguments that you
13 make, or at least the relief that you're asking for, is
14 that I compel the Board to adopt the other plan. And I
15 hear your argument saying I don't have the authority or I
16 -- or at least the Board's argument saying I don't have the
17 authority to draw a map on my own, but you're
18 distinguishing that by saying that's not what you're asking
19 for. You're just asking me to choose a different plan.
20 But hasn't the Supreme Court basically said it's
21 not for me to decide which one is better? It's simply to
22 say whether it's constitutional. So can you -- can you
23 give me some legal authority for why I have the authority
24 to simply say pick this one instead of that one?
25 MS. GARDNER: Sure, Your Honor. And I think we

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1 have a situation here that hasn't come up in the case law,
2 so this may be an issue of first impression for you to
3 decide how to approach it.
4 But we have a -- the situation here is that we
5 have a Board that was found to have an improper purpose,
6 secret agreements, and they produced a gerrymandered map.
7 On remand, they did the exact same thing. The heart of
8 their prior agreements, the heart of their gerrymander,
9 stands in this map.
10 On remand, however, they adopted two options,
11 both of which they apparently thought were constitutional,
12 and they took extensive public testimony on both options.
13 Their improper purpose, their illegitimate motive, drove
14 them to pick the wrong one.
15 So we believe that the Court has the authority
16 not to just remand this to the Board for a third try at
17 this, because we have a sense that we might know how that
18 is going to go. But we believe the Court has the authority
19 by mandamus to order the Board to adopt the other map. And
20 we think -- we think that's clear under -- under Section
21 11.
22 THE COURT: From the words -- from the language
23 of mandamus?
24 MS. GARDNER: Yes, Your Honor.
25 And mandamus is different from a remand. The

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1 Constitution is clear that you can order them to do a
2 particular act, right? It's not just you can remand this
3 for further proceeding.
4 We would say if the Judge -- if the Court is
5 uncomfortable ordering it to adopt a specific map, then an
6 order directing it not to repeat the gerrymander of
7 dividing Eagle River would be a reasonable alternative.
8 THE COURT: All right. Thank you. I'll let
9 you proceed.
10 MS. GARDNER: But we would suggest that there
11 not be any room left to interpretation if this matter is
12 remanded again.
13 Overall, in this case the new question for the
14 Court to answer is does a remand cure a gerrymander? Can a
15 Board -- can a Board launder its illegitimate business
16 through the courts? The answer has to be no, and we ask
17 you to rule in favor of the Girdwood Plaintiffs.
18 I'd like to reserve the remainder of my time.
19 THE COURT: All right. Thank you, Ms. Gardner.
20 Mr. Singer, over to you.
21 MR. SINGER: Good morning, Your Honor. Thank
22 you for moving this along so efficiently, and we appreciate
23 the opportunity to present argument on behalf of the Board
24 today.
25 The Court is presented with two questions in the

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1 current round of legal challenge. First is: Does Senate
2 District E comply with Section 6? And then, second, does
3 Senate District E violate the equal protection clause?
4 Section 6 has one sentence about Senate
5 Districts. Each Senate district shall be composed as near
6 as practicable of two contiguous House districts. Your
7 Honor's decision dated February 16th forecloses the
8 Plaintiffs' contiguity argument. There is no requirements
9 in Alaska for transportation contiguity between portions of
10 a district or between districts.
11 Continuity is a visual test, and Your Honor's
12 analysis at page 74 and 75 of the findings and conclusions
13 focused on whether a district's territory is all contained
14 within its borders.
15 The Mat-Su and Valdez legal challengers had a
16 different version of contiguity, insisting that there
17 needed to be transportation contiguity. They appealed Your
18 Honor's decision affirming the Board's interpretation of
19 contiguity, and the Supreme Court affirmed Your Honor's
20 decision. So we have in this case a decision about the
21 definition of contiguity, and that definition defeats the
22 Girdwood challenge.
23 Looking textually at Section 6, the phrase "as
24 near as practicable" is a modifying clause in that
25 sentence. If you take -- take it out, the sentence says,

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1 "Each Senate district shall be composed of two contiguous
2 House districts." But without the modifying clause,
3 there's no room -- no wiggle room. The only option is
4 Senate districts must be composed of two contiguous house
5 districts.
6 Instead, with the insertion of the modifying
7 clause, "Each Senate district shall be composed as near as
8 practicable of two contiguous House districts," the clear
9 intent of that language, just as a matter of basic grammar,
10 is it's a relief valve for the Board. It would allow
11 noncontiguous House districts to be paired in a Senate
12 district, if the Board could articulate a reason why
13 contiguity was not practical in the circumstances.
14 Keep in mind this -- this constitutional
15 amendment was passed in 1998. At the time the Board was
16 subject to pre-clearance review by the Department of
17 Justice under the Voting Rights Act. I suspect that
18 language exists because there was a recognition that it
19 might be necessary to have two House districts paired
20 together that are not contiguous, if that was -- needed to
21 be done to protect the rights of Alaska native voters.
22 The language is not intended to require maximum
23 contiguity. In fact, contiguity is not a scale. It is --
24 it's binary. It either is or it isn't. And with regard to
25 Senate District E, it is. It is contiguous because it

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1 shares one of the longest borders of any of the two House
2 districts in Anchorage, a 35-mile-plus border.
3 So the -- Your Honor's analysis of Section 6
4 should -- should be easy to -- should be easy to resolve
5 that question. The House Districts 9 and 10 are contiguous
6 and meet the requirements of Section 6.
7 Let's turn to the equal protection analysis.
8 Girdwood -- Girdwood's case is surprisingly
9 devoid of any discussion of case law, in his briefs or even
10 in the argument today. Counsel makes no attempt to apply a
11 legal framework. Instead, the brief we received yesterday
12 read more like a diatribe. There's accusation, there's
13 innuendo, there's name calling, suspicion, personal
14 attacks, suggestion that Your Honor should consider what
15 people read, who they affiliate with, who their spouses
16 are, who their spouse's friends are.
17 None of those things have anything to do with
18 equal protection law or determining whether the Senate
19 District E makeup results in an equal protection concern
20 for the three Plaintiffs who reside in Girdwood. Instead
21 this is just throwing mud and hoping something sticks.
22 Counsel did exactly the same thing when -- when
23 representing Calista. Only the last time around these
24 lawyers had a different target. So last time around it was
25 Melanie Bahnke was the villain. She had -- in a closing

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1 argument, she had advocated her Board responsibility and
2 was instead testifying as a member of her region. And Your
3 Honor saw through those personal attacks and evaluated
4 House District 38 and 39 by applying the law, by applying
5 the constitutional test.
6 We hope that Your Honor sees through the same
7 tactics here as plucking random communications --
8 Mr. Simpson's wife texted and said, Good job, and that,
9 therefore, that somehow shows an equal protection violation
10 of Girdwood residents? Maybe she's a loving spouse and
11 understood that her husband was explaining himself in a
12 public hearing and offered him some -- a couple of friendly
13 words. That's not evidence of anything, other than a nice
14 marriage.
15 What's missing from their brief and their
16 argument today, again, is any legal test, any relevant case
17 law, any application of the law to the facts that would
18 actually help Your Honor to resolve this matter in a
19 coherent way that would -- that would make sense on review.
20 I think a good place to start, Your Honor, is
21 with -- is with your own decision, because the Court --
22 unlike the Girdwood Plaintiffs, the Court did articulate
23 the legal test, starting at page 54 of the February
24 findings of fact and conclusions of law.
25 So to evaluate the Board's intent, the Court

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1 adopted the neutral -- or went to the neutral factors test
2 that the Supreme Court had previously discussed in the
3 Kenai case, to look at whether evidence of secretive
4 procedures, evidence of regional partisanship, and then the
5 existence of district lines that meander and selectively
6 ignore political subdivisions and communities of interest.
7 That's the neutral factors test.
8 And then the Court articulated -- Your Honor
9 articulated, in the same portion of the findings and
10 conclusions, that if the Court determines, on application
11 of the neutral factors test, that the Board created
12 challenge districts with discriminatory intent, then the
13 Board's purpose in redistricting would be held illegitimate
14 unless that redistricting affects a greater proportional --
15 proportionality of representation.
16 So there's a neutral factors test, and then
17 there's a look at proportionality, if the neutral factors
18 test were to suggest a concern.
19 Let's walk through that test, Your Honor. First
20 of all, there were no secretive proceedings. The -- the
21 Board conducted this round entirely in public, did so
22 carefully, and there's really no serious suggestion
23 otherwise.
24 Your Honor expressed concern in the prior
25 decision that the Board had lengthy executive sessions on

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1 the afternoon of November 5th -- 4th and then again on
2 November 5th, that it came out of executive session and
3 immediately voted on the Senate pairings and that the
4 Senate pairings in November that the Board voted on had not
5 been previously presented to the public, had not been fully
6 debated in public, and those things concerned the Court.
7 It's not laundering a gerrymander to listen to
8 the Court, take criticism, and do better. In fact, it's
9 showing respect to the Court to do what the Board did,
10 which was to notice public meetings, to avoid any use of
11 executive session, to invite the public, to offer proposed
12 solutions, to adopt those proposed solutions and publish
13 them to the website. Then invite the public to testify and
14 comment on the -- on the options the Board is considering
15 and then come together and debate and articulate and have
16 each member articulate the reasons for -- for his and her
17 vote.
18 Those things were -- were not intended for any
19 ill purpose. They were intended to address the concerns
20 that Your Honor had identified and to make sure that the
21 public was served by this process. There was no secretive
22 decision. The decision that the Board made was made on the
23 record and each member voting in favor or against explained
24 why they were voting the way they were voting.
25 In fact, if you look at the April 13th, hearing

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1 transcript, Member Borromeo brought the first motion right
2 after the meeting started wanting to adopt her preferred
3 option, and she wanted to call the question. She wanted to
4 go right to a vote, bring it to a conclusion. All of the
5 Board -- and I convinced her ultimately to withdraw her
6 request to call the -- call the question, because they
7 wanted to make sure there was a debate.
8 It was a colorful debate. There was
9 disagreement, Your Honor, but it was -- it was done in
10 public, in view of the public. There's no question as to
11 what decision the Board made or why they made it. And so,
12 under the first neutral factor, the circumstances are
13 entirely different, and there's no support for finding ill
14 intent.
15 THE COURT: Mr. Singer, let me -- while you're
16 pausing, let me ask you a question.
17 So, I mean, I appreciate your argument that the
18 process this time was different because it was done in
19 public, given this Court's prior comments, but given the
20 Supreme Court's affirming, essentially, that what was done
21 before was an unconstitutional gerrymander in order to
22 benefit Eagle River -- I mean, we've -- we've still got a
23 map which benefits Eagle River, don't we? So isn't this --
24 MR. SINGER: No.
25 THE COURT: -- simply the same result in a new

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1 package?
2 MR. SINGER: Well, no. First of all, the equal
3 protection violation that Your Honor found wasn't that the
4 map benefited Eagle River. Your concern was that the --
5 that Senate District K harmed the equal protection rights
6 of South Muldoon voters. And, in particular, Your Honor
7 found that there was a regional partisanship, which is the
8 second factor in the neutral factors test, because South
9 Muldoon voters vote one way, and the voters of Eagle River
10 vote a different way.
11 So the -- the Court did -- the Court -- as I
12 read Your Honor's decision, the equal protection violation
13 was the effect of pairing Eagle River with South Muldoon.
14 And that was certainly what the Supreme Court understood,
15 given the questions that we were asked. The questions that
16 were asked at oral argument at the Supreme Court primarily
17 hinged on the voting differences and that issue of regional
18 partisanship of a perception that pairing Eagle River with
19 South Muldoon was pairing voters that have very different
20 voting patterns. That was -- that was a -- that was the
21 concern that the Supreme Court seemed to share with Your
22 Honor.
23 So -- so, no, I don't -- I don't believe that --
24 that the -- that the Supreme Court found a violation of
25 equal protection arising from not putting the two Eagle

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1 River districts together.
2 And, as I'll address in a minute, there isn't
3 anything about this current amended plan that gives an
4 advantage to Eagle River. Quite the opposite is so.
5 The second factor in the neutral factors test,
6 Your Honor, is evidence of regional partisanship. And
7 Dr. Hensel just stretches things beyond belief in
8 suggesting that the Anchorage Hillside is somehow a swing
9 district. So in response we provided Your Honor all of the
10 election returns -- or results, that is, who was elected,
11 for the last 20 years, and that Anchorage Hillside has
12 always elected Republican candidates, and the same is so
13 for South Eagle River.
14 They've not identified a single state
15 legislative race where District 9 or its predecessor,
16 Hillside district, tilted any other direction. So pairing
17 together two districts that vote the same every time,
18 that's not regional partisanship as Your Honor defined it,
19 as Your Honor used that term in this case.
20 To be a swing district, the vote has to swing
21 from one side to the other, and in state legislative races,
22 the Hillside does not swing. So that -- Mike Hawker
23 represented that district, Con Bundy, in the Senate. Kathy
24 Giessel, Roger Holland, prominent conservative candidates
25 have won for two decades without exception in that part of

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1 town.
2 And so there isn't -- pairing two districts
3 together that vote the same cannot possibly raise a
4 regional partisanship concern. That makes this very
5 different than Senate District K, the district that Your
6 Honor identified as raising equal protection concerns in
7 November.
8 And, in fact, Your Honor, for a decade of that
9 period, Eagle River and Hillside were together in the same
10 House district, a district that the -- we'll discuss that
11 case a little more, a case that Plaintiffs conveniently
12 failed to mention where the Supreme Court found it
13 constitutional in all respects to pair those two
14 communities together.
15 But when they were paired previously, they
16 consistently elected representatives who are from the
17 Hillside: Mike Clocker, Con Bundy. So this -- that goes
18 to this notion that paring Eagle River and Hillside
19 together is going to give Eagle River an extra senator.
20 There's no -- there's no historical basis to suggest that
21 that's so. There's certainly no numeric advantage. And
22 we'll talk about the numbers in a second.
23 In fact, Eagle River may not end up with a
24 single senator as a result of the Board's -- the Board's
25 drawings. We may have senators from Government Hill and

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1 the Hillside representing District L and District E, and
2 that's fine. There's no -- no part of town is entitled to
3 a senator. Each district, each group of 36,000 people and
4 change, is entitled to one senator throughout the state of
5 Alaska.
6 So there's no -- there was no secret procedure.
7 There's no evidence of regional partisanship because the
8 two districts vote the same.
9 And, actually, I'm talking about the regional
10 partisanship. I think there's another point that the
11 Plaintiffs gloss over, which is that not only does the
12 Hillside vote the same way as South Eagle River, but
13 Hillside also votes the same way as Ocean View, right. The
14 other district that that the Plaintiffs would prefer to be
15 voted -- or prefer to be paired with is also a
16 conservative-leaning district.
17 The point being the Girdwood Plaintiffs, as a
18 function of where they live, in the south end of Anchorage,
19 are surrounded by folks that all vote the same way. That's
20 South Anchorage, Hillside, and Eagle River are -- there's a
21 -- a common pattern of voting throughout that part of town.
22 And so there is no political consequence or
23 political implication to the voters of District 9 that is
24 either way. These folks from Girdwood are very likely to
25 have a conservative-leaning senator because any of the

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1 contiguous options available to them consist of House
2 districts that vote in a similar manner, and there's no
3 evidence to suggest otherwise.
4 So if there's no secretive procedures and
5 there's no evidence of regional partisanship, the third
6 neutral factor, Your Honor, is to look at the district
7 lines. Do the district lines meander? Do they selectively
8 ignore political subdivisions? So let's talk about that
9 third element.
10 And there's -- there's some different sort of
11 subsets of that analysis. One is looking at the district
12 lines, second is political subdivisions, and then the third
13 is communities of interest.
14 So, first, do the district lines meander? No.
15 There's no allegation that they meander, that, in fact, the
16 district lines were established in House process, and now
17 we're just two House districts paired together. These
18 Plaintiffs did not challenge the district line for District
19 9 or the district lines for District 10. There's no
20 allegation of a -- of an appendage or odd shape or anything
21 else that would suggest some kind of nefarious intent.
22 Now, the next part of that analysis is: Was the
23 -- did the Board selectively ignore political subdivisions?
24 Plaintiffs stretch and claim they did because they did not
25 -- this district does not place all South Anchorage High

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1 School students in the same Senate seat.
2 But a number of problems with that argument,
3 Your Honor. First, high school attendance areas are not a
4 political subdivision. The political entity that they're
5 talking about is the Anchorage School District. Its
6 boundaries are coextensive with the Municipality of
7 Anchorage. The same school board represents the entire
8 community. School board members are elected by the entire
9 community. There's no -- there are no geographic seats for
10 that political entity.
11 So if we're going to consider the school
12 district, as a political subdivision, District 9 and 10 are
13 in the same school district as are all 16 of the Anchorage
14 House districts. So there's no ignoring the political
15 subdivision. They're just all -- there's too many people.
16 It has to be divided into 16 house districts.
17 And second, Your Honor, is that the Board was
18 not selective in ignoring high school attendance areas. It
19 ignored them consistently, and it ignored them entirely.
20 So Mr. Torkelson explains that in his affidavit, that each
21 Anchorage Senate District crosses multiple high school
22 boundaries. The high school boundaries just were not a
23 priority to the -- they're not a -- they were not a factor
24 to this Redistricting Board.
25 We're were not aware of any case from Alaska or

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1 anywhere else that suggests that a high school attendance
2 area should be respected or honored. The Board attended
3 national training on redistricting. I attended that
4 training. We're just not aware of a legal principle or
5 case that says high school attendance areas are a
6 redistricting concept generally recognized in American
7 jurisdictions.
8 Redistricting is about organizing voters into
9 rational districts, as directed by our Constitution. And
10 we can argue about whether using the location where minor
11 children go to school, as a redistricting concept, is
12 rational. I mean, maybe it is, but minor children don't
13 vote. And whether -- whether it's a rational factor or
14 not, it wasn't a factor considered by the Board. So there
15 was nothing selective about splitting up South Anchorage
16 High into a couple Senate districts. My client did that
17 all over Anchorage.
18 If that's a mistake, Your Honor, certainly it's
19 news to us, but really would mean tossing out the entire
20 plan for Anchorage, the House plan even, and starting over,
21 if the Board is required to design districts to coincide
22 with where children go to school. And we would likely have
23 the same problem in Fairbanks and Mat-Su and Juneau and
24 Kenai, because all of those are borough school districts
25 that have multiple House districts within them, and none of

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1 those districts were designed with an eye towards school
2 attendance areas.
3 I just -- I would just ask the Court to reject
4 that analysis. The assertion of any kind of ignoring of --
5 selective ignoring of political subdivisions is just not an
6 applicable standard.
7 And then, finally, on the third -- the third
8 prong is the Court discussed in its prior decision that, if
9 the Board is going to split a community of interest, there
10 needs to be adequate explanation in the record.
11 We certainly did not rule -- or did not read
12 Your Honor's prior ruling as -- as stating that the Board
13 is precluded from dividing a community of interest or that
14 it is required in every instance to pair communities of
15 interest together. I think that a rule like that would be
16 -- would create an impossible task for the Board, because
17 Anchorage is full of intersecting communities of interest.
18 And we -- and a Board grappled with that here with regard
19 to the options that were presented to it.
20 So what we understood the Court to say was that,
21 if the Board is going to divide a community of interest, it
22 needs to articulate a reason. And with regard to Senate
23 District K, the East Anchorage Eagle River pairing that the
24 Court considered in its February decision, Your Honor
25 emphasized a lack of explanation in the record for that

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1 pairing. Your Honor contrasted a lack of rationale for
2 Senate District K with the rationale that the Board had in
3 the record for Senate District L, noting that while there
4 was disagreement among the Board members, that there was
5 justification in the record for District L, in light of the
6 military connections between District 23 and District 24.
7 So on the third neutral factor, with regard to
8 whether the Board impermissibly or permissibly split the
9 community of Eagle River, the question for Your Honor is
10 whether the Board offered a rational explanation on the
11 record for that decision.
12 If you read Girdwood's colorful briefing and
13 listen to the argument today, you take away the notion that
14 every person who spoke in favor of Option 3B, and the three
15 Board members who dared to vote for that option, are lying,
16 they're gerrymandering, they're hacks, they don't know
17 Anchorage, and that every person who supported Option 2 is
18 a truth-telling citizen with the purest of nonpolitical
19 motivations.
20 Neither of those things reflect reality, Your
21 Honor, and I think we should operate in reality. The ad
22 hominem attacks on our neighbors who testified in this --
23 in this remand hearing, took time to testify and share
24 their thoughts, those are unfortunate and really kind of
25 desperate. Just because people came before the Board with

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1 different ideas, with competing ideas, doesn't mean that
2 people who disagree were wrong. People can have different
3 priorities and share those with the Board.
4 I think we should just acknowledge and accept
5 there was a political subtext to -- to the testimony that
6 was received on remand. Your Honor could see, in the
7 written testimony, there's lots of instances where people
8 wrote in using exactly the same words to support, whether
9 it was Option 2 or Option 3B.
10 It's clear that somebody was doing some
11 organizing to rally the troops and organize to seek a
12 preferred outcome, and that's not -- that's not so for one
13 but not the other. It's equally so, that proponents of
14 Option 2 were -- were organizing the usual suspects and
15 proponents of Option 3B.
16 So instead of calling one political party a
17 sinner and the other a saint, it might be fairer to just
18 acknowledge that Alaskans had different priorities about
19 how this should be done, that a lot of people with
20 different points of view took time to provide the Board
21 their concerns, their input, and that that's part of this
22 process.
23 And -- and to suggest that people who supported
24 Option 3B were lying, they don't know the geography, that
25 they're -- that they're wrong, is -- I think it's just

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1 unfair to those citizens.
2 You know, when elected House of Representatives
3 Member Matt Claman -- you know, we learned in the last
4 trial that he recruited Chase Hensel to be an expert in
5 this case. Are we to assume that the politician, Claman,
6 had no political agenda when he was recruiting his friend
7 to be an expert?
8 Or Option 2 that was before the Board, that
9 option was presented to the Board by the East Anchorage
10 Plaintiffs, including Felisa Wilson. Ms. Wilson is an
11 officer of her political party. Are we to assume that an
12 officer of a political party has no political motivation?
13 The evidence at trial was that -- that in
14 November the Senate Minority leader, an elected senator,
15 was privately texting one of the Board members with his
16 ideas for Senate Districts during the November
17 deliberations. Do we think a political leader of a party
18 is free of political motivations?
19 So for the parts of town that are at issue
20 today, the very same pairings that the Senate Minority
21 leader was privately texting in November, those are
22 identical to what Ms. Gardner wants Your Honor to compel
23 the Board to adopt today. Is that a coincidence, Your
24 Honor, or is Ms. Gardner and her client, are they serving a
25 political agenda here today?

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1 And so the second point is that, again, just
2 because people disagree about a redistricting priority, it
3 doesn't make them disreputable or dishonest. They have
4 different -- people have different priorities.
5 And let's walk through the priorities that were
6 presented in testimony to the Board.
7 So, first, it's a true fact that the record
8 suggests significant connections between joint-based
9 Elemendorf-Richardson and the Eagle River/Chugiak
10 communities.
11 There was testimony that Eagle River started as
12 a bedroom community to JBER, that military families in
13 Eagle River send their kids to school out there. There's a
14 direct highway connection between those two districts. The
15 Arctic Valley Ski Area, the Moose Run Golf Courses are
16 right in between those districts.
17 We had a military veteran testify that he -- you
18 know, he shops on base, gets medical care on the base, that
19 it would do a disservice to the military community to
20 divide it up, and that -- that the people in his community,
21 Eagle River/Chugiak, shared close connections with the --
22 with the base and the folks who live on the base.
23 Those are -- those are true facts, Your Honor.
24 Those are not -- those -- those aren't gerrymandered facts.
25 They aren't fabricated facts. Those -- that's one priority

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1 that the Board heard from a community of interest, from
2 people who share the same employer, who share the same
3 mission, serving our nation, who share similar concerns,
4 who shop in the same place, who seek medical care in the
5 same place. So that's one piece of information that was
6 before the Board.
7 It's also true that Eagle River and Chugiak
8 share close connections, that they have a kind of small
9 town vibe within the larger municipality of Anchorage.
10 That Eagle River, for example, prides itself on its summer
11 Bear Paw Festival. It has an identity, just like Spenard
12 has an identity, just like Girdwood has an identity,
13 Downtown has an identity.
14 So our different neighborhoods in Anchorage have
15 different, you know, identities. That's -- those are true
16 facts. So there -- the Board is presented with two
17 distinct communities of interest. Then they intersect.
18 They cover three House districts. The military connection
19 out with the bedroom communities to the northeast is one
20 community of interest, and then the Eagle River/Chugiak is
21 another community of interest. There's no way that those
22 communities of interest can all be in one Senate District.
23 There's too many people that cover too many House
24 districts.
25 It's also true -- and the Board heard lots of

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1 testimony -- that there are similarities between
2 District 10 and District 9. Those districts share things
3 in common that could be important to an elected
4 representative. District 9 and 10 have attributes that are
5 different from the other districts in Anchorage.
6 Just visually, Your Honor, just looking at the
7 map, those are the two large rural districts that are part
8 of the municipality of Anchorage. They're different than
9 the much more dense, higher populated, or, you know, more
10 -- they're all equally populated, but the -- as you get
11 into the core of Anchorage, the districts become much
12 smaller because people live more densely.
13 Both districts are predominantly large,
14 single-family homes, higher -- higher value, higher-value
15 real estate. Many are on well and septic. Those are two
16 parts of the Municipality of Anchorage that are both served
17 by road service areas. They both share proximity to
18 Chugiak State Park and the mountains, and -- and those are
19 a major emphasis for those parts of Anchorage. People
20 choose to live out in the Eagle River Valley or on the
21 upper Hillside because they want that proximity to nature
22 or the views or the larger space. They're -- they're
23 seeking a more rural experience within the municipality.
24 Those are true things.
25 Now, whether they're -- whether that should be

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1 the highest priority or a lower priority, that's a judgment
2 call, but they're not dishonest facts. They are -- those
3 are things that citizens of our community came forward and
4 shared with the Board, and they're -- they're in the
5 record.
6 And something that is very different about the
7 November hearing and here is that there was a lot of
8 testimony about both plans, and there was lots of support
9 for both of the plans that were presented to the Board.
10 So what the Board heard were competing ideas about what
11 matters most in pairing House districts.
12 When it came to the decision day, on April 13th,
13 the Board members each explained why they were voting for
14 the option that they preferred. They referenced testimony
15 that had been presented. They demonstrated that they were
16 taking a hard look at the salient points that had been
17 presented, and they made a decision amongst the options
18 presented to them.
19 I think it's noteworthy, Your Honor, that the --
20 and despite the fact that the Constitution requires only
21 that House districts must be contiguous, the Plaintiffs
22 want to wire Anchorage a very specific way, and they want
23 Your Honor to direct it.
24 And there's probably something like 40
25 mathematic options for pairing districts in Anchorage.

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1 That is, if your -- if your goal is just to create eight
2 Senate Districts and to assure that each House district is
3 contiguous with another, there are a lot of different
4 possibilities. So how is it, if the Constitution allows
5 numerous possibilities, that the Plaintiffs articulate that
6 the -- that this Court should narrow the Board's discretion
7 to -- having to pair at least three or four of the eight
8 districts in very specific ways? What they're asking for
9 is gerrymander through litigation, and that's -- that's a
10 -- they're seeking a political outcome through litigation.
11 I think it's -- it's noteworthy that Plaintiffs
12 have made no effort to distinguish the Supreme Court's
13 decision in 2002 affirming Judge Rindner's decision that
14 Eagle River and Hillside were properly placed in the same
15 House district. A House district, as Your Honor is well
16 aware, has to be compact and contiguous and
17 socioeconomically integrated. House districts have more
18 requirements than Senate Districts. And yet the Supreme
19 Court affirmed that the district that is very similar in
20 territory to the current Senate District E, that that House
21 district was, quote, constitutional in all respects.
22 Plaintiffs don't address that case. They don't
23 identify any change in the law since that case was decided.
24 They don't identify any change in circumstance. There --
25 there's nothing that would support the notion that those

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1 two neighborhoods could be in a district together and vote
2 together for a decade but cannot now be districted
3 together.
4 And certainly, when the Board was evaluating
5 options, I think it was reasonable for it to consider that
6 -- that what became Senate District E had the blessing of
7 the Alaska Supreme Court in recent litigation, and that
8 that -- that is some indication that it was a
9 constitutional district.
10 The Senate District E is socioeconomically
11 integrated. It covers territories that the Supreme Court
12 has already said is compact, contiguous, and
13 socioeconomically integrated. It combines two House
14 districts that prefer the same kind of candidates, and so
15 there's no regional partisanship.
16 And, finally, going back to the test, if the
17 neutral factors went the other way, that is if there was
18 clear evidence of secret procedures and if there was
19 regional partisanship and if there was no explanation for a
20 dividing -- a political subdivision or a community of
21 interest, then what Your Honor said is that the Court would
22 affirm the district if it showed that it's pairing enhanced
23 proportional representation.
24 Proportional representation is a mathematical
25 analysis, Your Honor. Girdwood and District 9, as a matter

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1 of population data, as you -- as a matter of U.S. Census
2 data, can do no better proportionally than the pairing that
3 was created by the Board.
4 It so happens that the South Eagle River House
5 District, which is now labeled District 10, has a
6 low-voting-age population. There's a lot of kids that live
7 in -- it's a lot of families in South Eagle River. And so
8 that has one of the lower-voting-age populations of House
9 districts in Anchorage, and as compared to House District
10 9.
11 And so, as a matter of basic math, the result of
12 this pairing is to enhance the relative voting strength of
13 District 9 and of the Girdwood voters, the subset of House
14 District 9. And there's no other adjacent House district
15 that allows greater proportional representation to House
16 District 9 than -- than the pairing that the Board created.
17 So that means, if everybody in House District 9
18 gets together and says, let's -- let's elect our favorite
19 candidate from Girdwood, they are starting with an
20 advantage. There are more voters in District 9. That is
21 not giving Eagle River something extra. It does the
22 opposite, as a matter of basic math.
23 Before I conclude, I wanted to take a few
24 minutes to address some of the things offered by
25 Dr. Hensel.

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1 First, Mr. Hensel can't make up his mind. He
2 now claims that the Board's pairing enhances Eagle River's
3 voting power, but just a few weeks ago he said the exact
4 opposite. He provided lengthy written comments to the
5 Board while it was deliberating and said that dividing
6 Eagle River would harm it. He's throwing darts at a board
7 and hoping something sticks. Same thing that Plaintiffs'
8 counsel was doing.
9 And then yesterday, Your Honor, after midnight,
10 we got Dr. Hensel's supplemental affidavit. Much of that
11 affidavit, though, is not a response to our brief or a
12 response to any data that we offered. Instead it's a --
13 it's a late attempt to challenge Senate District L. His
14 offering of new opinions in an opposition brief that we
15 don't get an opportunity to reply to is really prejudicial,
16 and those new opinions should be struck.
17 And a few comments. First, Senate District L
18 was adopted on November 10th. It was challenged by the
19 East Anchorage Plaintiffs. Your Honor did not find an
20 equal protection violation in Senate District L, did not
21 direct the Board that it was unconstitutional. There was
22 no appeal with regard to Senate District L. And these
23 Plaintiffs, if they had a beef with that Senate district,
24 needed to come forward by December 10th to challenge it
25 within the 30-day statute of limitations under the

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1 Constitution. They failed to do so, and so an attack on
2 that district now is time barred.
3 Second, Dr. Hensel, again, is cherry picking,
4 and he's offering wildly inaccurate information to the
5 Court about District 23, to suggest that that JBER district
6 is somehow not actually a military community.
7 He talks about Precinct JBER Number 2 and seems to be
8 drawing population numbers from the Division of Elections
9 rather from the -- than from the U.S. Census.
10 What he fails to mention, and he may not even
11 realize, is that the JBER area was split into 2013
12 redistricting plan, and there's another election precinct
13 called JBER 1.
14 And if the Court wants the population numbers,
15 we can supplement today, and I can offer, as an offer of
16 proof, the JBER precincts together, the population of folks
17 who live on base, is 11,029 residents out of the population
18 of District 23, and there are 8,234 voting-age population
19 on base. So the JBER precincts make up 58.3 percent of the
20 voting-age population in District 23.
21 So Ms. Gardner's assertion today at argument
22 that the military folks on JBER lack sufficient population
23 to influence the outcome of an election, that's flat false,
24 Your Honor, and we would like the opportunity to provide
25 that data to the Court. We can do that today. But it's --

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1 again, there are -- 58 percent of that House district is
2 made up of military voters.
3 Their suggestion that that district is actually
4 Downtown, if you look at the map, a portion of Downtown
5 that is found in District 23 is Ship Creek. It's -- it's
6 the courthouse that Your Honor is sitting in today and
7 everything on the north side of Fourth Avenue. People
8 don't live in that part of Downtown. The residential
9 community of Downtown is all to the south of Fourth Avenue.
10 Bootlegger's Cove, for example, is carved out and is in the
11 Downtown district, not in District 23.
12 It's just -- it's just flat false. And, again,
13 it's an effort to undermine and minimize the value of our
14 military voters by even misrepresenting how many of them
15 there are. Their focus on District L is a tell, Your
16 Honor. That's because their case is about trying to wire
17 Anchorage to achieve a particular political result.
18 It's not a coincidence that Dr. Hensel is back
19 offering more opinions. I think the East Anchorage
20 Plaintiffs recognize that having accomplished what they
21 said was their mission of a -- of having the Muldoon
22 districts together, that it wasn't a very good look to be
23 back challenging districts that they didn't live in, and so
24 some different Plaintiffs have come forward using the same
25 expert, seeking exactly the same results. And what they're

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1 really after is drowning the conservative-leaning military
2 voters of JBER with very liberal-leaning voters of Downtown
3 Anchorage.
4 And why was it so important to put the two Eagle
5 Rivers together and the two Muldoons together? Why is that
6 particular organizational district so vital? It's because,
7 if that's done, it forecloses options for JBER and makes
8 sure that the conservative military voters of JBER are
9 overwhelmed with voters in Mountain View or Downtown that
10 vote differently.
11 That's regional partisanship, Your Honor.
12 That's -- that's the exact concern that Your Honor
13 articulated with regard to putting South Muldoon with Eagle
14 River. Presumably Your Honor's concern was nonpartisan.
15 That is, Your Honor is not concerned that regional
16 partisanship benefit one party and not the other. Your
17 Honor felt that there -- the Board should avoid regional
18 partisanship or the advantage of either party.
19 And so assuming that what sauce is good for the
20 goose is also good for the gander, when the Board heard
21 testimony about that concern and that the military
22 community of interest would be drowned out by different
23 voters from Downtown, it was reasonable for the Board to
24 consider that in crafting Senate districts.
25 So in conclusion, Your Honor, the Plaintiffs'

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1 challenge to District L is time barred. Senate District E
2 is contiguous and complies with Section 6 of the
3 Constitution. The Board articulated legitimate, rational
4 reasons for its decision on remand after a full transparent
5 public process.
6 The Board had two constitutional options in
7 front of it, and it evaluated those options and selected
8 the -- the majority of members selected the -- the option
9 that they got better served the voters of Anchorage.
10 Because Senate District E has already been litigated 20
11 years ago as a compact, contiguous, socioeconomically
12 integrated district, and they've offered no argument to
13 distinguish that law, it is -- it should be dispositive.
14 Finally, Your Honor, I need to address just the
15 manifest unfairness to the Court in the personal attacks,
16 the innuendo, the accusation.
17 We're not in China. We don't regulate what
18 people read. We don't regulate who people are friends
19 with. We don't regulate what our friends say in e-mail
20 messages. And none of those things have anything to do
21 with whether Senate District E harms the voting rights of
22 the three Plaintiffs who live in Girdwood. And in
23 suggesting that some relevance, some connection, because
24 Ms. Marcum, for example, is affiliated with a conservative
25 organization, therefore this district is a gerrymander,

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1 they're really suggesting that you ignore the Board's own
2 constitutional rights to affiliate with others, to think
3 about things, to read what they want to read, to have
4 opinions.
5 And if the Board -- if the Court has any
6 concerns with what the Board did here, what's the Board's
7 motivations, we would welcome -- they would welcome the
8 opportunity to testify. I know this is an expedited
9 process, but normally in litigation, when people are
10 accused of misdeeds, they get the opportunity to confront
11 those accusations. And much of this came yesterday, in a
12 brief yesterday, and, you know, the Board members were not
13 called to testify in the East Anchorage case. You have
14 never -- Your Honor has never had the opportunity to ask
15 any questions that the Court may have.
16 If the Court is seriously considering any of the
17 mudslinging that we've seen in the last 24, 48 hours, I
18 would invite -- will make the Board available as soon as
19 the Court would like to have them on the witness stand, and
20 Your Honor can look them in the eye and ask them anything
21 you want to know.
22 It is -- it is personally upsetting to these
23 folks to have put a lot of their time and concern to this
24 effort and to -- and to not be able to confront false
25 concoctions by a lawyer who has no facts and no law on her

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1 side, and so instead is just throwing mud.
2 We ask Your Honor to affirm the Board's decision
3 and confirm that the 2022 April amended proclamation plan
4 is constitutional. A decision affirming that plan is in
5 the interest of Alaskans. It would bring this process to
6 -- to a close and allow candidates to know which districts
7 they -- they reside in before the filing deadline on June
8 1st.
9 Thank you, Your Honor. Unless there are
10 questions, I appreciate the Court's attention today.
11 THE COURT: I don't have any further questions
12 at this time, Mr. Singer. Thank you.
13 Ms. Gardner, back to you.
14 MS. GARDNER: Thank you, Your Honor. I'll
15 respond to several points Mr. Singer raised in his
16 argument.
17 On the subject of contiguity, we understand the
18 Court may decide that the pairing of Districts 9 and 10 is
19 technically contiguous, but that doesn't eliminate the
20 question Dr. Hensel posed in his report of why this paring
21 and not that.
22 In your prior order, at page 56, you stated that
23 technical contiguity itself does not mean that the Board
24 did not create these districts with illegitimate purpose.
25 Your order acknowledges that the Section 6 criteria are

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1 designed as guardrail to ensure that redistricting is
2 nonpartisan, and where they are minimally and questionably
3 adhered to, that raises questions about intent and doesn't
4 automatically protect -- I mean, that the map is
5 constitutional.
6 Earlier I said that the Board expected this
7 lawsuit, but there is one thing about it that the Board
8 didn't expect. No one expected litigation would be brought
9 and resolved on the timeline that we've agreed to.
10 We filed our complaint two and a half weeks ago,
11 and we have built a case from scratch in that time. We've
12 been writing briefs furiously while coordinating witness
13 affidavits and hiring experts, while flogging through the
14 thousands of pages of the record and thousands of pages of
15 jumbled duplicate written e-mail production that the Board
16 provided us just over a week ago. We ask you to bear this
17 in mind as you look at our claim.
18 We've given up discovery, depositions, and the
19 chance to prepare our case thoughtfully and carefully in
20 service of a quick ruling before the June 1st candidate
21 filing deadline.
22 The Board faults us for not including lengthy
23 discussions of case law in our briefs, but we don't need to
24 fight the case law. We applied the legal framework that
25 you provided in your prior order. You have already decided

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1 the law in this case, and we trust Your Honor to apply it
2 consistently.
3 In the absence of discovery and depositions,
4 we've sifted through the documents the Board did need to
5 provide, which are both voluminous and also incomplete.
6 For example, we know that we didn't get all of Member
7 Simpson's e-mails, and although we requested the rest of
8 them, they haven't yet been provided.
9 We acknowledge that the evidence of secret
10 agreements that we've provided is circumstantial, but
11 circumstantial evidence is still evidence, and the case we
12 built is still founded on the record that was created in
13 the East Anchorage case. There is more than enough in the
14 record for you to find in favor of our claim.
15 The Board accuses my clients and us of innuendo
16 and name calling, but we haven't actually called anyone any
17 names. We're not slinging mud. The only name calling
18 you'll find in our briefings is what we found in the Board
19 members' private correspondence. We also haven't attacked
20 any members of the public. The Board is being melodramatic
21 in making that accusation.
22 For example, in its brief the Board sets up
23 Randy Ruedrich as a straw man claiming that the Girdwood
24 Plaintiffs are attacking him and making clips about his
25 proposed map happening -- just happening by coincidence to

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1 match Member Marcum. This is a diversion. We mentioned
2 Mr. Ruedrich only in passing. There's no attack on him, as
3 the Board suggests.
4 Mr. Ruedrich, who served as the Calista
5 Plaintiffs' well-qualified expert in the last round, is
6 entitled to submit maps as a member of the public. Any
7 clip, as the Board puts it, is not Plaintiff.
8 Member Bahnke noted on the record at the April
9 6th meeting that it was a magical coincidence that Member
10 Marcum's map matched Mr. Ruedrich's. The Girdwood
11 Plaintiffs merely summarized that meeting in their brief,
12 as they summarized or referenced the testimony of other
13 members of the public.
14 The Board discussed the Hillside voting data.
15 I'll note again what I noted in my opening arguments this
16 morning, the Board is cherry picking its evidence by
17 limiting it to state House races. Dr. Hensel acknowledged
18 that that district is Republican leaning but not always
19 Republican electing, but the Board conveniently decided to
20 ignore the races where that district did not elect a
21 Republican and instead is limiting its consideration only
22 to the state House races, but broad evidence of that
23 district's voting habits and political preferences are
24 relevant, not just in state House races.
25 The Board also continues to claim that Eagle

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1 River would not be getting two senators under this map.
2 That claim, at this point in the proceeding, is
3 disingenuous. The Court has already found that that would
4 be the outcome. We have extensive testimony on that. In
5 fact, members of the public came before the Board and
6 explained that is why they were there to testify.
7 We cited in our brief Assembly Member Crystal
8 Kennedy's testimony, where she provided the history of the
9 region's representation, saying that, for at least the past
10 40 years, as the community of Chugiak/Eagle River has
11 grown, the area has been represented by two senators. For
12 almost three of those decades, the community was
13 represented in these seats by people who lived in either
14 Chugiak, Peters Creek, or Eagle -- Eagle River
15 specifically.
16 With Option 2, all of the Chugiak/Eagle River
17 area becomes encased in one Senate district, and
18 essentially the entire area will only -- will have one
19 senator. And she wrote in in favor of a map that would
20 divide Eagle River to perpetuate this overrepresentation.
21 The Board cited history, the fact that in 2002
22 Eagle River and Hillside were in a district together.
23 Again, as Assembly Member Kennedy's testimony shows, the
24 areas have grown since then.
25 House districts are dictated by population size,

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1 and if Anchorage -- Anchorage in 2002 is very different
2 from Anchorage in 2021. There's a reason redistricting
3 happens every 10 years. The Board is to redraw the map in
4 line with population, social, and demographic changes.
5 And as a commentary on that historical district,
6 one of the first people to testify in the remand hearing
7 was a woman who testified that the pairing, the one that
8 Mr. Singer referenced, was a geographical nightmare that
9 led to ineffective representation because of the
10 extraordinary circuitous [inaudible] from one district to
11 the other. And most notably, in the 2002 cycle, that
12 pairing had not been found to be gerrymandered.
13 Mr. Singer argues that the Board didn't ignore
14 any political subdivisions and focused his discussion on
15 school districts, saying that they don't matter. Even
16 setting those aside, the Board did ignore some significant
17 political subdivisions. It ignored community council in
18 the Downtown improvement district for one. It chose to
19 divide the core of urban Anchorage, to draw -- to keep
20 urban Anchorage and Downtown in two separate districts.
21 The only justification it provided was to keep JBER with
22 Eagle River.
23 The Board, again, as I mentioned before, also
24 ignored community preferences using JBER as an excuse, even
25 though JBER never weighed in. Eagle River never weighed in

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1 either. The overwhelming testimony in the record from the
2 municipal process, which happened shortly before the
3 remand, was in favor of keeping Eagle River together
4 because it was a unified community of interest, because it
5 needed to be in the same district. The Board ignored that
6 testimony.
7 Mr. Singer cited the testimony of one veteran
8 who lives in Eagle River, who shops on base. That, as far
9 as we know, is the only testimony of that nature. But one
10 person shopping in Eagle -- on the base does not create a
11 community of interest. That individual is presumably
12 represented in Eagle River, where he lives, where he votes.
13 He doesn't live on -- he's not a JBER member who testified
14 that he needs his interest paired with Eagle River in order
15 to be represented. Again, not one person who lived on the
16 base weighed in based on our review of the record.
17 The Board, although it disputes the relevance of
18 school district -- school-zone boundaries, keeps insisting
19 that JBER sends its children to high school in Eagle River
20 to be educated and that that is evidence of a community of
21 interest. But JBER sends its children, its high schoolers,
22 to Eagle River High School, not to Chugiak. Eagle River
23 High School is in District 10, not District 24.
24 The Board repeatedly pushes this point in its
25 briefing. It was in the Board member's rationale and,

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1 again, today at argument, and it's just unsupported by the
2 record because it is false.
3 And for all the Board's talk about how important
4 it is to keep the alleged community of interest of JBER and
5 Eagle together, it disregards other communities of
6 interest. Why does it matter for JBER but not Downtown?
7 Why does it matter for JBER but not South Anchorage? Why
8 does it matter for JBER but not Girdwood?
9 Overall, the Board's arguments show why the
10 Board majority wanted such a lengthy public process, to get
11 enough -- just enough time to get just enough testimony to
12 cover its tracks with some bare factual excuse. And the
13 Board -- the majority Board members cited this type of
14 evidence in their deliberations when they put their
15 rationale on the record.
16 Our opposition briefed to the Board -- our
17 opposition in response to the Board's brief lays out in
18 detail how many and how -- how many inaccuracies there were
19 in the Board members' rationale that they stated on April
20 13th, how much of it was unsupported by the record, and we
21 are due to review that portion of our brief when
22 considering the Board's arguments there.
23 Mr. Singer also, in his argument just now,
24 bordered on testifying. He began talking about the
25 conservative-leaning JBER voters, which, as far as I know,

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1 there's no evidence in the record of that.
2 Dr. Hensel wrote in his reports that actually
3 the voting data from those precincts is unreliable, and so
4 we do not actually have good voting data for that, yet
5 Mr. Singer told the Court, as a fact, that JBER is a
6 conservative voting block.
7 Mr. Singer also began testifying about Downtown,
8 stating that the only portion of Downtown that's in
9 District 23 is uninhabited, is not residential. I'm not
10 going to go down the same path, but I think that we've all
11 been Downtown. Your Honor, I think it's important for you
12 to take judicial notice of things that you have observed or
13 that everyone knows, which is that Government Hill is in
14 District 23, parts of North Muldoon are in District 23, and
15 that Downtown does not end at Fourth Avenue, as Mr. Singer
16 indicated.
17 Finally, the Board tries very hard to undermine
18 Dr. Hensel's testimony. Dr. Hensel did have less time in
19 this round to prepare his testimony than he did in the
20 prior one, but the Court is familiar with his background,
21 his qualifications, and his methods, and the Court has
22 already once found him to be a reliable expert witness.
23 The first thing Mr. Singer tried to do is to
24 strike Dr. Hensel's supplemental report that we provided
25 with our opposition brief, but he forgets that his own

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1 client provided a brand new affidavit from Peter Torkelson
2 in his opposition brief. Why do they get another brief --
3 another affidavit, but we don't? It doesn't make sense,
4 and we oppose that motion.
5 Mr. Singer also attacked a letter that
6 Dr. Hensel submitted during remand. He claimed that it's
7 contradictory, but with this the Board is throwing up a
8 smokescreen.
9 If there are any factual issues that need to be
10 resolved, we can make Dr. Hensel available for testimony
11 later today or tomorrow. If we need to clear anything up
12 about conflicts in his testimony or questions the Court
13 has, we can absolutely make -- make that happen.
14 If asked, he'll testify to the distinction
15 between local interests and party interests. Eagle River,
16 if kept together with a single senator, may have more of
17 that senator's attention on its local issues, which may,
18 you know, be beneficial to people on a local level, but, if
19 Eagle River is split apart, it will have an outsized
20 influence on its neighbors by electing a majority party
21 candidate. That candidate may be more moderate than Eagle
22 River alone would support but would still be in the right
23 party and would still give Eagle River an extra seat in the
24 Senate.
25 Previously the Court found that the Board sought

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1 to give Eagle River more influence not necessarily to
2 benefit Eagle River on a local individual level but to
3 benefit the Board majority's preferred party. So that is
4 -- Dr. Hensel can explain that, if called upon to ask, but
5 that is the explanation for the apparent contradiction that
6 the Board has seen.
7 Your Honor, we invite questions, because we know
8 you're reviewing this on a very tight timeline with a lot
9 of information with no trial. So I'll pause for a moment
10 and allow you to ask any clarifying questions. And if you
11 do need any further proceedings in the next 24 hours, we
12 are standing by to help make that possible.
13 THE COURT: So I do have one question I wanted
14 to ask, Ms. Gardner. And this sort of goes to the general
15 discussion in both your briefing and the argument today. I
16 mean, much of what you're -- seem to focus on is whether
17 the Board appropriately considered the public testimony
18 that it received, appropriately weighed it or ignored it,
19 as the case may be, and that sounds an awful lot like the
20 hard-look discussion that we had, or at least that I
21 addressed, in the last go around in my findings in -- in
22 February.
23 The Supreme Court in its decision essentially
24 said no to that discussion when I applied it to Skagway.
25 Why is this different?

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1 MS. GARDNER: Your Honor, I think this -- this
2 is different because you have an illegitimate purpose. We
3 already have an illegitimate purpose. And I think that
4 where the Board does the exact same thing in defiance of
5 the testimony is putting justifications on the record on
6 April 13th that are clearly contradicted, again, not just
7 by the testimony they've received but by the district
8 boundaries that they have drawn, where they don't even know
9 where the communities that they're talking about are
10 located.
11 If you don't know where the Chugach or Chugach
12 State Park is relative to Togiak, you don't even know what
13 district Togiak is in, where you are relying on school
14 zones that -- people sending their children to school in a
15 school that is not even in the district you're talking
16 about, that is all suspicious evidence.
17 So, Your Honor, we are not making quite the same
18 argument as the Skagway line here. We are saying that the
19 Board -- the Board paid lip service to the idea of public
20 testimony. The Board went through this process as a show
21 to cover up what it was -- what it's -- repeat of what it
22 had done before.
23 So here this goes to the Board members'
24 credibility. It goes to -- to their good faith in
25 business, and it goes to their illegitimate purpose, if

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1 that helps clear up how we -- how we rely on the public
2 process.
3 THE COURT: I -- I understand your argument.
4 So thank you, Ms. Gardner.
5 MS. GARDNER: And to put a finer point on it,
6 we're not saying that it would be impossible for a Board to
7 adopt this pairing. It could be possible for a different
8 Board to adopt this pairing in a different context, where
9 it had not been found guilty of gerrymandering, but this
10 Board, the way that it did it the first time and the way
11 that it did it the second time and the -- the type -- the
12 inaccuracies and nature of the reasons that it put on the
13 record, which were contradicted by the public testimony,
14 make it inappropriate.
15 THE COURT: Understood. Thank you. That --
16 that answered my question.
17 Was there anything else you wanted to address,
18 Ms. Gardner?
19 MS. GARDNER: No. Thank you, Your Honor. We
20 are, again, standing by if, as you review, you have
21 questions. And we appreciate your very prompt attention to
22 this case.
23 THE COURT: So -- so let me address for both
24 parties.
25 I heard, in your response there, Ms. Gardner, an

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1 offer to make Dr. Hensel available. I heard Mr. Singer say
2 he would make Board members available.
3 I understand, in a normal situation, both
4 parties might like an opportunity to respond to some of --
5 further and provide some evidence, expand the record, clean
6 things up a bit, and essentially have a chance to -- to
7 defend their clients from accusations made by the other
8 side.
9 Given where we are in this process and the
10 extraordinary timeline that you all have been working under
11 and, obviously, this Court has imposed, given the upcoming
12 June 1 deadline, I'm going to decline that invitation,
13 recognizing that both of you have made your record.
14 I simply think, under the circumstances that
15 we're all faced with, trying to set up an opportunity to
16 take further testimony at this date and still give you all
17 a chance to have a decision by Monday, as I had previously
18 indicated, and have the Supreme Court have at least a
19 window of opportunity to review whatever I ultimately
20 decide, I just don't think there's time to -- to get that
21 done.
22 The rule, I think, does give me the authority to
23 consider it on the -- on the basis of the record that we
24 have. I can expand that as necessary. In this particular
25 case, as I think I indicated previously, I will be

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1 considering all of the record from the 2021 decision, as
2 well as the record supplemented here. So all of that
3 information is in front of me.
4 I have heard, as you both know, a lot of
5 testimony in this case previously, not all of it
6 necessarily directly on point to the Girdwood challenge,
7 but I have an extensive record to draw from in terms of
8 making a decision on this case. So I think it's -- it's
9 currently adequate, and so I'm not -- I'm going -- you can
10 each tell your witnesses who might be standing by that I'm
11 not going to haul them in for further testimony this
12 afternoon or tomorrow.
13 I also wanted to clarify one point. This may
14 have been assumed by each of you. During the argument on
15 the East Anchorage motion, there was a question over
16 whether or not I would be considering the -- essentially,
17 the supplemental record as part of that motion.
18 I have not issued a specific decision on the
19 East Anchorage motion. I did decide that I wanted to
20 review the record. And so I will be deciding East
21 Anchorage's request in conjunction with my final decision
22 on the Girdwood challenge as well.
23 Once again, my commitment to you all was to get
24 you a decision by Monday, so that's what you will certainly
25 have.

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1 Thank you both. Again, Counsel, my compliments
2 to each of you and your firms for working this case on an
3 extraordinarily tight time frame. It was heroic the last
4 go around. I don't have an adjective to -- to describe it
5 this way.
6 As you indicate, Ms. Gardner, two and a half --
7 two and a half weeks start to finish is, frankly, unheard
8 of for a redistricting case anywhere that I'm aware of.
9 And so my -- my compliments and my thanks to both of you
10 for getting this done so quickly and for -- frankly, for
11 working together cooperatively. I know that people have
12 disagreements, but my heartfelt thanks to both of you for a
13 job well done. I will get you a decision by Monday.
14 MR. SINGER: Thank you, Your Honor.
15 THE COURT: All right.
16 MS. GARDNER: Thank you, Your Honor.
17 THE COURT: Thank you both.
18 All right. We'll leave it there, everybody.
19 And we'll be in recess. Thank you.
20 (Off record.)
21
22
23
24
25

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1 TRANSCRIBER'S CERTIFICATE
2 I, ELISSA STEEN, RPR, do hereby certify that the
3 foregoing pages are a true, accurate, and complete
4 transcription of proceedings in Case No. 3PA-21-08869CI,
5 transcribed by me from a copy of the electronic sound
6 recording, to the best of my knowledge and ability.
7 Dated this the 16th day of May 2022.
8
9 Elissa Steen
10 ELISSA STEEN
11 Registered Professional Reporter
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the 2021 REDISTRICTING PLAN.	)))))	Case No.: 3AN-21-08869 CI

GIRDWOOD PLAINTIFFS' NOTICE OF CORRECTION

The Girdwood Plaintiffs submit the attached letter from Dr. Chase Hensel for the Court's consideration.

ASHBURN & MASON, P.C.
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DATED: May 12, 2022

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May 12, 2022

The Hon. Thomas A. Matthews
825 W. 4th Ave.
Anchorage, AK 99501

Re: Errata

To the Court:

I would like to apologize to the court for an error in my reports in this case.

Mr. Singer is correct regarding the following point: Although JBER #1 is in 2013 PD 13 (Eagle River/Chugiak), it is in 2022 District 23, along with JBER #2. Going among the various maps, I missed this.

If we take the figures from those precincts for 2020, JBER #1 and #2 have a combined population of 7,944 VAP, which I believe Mr. Singer quoted as being 57% of the district, not the 25% I noted in my report. JBER combined is, in fact, large enough to theoretically choose District 23's representative on its own, if JBER voters were to vote as a bloc.

It does not change my opinion that we cannot tell how the JBER vote broke down in past elections, or whether JBER voters are likely to vote as a bloc in future elections. It is still true that, because of the demographic profiles cited in my reports, JBER's near majority minority status places it at risk of dilution if it is paired with Eagle River/Chugiak. The diversity figures supplied by the ARB for the districts still apply.

Sincerely,

Chase Hensel, Ph.D.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the	)	
	)	
2021 Redistricting Plan.	)	
	)	
	)	Case No. 3AN-21-08869CI

RESPONSE TO GIRDWOOD PLAINTIFFS' NOTICE OF CORRECTION

Following oral argument on the merits of the Girdwood Plaintiffs' challenges to the Alaska Redistricting Board's ("Board") April 2022 Amended Redistricting Plan, the Girdwood Plaintiffs submitted a "Notice of Correction" along with a new opinion letter from Dr. Chase Hensel. The Board responds as following:

1. Dr. Hensel is still mistaken about the population of Joint Base Elmendorf-Richardson ("JBER"). The 2020 U.S. Census Data shows the following population numbers for residents within the boundaries of JBER's two voting precincts (JBER No. 1 and JBER No. 2):[1]

    - Total Population is 11,029.
    - The voting-age population ("VAP") is 8,234.

2. Dr. Hensel uses his "correction" to state the opinion that one "cannot tell how the JBER vote broke down in past elections." Official State of Alaska election results, which are publicly available from the Division of Elections, show that JBER reliably chooses candidates of the same type as those preferred by voters in District 24, and opposite to the preference of voters in downtown Anchorage.[2]

---

[1] *See* Second Supplemental Affidavit of Peter Torkelson, ¶ 3 and **Exhibit D** (May 13, 2022).

[2] *See* Second Supplemental Affidavit of Peter Torkelson, ¶ 4 and **Exhibit E**.

SCHWABE, WILLIAMSON & WYATT, P.C.
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- In 2014, JBER voted in favor of Republican candidates for U.S. Senate and U.S. House of Representatives. Downtown Anchorage voted in favor of Democratic candidates in the same races.

- In 2016, JBER voted in favor of Republican candidates for U.S. President and U.S. House of Representatives. Downtown Anchorage voted in favor of the Democratic candidates in the same races.

- In 2018, JBER voted in favor of Republican candidates for U.S. House of Representatives and Alaska Governor. Downtown Anchorage voted in favor of the Democratic candidates in the same races.

DATED at Anchorage, Alaska, this 13th day of May, 2022.

SCHWABE, WILLIAMSON & WYATT, P.C.
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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of May, 2022, a true and correct copy of the RESPONSE TO GIRDWOOD PLAINTIFFS' NOTICE OF CORRECTION (4 pages) was served upon the following by:

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the 2021 Redistricting Plan.	))))))	Case No. 3AN-21-08869CI

SECOND SUPPLEMENTAL AFFIDAVIT OF PETER TORKELSON

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

I, Peter Torkelson, being first duly sworn, depose and state as follows:

1. My name is Peter Torkelson, and I am the age of majority. The following testimony is based on my personal knowledge.

2. I am the Executive Director of the Alaska Redistricting Board.

3. To respond to Dr. Chase Hensel's Errata dated May 12, 2022, that the Girdwood Plaintiffs filed with the Court along with their Notice of Correction, I reviewed the 2020 U.S. Census data to obtain the total populations and voting-age populations ("VAP") of the two voting precincts located within the boundaries of Joint Base Elmendorf-Richardson (JBER). Those precincts are labeled JBER No. 1 and JBER No. 2. Attached as **Exhibit D** is a graphic I created that shows the boundaries of the JBER No. 1 and JBER No. 2 precincts and the total population and VAP for those precincts.

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4. I also reviewed the State of Alaska's General Election Official Results from 2014 through 2016. All of these official election results are available on the Division of Elections' website.[1] Attached as **Exhibit E** is a tabulation of election results by precinct for the areas of JBER (JBER No. 1 and JBER No. 2), downtown Anchorage precincts now contained in 2022 House District 19, and Chugiak/North Eagle River precincts now contained in House District 24.

FURTHER AFFIANT SAYETH NAUGHT.

Peter Torkelson

SUBSCRIBED AND SWORN to before me this 13th day of May, 2022, at Anchorage, Alaska.

JEANINE M. HUSTON NOTARY PUBLIC STATE OF ALASKA

Notary Public in and for the State of Alaska
My Commission expires: 1·31·2024

[1] https://www.elections.alaska.gov/doc/info/ElectionResults.php.

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of May, 2022, a true and correct copy of the Second SUPPLEMENTAL AFFIDAVIT OF PETER TORKELSON WITH EXHIBITS (5 pages) was served upon the following by:

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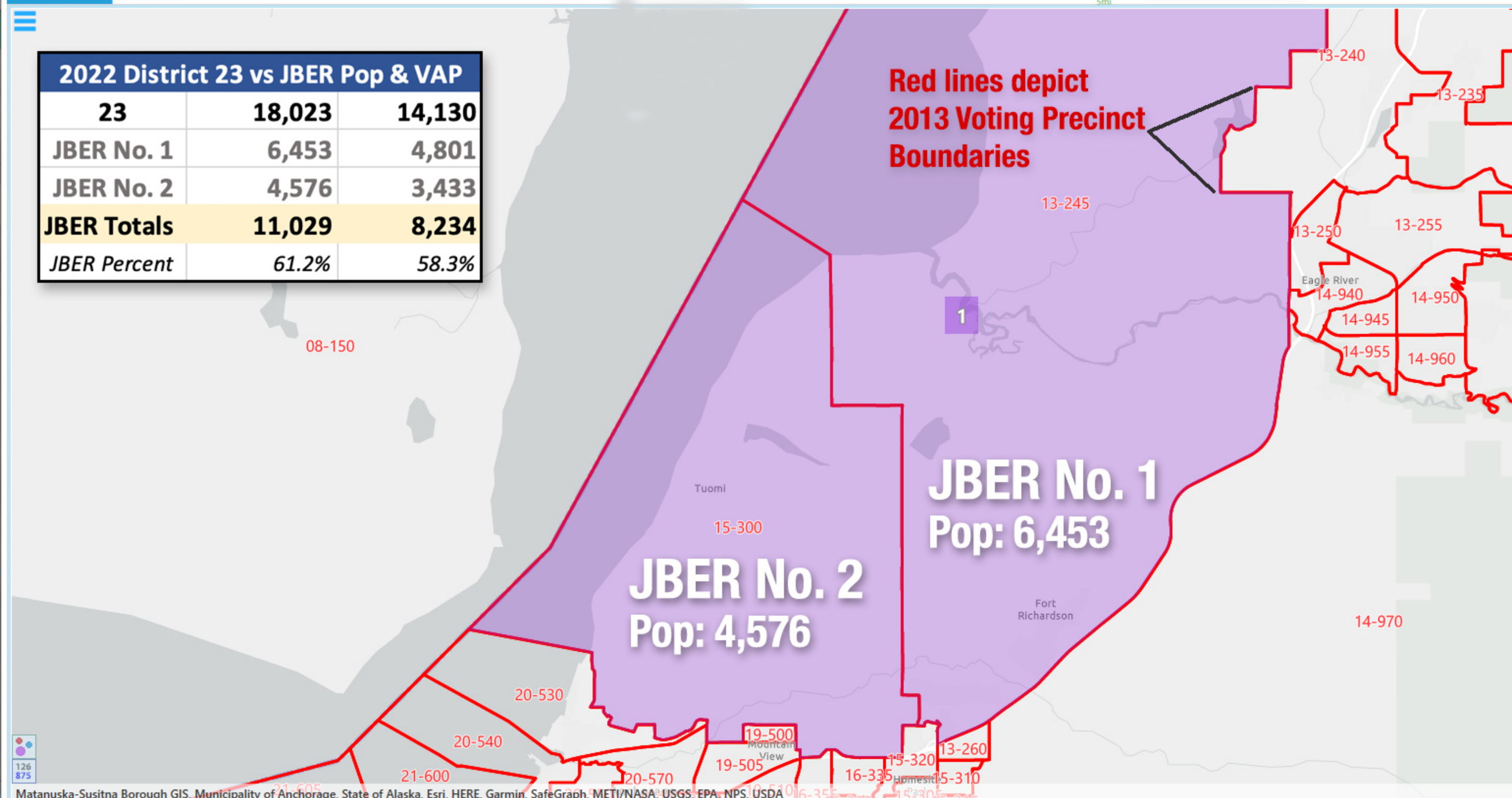
AutoBound Edge - JBER

EDGE Mapview | Analytics

Scale 1:174887

2022 District 23 vs JBER Pop & VAP		
23	18,023	14,130
JBER No. 1	6,453	4,801
JBER No. 2	4,576	3,433
JBER Totals	11,029	8,234
JBER Percent	*61.2%*	*58.3%*



Active Matrix

DISTRICT	Total Population Tabulation				Racial Demographics as a Percent of Total Population				Percent	Racial Demographics as a percent of VAP				
	All Persons	Target	Dev.	Difference	White	Black	Hispanic	Minority	Voting Age	White	Black	Hispanic	Minority	VAP Pop.
1	11,029	18,335	-39.8%▲	-7,306	66.03%	11.27%	17.44%	33.97%	74.66%	66.88%	11.66%	17.01%	33.12%	8,234

Source: 2020 Census Data via Autobound Edge

2018 Election Results

Chugiak/N. Eagle River	2022 District	Galvin	Young	Total	Galvin	Young	Begich	Dunleavy	Total	Begich	Dunleavy
12-225 Eklutna	24	263	477	742	35.44%	64.29%	245	483	749	32.71%	64.49%
12-230 Peters Creek #1	24	352	796	1151	30.58%	69.16%	310	813	1151	26.93%	70.63%
12-233 Peters Creek #2	24	137	367	504	27.18%	72.82%	141	354	507	27.81%	69.82%
13-235 Chugiak	24	144	337	485	29.69%	69.48%	126	348	489	25.77%	71.17%
13-240 Fire Lake	24	286	577	867	32.99%	66.55%	255	583	871	29.28%	66.93%
13-255 Chugach Park #1	24	234	438	674	34.72%	64.99%	207	448	676	30.62%	66.27%
Precinct Totals		**1416**	**2992**	**4423**	**32.01%**	**67.65%**	**1284**	**3029**	**4443**	**28.90%**	**68.17%**

JBER		Galvin	Young	Total	Galvin	Young	Begich	Dunleavy	Total	Begich	Dunleavy
13-245 JBER #1	23	166	272	443	37.47%	61.40%	139	279	440	31.59%	63.41%
15-300 JBER #2	23	102	111	215	47.44%	51.63%	69	136	217	31.80%	62.67%
Precinct Totals		**268**	**383**	**658**	**40.73%**	**58.21%**	**208**	**415**	**657**	**31.66%**	**63.17%**

Downtown Anchorage		Galvin	Young	Total	Galvin	Young	Begich	Dunleavy	Total	Begich	Dunleavy
18-460 Fireweed #1	19	382	191	576	66.32%	33.16%	375	179	576	65.10%	31.08%
20-535 Merrill Field	19	423	283	708	59.75%	39.97%	411	278	717	57.32%	38.77%
20-545 Downtown Anc. #2	19	215	117	333	64.56%	35.14%	218	98	333	65.47%	29.43%
20-555 Downtown Anc. #4	19	332	172	505	65.74%	34.06%	324	164	507	63.91%	32.35%
20-560 Inlet View	19	345	131	478	72.18%	27.41%	342	126	480	71.25%	26.25%
20-565 Westchester	19	199	85	285	69.82%	29.82%	194	88	285	68.07%	30.88%
Precinct Totals		**1896**	**979**	**2885**	**65.72%**	**33.93%**	**1864**	**933**	**2898**	**64.32%**	**32.19%**

2016 Election Results

Chugiak/N. Eagle River	2022 District	Clinton	Trump	Total	Clinton	Trump	Lindbeck	Young	Total	Linkbeck	Young
12-225 Eklutna	24	191	454	743	25.71%	61.10%	216	420	734	29.43%	57.22%
12-230 Peters Creek #1	24	228	767	1140	20.00%	67.28%	249	710	1116	22.31%	63.62%
12-233 Peters Creek #2	24	111	367	540	20.56%	67.96%	125	331	538	23.23%	61.52%
13-235 Chugiak	24	111	373	547	20.29%	68.19%	142	305	539	26.35%	56.59%
13-240 Fire Lake	24	205	562	876	23.40%	64.16%	200	529	869	23.01%	60.87%
13-255 Chugach Park #1	24	175	463	724	24.17%	63.95%	179	438	721	24.83%	60.75%
Precinct Totals		**1021**	**2986**	**4570**	**22.34%**	**65.34%**	**1111**	**2733**	**4517**	**24.60%**	**60.50%**

JBER		Clinton	Trump	Total	Clinton	Trump	Lindbeck	Young	Total	Linkbeck	Young
13-245 JBER #1	23	139	373	563	24.69%	66.25%	139	313	544	25.55%	57.54%
15-300 JBER #2	23	112	327	515	21.75%	63.50%	129	283	493	26.17%	57.40%
Precinct Totals		**251**	**700**	**1078**	**23.28%**	**64.94%**	**268**	**596**	**1037**	**25.84%**	**57.47%**

Downtown Anchorage		Clinton	Trump	Total	Clinton	Trump	Lindbeck	Young	Total	Linkbeck	Young
18-460 Fireweed #1	19	350	199	619	56.54%	32.15%	331	210	611	54.17%	34.37%
20-535 Merrill Field	19	433	261	789	54.88%	33.08%	392	283	763	51.38%	37.09%
20-545 Downtown Anc. #2	19	235	119	385	61.04%	30.91%	233	120	380	61.32%	31.58%
20-555 Downtown Anc. #4	19	297	164	535	55.51%	30.65%	281	190	532	52.82%	35.71%
20-560 Inlet View	19	300	142	485	61.86%	29.28%	294	152	477	61.64%	31.87%
20-565 Westchester	19	219	97	345	63.48%	28.12%	208	105	338	61.54%	31.07%
Precinct Totals		**1834**	**982**	**3158**	**58.07%**	**31.10%**	**1739**	**1060**	**3101**	**56.08%**	**34.18%**

2014 Election Results

Chugiak/N. Eagle River	2022 District	Begich	Sullivan	Total	Begich	Sullivan	Dunbar	Young	Total	Dunbar	Young
12-225 Eklutna	24	262	473	792	33.08%	59.72%	277	443	786	35.24%	56.36%
12-230 Peters Creek #1	24	335	789	1199	27.94%	65.80%	355	736	1187	29.91%	62.01%
12-233 Peters Creek #2	24	170	349	554	30.69%	63.00%	166	340	557	29.80%	61.04%
13-235 Chugiak	24	169	322	539	31.35%	59.74%	184	296	536	34.33%	55.22%
13-240 Fire Lake	24	205	533	786	26.08%	67.81%	236	473	778	30.33%	60.80%
13-255 Chugach Park #1	24	233	429	691	33.72%	62.08%	239	398	681	35.10%	58.44%
Precinct Totals		**1374**	**2895**	**4561**	**30.12%**	**63.47%**	**1457**	**2686**	**4525**	**32.20%**	**59.36%**

JBER		Begich	Sullivan	Total	Begich	Sullivan	Dunbar	Young	Total	Dunbar	Young
13-245 JBER #1	23	70	239	325	21.54%	73.54%	83	204	316	26.27%	64.56%
15-300 JBER #2	23	56	224	301	18.60%	74.42%	75	187	300	25.00%	62.33%
Precinct Totals		**126**	**463**	**626**	**20.13%**	**73.96%**	**158**	**391**	**616**	**25.65%**	**63.47%**

Downtown Anchorage		Begich	Sullivan	Total	Begich	Sullivan	Dunbar	Young	Total	Dunbar	Young
18-460 Fireweed #1	19	440	221	689	63.86%	32.08%	248	168	428	57.94%	39.25%
20-535 Merrill Field	19	508	244	803	63.26%	30.39%	435	286	784	55.48%	36.48%
20-545 Downtown Anc. #2	19	262	124	397	65.99%	31.23%	253	114	391	64.71%	29.16%
20-555 Downtown Anc. #4	19	378	170	582	64.95%	29.21%	342	189	575	59.48%	32.87%
20-560 Inlet View	19	358	168	541	66.17%	31.05%	374	142	535	69.91%	26.54%
20-565 Westchester	19	221	89	317	69.72%	28.08%	220	79	315	69.84%	25.08%
Precinct Totals		**2167**	**1016**	**3329**	**65.09%**	**30.52%**	**1872**	**978**	**3028**	**61.82%**	**32.30%**

Election result percentages will not total 100% as write-in and third-party votes are included in vote total, but not individually noted.

Source: https://www.elections.alaska.gov/doc/info/ElectionResults.php

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the 2021 REDISTRICTING PLAN.	)))))	Case No.: 3AN-21-08869 CI

GIRDWOOD PLAINTIFFS' NOTICE OF FILING SECOND HENSEL LETTER

The Girdwood Plaintiffs submit the attached letter from Dr. Chase Hensel for the Court's consideration, responding to the affidavit of Mr. Torkelson filed today.

ASHBURN & MASON, P.C.
Attorneys for Louis Theiss, Ken Waugh, and Jennifer Wingard

DATED: May 13, 2022

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CERTIFICATE OF SERVICE

On May 13, 2022, a copy of the foregoing was served by e-mail on:

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May 13, 2022

The Hon. Thomas A. Matthews
825 W. 4th Ave.
Anchorage, AK 99501

Re: Errata

To the Court:

This letter responds to Mr. Torkelson's most recent affidavit, filed May 13, 2022.

Statistical accuracy requires tracking, accounting for, and minimizing uncertainty. Mr. Torkelson's second supplemental affidavit does not take into account two major sources of uncertainty.

The first is the fact that, as I have previously noted, absentee, questioned and early ballots ("unattributed ballots") are reported on the district level, but not attributed to precinct. If the number of unattributed ballots in a district is small relative to the votes cast in one of its precincts, then the unattributed votes would be a relatively small source of uncertainty in calculating how that precinct voted. If the number is large compared to the ballots cast in that precinct, this introduces a large degree of uncertainty.

Precincts JBER #1 and JBER #2 have low in-person voter turnout,[1] but their districts as a whole report a significant number of unattributed ballots.[2] On military bases, most localized issues that civilians address through voting, such as construction priorities or infrastructure maintenance and improvement, flow from priorities established by the chain of command. For example, base structures are not built or maintained by bonds; both the physical and social structure of a military base are regularized and resemble other bases of the same type. This may well be why JBER in-person voting rates are lower than civilian rates in the districts that include JBER. Supporting this supposition is the fact that, in contrast, JBER participates at a 50% higher rate of in-person voting in presidential elections. Selection of the Commander-in-Chief is a major concern for the military. The civilian voters in districts 13 and 15 also vote at a higher rate in presidential elections but the increased in-person voter turnout (33% higher) is less pronounced than for JBER. Again, although these data are suggestive, interpreting their significance is limited by the unknowns of votes unattributed to precincts.

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[1] The enclosed table shows in-person turnout for these precincts in recent election years.
[2] The number of unattributed ballots, as a percentage of registered voters, is not unusually high compared to some other districts. For example, in the years 2014, 2016, 2018 and 2020, the rates of unattributed ballots were lower in 2013 PD 13 and 15 than in 2013 PD 20.

We cannot know how many of these unattributed ballots may have been cast by eligible JBER voters, or how their votes were distributed between/among candidates. In 2013 PD 13, the number of unattributed ballots averaged 4.1 times the number of votes cast in person by JBER #1 voters. In 2013 PD 15, they averaged 4.3 times the number of votes cast in person by JBER #2 voters. Because the number of non-attributed ballots is so much higher than the number of JBER ballots cast in person, assumptions about JBER's voting patterns cannot be extrapolated from the data. This overriding uncertainty factor invalidates Torkelson's analysis.

By taking the number of in-person votes as his starting point, and disregarding the significance of unattributable votes, Torkelson introduces this first level of uncertainty.

Torkelson also incorrectly assumes that he can cut and paste parts of previous house districts, the borders of which do not closely match the new districts, to reconstruct how a newly created district would have voted if it had existed in the past. This approach compounds the statistical uncertainty introduced by ignoring the effect of votes unattributed to precinct. For example, to create his "Downtown Anchorage" district, he subtracted four precincts from District 20 and added one precinct from District 18. We do not know how much uncertainty from the unattributed ballots to allocate to added or subtracted districts. Without this knowledge, assumptions about voting patterns are based solely on in-person voting, which has the problems we have described, now compounded by the fact that the uncertainty from two districts (18 and 20) has accumulated. His creation of Chugiak/North Eagle River is somewhat more acceptable because the Eagle River area as a whole has a high percentage of in-person voting, which gives us more reliable statistics.

The apparent precision in Mr. Torkelson's numbers - calculated to two decimal places - masks the real uncertainty underlying them.

What, then, can we say with statistical confidence? All precincts in the Eagle River/Chugiak community of interest, in addition to have high rates of in-person voting, also vote quite conservatively. Downtown Anchorage, however, is made up of neighborhoods much more varied in terms of diversity and other socioeconomic factors. Their rates of in-person voting varied from 12% - 42% in the 2018 general election. They tend to vote for Democratic candidates. We do not know how a senate district that puts JBER with Downtown will vote.

The enclosed table shows the uncertainty with respect to our ability to understand JBER party voting in 2014, 2016 and 2018. This is a simple ratio of the in-person votes cast in a JBER precinct to the unattributable votes in the district. It tells us what proportion of votes we can link to one party or another, but not what proportion we can link to one precinct or another..

To clarify, this problem does not exist with the District 9 analysis in my Report. The borders of District 9 are similar to the borders of the prior district, and I conducted my analysis on a district-wide basis, not by precinct.

Sincerely,
Chase Hensel, Ph.D.

5-13-22

TABLE

Data obtained from State of Alaska, Division of Elections website, https://www.elections.alaska.gov/doc/info/ElectionResults.php

	TOTAL REG. VOTERS	TOTAL VOTES	VOTES CAST IN PERSON	VOTES IN PERSON MINUS JBER	VOTES UNATTRIBUTED TO PRECINCT	UNCERTAINTY
2018						
Precinct 13	12,804	4,138		52%	30%	1: 3.4
JBER #1	4,987	443	11%			
Precinct 15	11,902	3,656		38%	36%	1: 6
JBER #2	2,957	218	7%			
2016						
Precinct 13	12,187	6,584		73%	22%	1: 4.8
JBER #1	3,934	654	14%			
Precinct 15	11,427	4,982		56%	19%	1: 2.2
JBER #2	3,479	515	15%			
2014						
Precinct 13	11,303	4,867		46%	12%	1: 4.1
JBER #1	3,597	326	9%			
Precinct 15	11,215	4, 115		48%	11%	1: 4.7
JBER #2	3,345	302	9%			
						JBER #1 AVG. 1: 4.1
						JBER #2 AVG. 1: 4.3

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the	)	
	)	
2021 REDISTRICTING PLAN.	)	Case No. 3AN-21-08869CI
	)	

ORDER DENYING EAST ANCHORAGE MOTION TO REJECT AMENDED REDISTRICTING PLAN BUT GRANTING IN PART CLARIFICATION

I. INTRODUCTION

On April 18, 2022, the East Anchorage Plaintiffs filed a *Motion to Reject Amended Redistricting Proclamation Plan and for Modification of Order on Remand.* The following day, the Alaska Redistricting Board (Board) filed its Opposition, and East Anchorage filed its Reply April 20, 2022. East Anchorage asks the Court to reject the Amended Proclamation plan for failure to comply with the March 30, 2022 Order as it relates to the Anchorage Senate Districts. East Anchorage also moves the Court to modify the Order to adopt a proposed map identified as "Option 2." Otherwise, East Anchorage Plaintiffs ask the Court to modify the Order to clarify that "all the unconstitutional pairings underlying Senate District K must be corrected."

II. ARGUMENT

A. The Court Resolves East Anchorage's Motion Upon Review of the Entire Record

As a threshold matter, the Court is cognizant of the Board's assertion that it should wait for the record to proceed with a decision on East Anchorage's motion. The parties' positions were clarified at oral argument to reflect the shared sentiment that, to the extent that the Court resolves the motion by simply clarifying the its past Orders, it is not necessary to wait to receive and review the record. By contrast, parties seem to agree that should the Courts' resolution more accurately be described as a review of the April 15, 2022 Proclamation Plan, the Court should do so only once it has had the opportunity to review the full record.

In light of East Anchorage's arguments and the questions they raise, it would insufficiently address the entirety of East Anchorage's motion if the Court were to resolve the Motion with only an order clarifying the confines of past Orders. Therefore, the Court opted to hold off on a decision until receiving the record, and sets forth its decision having reviewed and considered the record submitted by the Board.

B. The Court's Orders Did Not Mandate that the Board Pair, or Decline to Pair, any Specific Districts as Such a Mandate would Fall Outside of this Court's Authority

East Anchorage interprets this Court's February 15, 2022 Order to mandate that House District 24, Eagle River Valley, and House District 10, North Eagle River/Chugiak, be combined into one Senate District. Plaintiffs clarified at oral argument that they understood the Court's Order to conclude that any senate district that split House Districts 24 and 10 was unconstitutional. The Court notes that house district 24, North Eagle River, remains paired with House District 23, the JBER District, comprising Senate District L. House District 10 is no longer paired with South Muldoon, but is now paired with House District 9, which comprises a portion of South Anchorage and Girdwood.

By contrast, the Board argues that East Anchorage challenged Senate District L, the JBER/Eagle River district that is still paired in the final plan, and the Court did not determine it was unconstitutional.[1] Likewise, the Court did not conclude that the two Eagle River house districts must be paired into one senate district, or otherwise conclude that any other pairing was unconstitutional. In so doing, the Board argues that the East Anchorage Plaintiffs were denied the relief they seek, said relief being that the Court pair certain house districts together, and as such as such cannot bring it in a subsequent action, as they are attempting to do here.

East Anchorage's argument emanates from its interpretation of this Court's February 15, 2022 Order, and subsequent March 30, 2022 Order. Thus, it is necessary to briefly clarify the confines of both. The Court's past orders do not, and cannot, set forth a mandate that any district must, or cannot be paired. The Court's Order only declared

[1] ARB's Opposition to East Anchorage Plaintiff's Motion to Reject Amended Proclamation Plan at 2 [hereinafter Opposition].

Senate District K in violation of Alaska's Equal Protection Clause and required changes be made to bring it into compliance with the Constitution. To the extent that either party argues that the Court did, or did not, require a particular pairing, they are mistaken. The Court is precluded from drawing districts.[2] Thus, the Court cannot, and did not, mandate that any districts be paired, or specifically decline to do so. The Court can only review the map for constitutionality. It is the Board's duty to draw the boundaries.

C. The Board Did Not Exceed its Authority on Remand

East Anchorage argues that the Board exceeded its authority on remand, arguing that the Board was limited to disrupting the Senate Districts only to the extent necessary to fix the constitutional infirmity.[3] The bigger question seems to be when the Board receives a remand, what the scope of that remand is. It is unclear to what extent the Board can make changes that go beyond what is necessary to correct the constitutional defect, and deciding this issue would require the Court to determine where the line is.

To be sure, the Court reviews the Board's plan "to ensure that the Board did not exceed its delegated authority and to determine if the plan is 'reasonable and not arbitrary.'"[4] In the context of a remand to the trial court from an appellate court, "[w]hen an appellate court issues a specific mandate a trial court has no authority to deviate from it."[5] The Court cannot mandate that the Board draw districts with specific boundaries or pair particular house districts.[6]

In 2011, the Board was required to redraw House Districts. However, the Board was required to redraw all House Districts, even unchallenged districts, in order to follow

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[2] *In re 2011 Redistricting Cases*, 294 P.3d 1032, 1037 (Alaska 2012) (The Court may not "substitute its judgement as to the sagacity of a redistricting plan for that of the Board, as the wisdom of the plan is not a subject for review."); *Groh v. Egan*, 526 P.2d 863, 889 (Alaska 1974) ([I]t is not our function to develop apportionment schemes for the State of Alaska. We are limited in review to determining whether a plan adopted by the governor suffers state or federal constitutional defects alleged by the parties in the litigation before us. . . . [p]articularly where specific objections have not been presented to us, we do not believe it appropriate to substitute ou[r] judgment for that if the constitutionally empowered authority regarding the wisdom of delicate adjustment to be made in political boundaries.").
[3] Motion to Reject Proclamation Plan at 9.
[4] *In Re 2011 Redistricting Cases* 294 P.3d 1032, 1037 (Alaska 2012).
[5] *State Com. Fisheries Entry Comm'n v. Carlson*, 65 P.3d 851, 873 (Alaska 2003).
[6] *In re 2011 Redistricting Cases*, 294 P.3d 1032, 1037 (Alaska 2012).

the *Hickel* process, which it failed to do the first time. *Hickel's* strictly procedural mandate is in contrast to the situation here, where the Board was directed to correct a specific unconstitutional pairing, not redraw districts with a different process. The Court in *In Re 2011* found that because the Board declined to redraw all districts that were originally drawn considering the VRA first, rather than following the *Hickel* process, and only redrew a small amount, the Court was left with "nothing to show that if the Board had considered the Alaska constitutional requirements first, as instructed, these districts would have remained the same."[7]

Yet, the remand before this Court is dissimilar to *In Re 2011*. *In Re 2011* required the Board to effectively go back to the drawing board. This Court's Order did not require that. It also did not preclude that. The Court cannot dictate the specific changes that occur; it can only determine whether a redistricting map is constitutional or not. It does not comport with that principle to interpret the Order to dictate that Option 2 had to be adopted.

Further, even assuming this Court had effectively mandated a specific pairing by concluding that any pairing but Eagle River and Eagle River would be unconstitutional, creating that pairing would have created a cascading effect on the map and required a number of other districts to be changed as well. It is of note that both map 2 and map 3B both changed only four Senate Districts.[8] There is an equal cascading effect evident to both maps. It is unlikely the Court could have mandated the Board correct the constitutional infirmity, but limited the Board to a specific number of changed districts. That would likely be beyond the Court's authority. The Court declared Senate District K was unconstitutional, and the specific constitutional infirmity identified by the Court has been remedied. To the extent that parties argue that Option 2 was the better option, that is not for the Court to decide.

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[7] *Id.* at 1038.
[8] Tr. 19:16-21 (April 13, 2022); ARB 2000966.

D. The Court's Previous Finding of Illegitimate Purpose May be a Consideration Upon Review of a New Pairing, but Does Not Justify Forgoing the Remaining Analysis Under the Equal Protection Clause

East Anchorage also contends that the revised Proclamation Plan "accomplishes the Board's unrelenting mission to provide Eagle River voters with more representation than other Anchorage residents."[9] Plaintiffs argue that this is a "continuation of intent," intent which has already been proven, akin to the Fruit of the Poisonous Tree.

In response, the Board works through the Equal Protection Analysis in light of what it insists are new facts and a new record that was developed on remand. The Court, in concluding there was illegitimate intent, applied the neutral factors test set forth in *Kenai Peninsula Borough.* This Court found evidence of secretive procedures, regional partisanship, and boundaries that inexplicably ignored communities of interest.

The Board asserts that in creating the amended Proclamation Plan, there is no longer evidence of secretive procedures. Whereas in creating the initial Plan, the Board did not make clear which proposals it was considering adopting, took minimal public testimony, and seemed to come to some kind of agreement between a majority of parties, all of which left the Court with the distinct impression that there were secretive procedures that took place. On remand, the Board publicly deliberated and proposed two plans, "Option 2" and "Option 3B," the latter of which was ultimately adopted as the final proclamation. The Board published these plans to the public,[10] noticed the public of the opportunity to provide testimony,[11] and took ample written and spoken testimony.[12] A majority of the Board then voted to adopt Option 3B, though two Board members objected.[13] This open process, the Board now argues, belies any argument that secretive procedures were at play.

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[9] Motion to Reject Proclamation Plan at 8.
[10] Tr. 113:24-25, 114:1 (April 6, 2022); ARB 2001828.
[11] ARB 2001831; ARB 2001828.
[12] ARB 2001227-2001824; *see* ARB 2000076-ARB 2000083.
[13] Tr. 68:16-69:8 (April 13, 2022), ARB 2001016.

The Board continues to argue that there is no evidence of regional partisanship regarding JBER, or any other district that is potentially impacted by Eagle River's Senate pairings. It argues that the same is true as to evidence of communities of interest. Finally, the Board argues that the Court cannot revisit East Anchorage's grievances, as East Anchorage is asking the Court to provide relief on issues it already considered, and already declined to provide.

East Anchorage, however, takes a different approach, relying on the Court's initial conclusion that Senate District K was drawn with illegitimate purpose. East Anchorage argues that the intent behind the illegitimate purpose carries over where the Board continued to attempt to find a way to keep Eagle River split into two districts and allow it "more representation."[14] The premise is so long as the intent continues, the constitutional violation continues as well. Pertinent to this analysis is that no finding of dilutive effect is required in the neutral factors test set forth in *Kenai.* Once illegitimate *purpose* is found, the burden shifts to the Board.

i. Discriminatory Intent in Alaska and Related Federal Cases

Under Alaska's Equal Protection Clause, challengers of otherwise neutral state action must show that the government acted with "a discriminatory purpose."[15] In the redistricting context, the Alaska Supreme Court has described "a voter's right to an equally geographically effective or powerful vote" as "a significant constitutional interest."[16] The Alaska Redistricting Board ("Board") therefore "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."[17] Whether the Board's purpose is discriminatory depends on any "proof of a legitimate purpose" or "a substantial relationship between the Board's means and ends."[18] The Court has

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[14] Motion to Reject Proclamation Plan at 8.
[15] *State v. Schmidt*, 323 P.3d 647, 659 (Alaska 2014).
[16] *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1372 (Alaska 1987).
[17] *In re 2001 Redistricting Cases*, 44 P.3d 141, 144 (Alaska 2002). The Court cited the concurring opinion in *Karcher v. Daggett* for the notion that a "group of voters must establish that it belongs to [a] 'politically salient class' as [the] first element of [a] claim of invidious discrimination." 462 U.S. 725, 754 (1983) (Stevens, J., concurring).
[18] *Kenai Peninsula Borough*, 743 P.2d at 1373 n.40.

recognized that one way to "raise an inference of intentional discrimination" is by showing that "a redistricting plan unnecessarily divides a municipality in a way that dilutes the effective strength of municipal voters."[19] Such regional gerrymandering can be rebutted by showing that the "intentional discrimination resulted in increased proportionality of geographic representation in the state legislature."[20] *In re 2001 Redistricting Cases* also clarifies that this inference extends to any "politically salient class," not just boroughs and municipalities.[21] Although the Court has previously confronted arguments of "regional partisanship," *i.e.*, favoring certain geographic communities over others, in the equal protection context, "political partisanship" has not yet been squarely addressed.[22]

There are multiple ways of proving discriminatory intent. While the easiest may be direct evidence of discriminatory intent,[23] intent can be shown through circumstantial evidence as well. The Court has previously pointed to the existence of "secretive procedures" and boundaries that "selectively ignore political subdivisions and communities of interest" as indicia of "an illegitimate purpose."[24] And in *Village of Arlington Heights v. Metropolitan Housing Development Corp.*,[25] the U.S. Supreme Court detailed several factors that it had previously used when determining the existence of discriminatory intent. These factors include: (1) discriminatory effect;[26] (2) the historical background, *i.e.*, whether the action is the latest in "a series of official actions taken for invidious purposes"; (3) the preceding sequence of events, *i.e.*, the timing of the action relevant to other events; (4) departures from normal procedures; (5) departures from substantive norms, *i.e.*, whether the factors normally relevant would counsel a different

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[19] *In re 2001 Redistricting Cases*, 44 P.3d 141, 144 (Alaska 2002); *accord Kenai Peninsula Borough*, 743 P.2d at 1370-73.
[20] *Kenai Peninsula Borough*, 743 P.2d at 1372.
[21] *In re 2001 Redistricting Cases*, 44 P.3d at 144.
[22] *Cf. Rucho v. Common Cause*, 139 S. Ct. 2484, 2498-502 (2019) (holding that partisan gerrymandering claims are nonjusticiable under the federal Equal Protection Clause).
[23] *See, e.g.*, *Kenai Peninsula Borough*, 743 P.2d at 1372 ("A totality of the circumstances assessment of the Board's reapportionment process is unnecessary here because the Board's intent was discriminatory on its face.").
[24] *Id.*
[25] 429 U.S. 252 (1977).
[26] There are also rare cases where "a clear pattern" emerges in the application of an otherwise facially neutral law that is "unexplainable on grounds other than [intentional discrimination]," and thus proof of discriminatory effect alone is sufficient. *Id.* at 266; *see also Yick Wo v. Hopkins*, 118 U.S. 356 (1886) (laundromat licensing); *Gomillion v. Lightfoot*, 364 U.S. 339 (1960) (redistricting).

conclusion; and (6) legislative history, *e.g.*, "contemporary statements by members of the decisionmaking body."[27] And federal appellate courts have also recognized additional factors: "(6) the foreseeability of the disparate impact; (7) knowledge of that impact, and (8) the availability of less discriminatory alternatives."[28]

ii. This Court's FFCL and Order and the Effect of the Alaska Supreme Court's Decision on Appeal

Although not explicitly stating as much, this Court previously relied on three of the types of circumstantial evidence described in *Arlington Heights* to reach its conclusion that the Board acted with discriminatory intent.[29] For example, the Board never stated that its intent was to create two solidly Republican senate districts, but Member Marcum's statements on the record strongly support this inference.[30] The use of executive sessions and the immediate adoption of senate pairings without discussion on the record likewise evinced departures from the usual procedures.[31] And the reasons the Board Members gave to explain the pairings departed greatly from public testimony and from the relatively limited factors that govern senate pairings under the Alaska Constitution.[32]

Several of this Court's findings, affirmed on appeal, are also relevant here. First, this Court found that both Eagle River and Muldoon constitute distinct "communities of interest."[33] Although it was ostensibly part of the first round of litigation, the parties presented no evidence on JBER and this Court never found that JBER was itself a "community of interest." Regardless, JBER is largely self-contained within its own house district, so there is no danger of it being split and paired with other districts in such a way as to dilute its voting strength.[34] And although the Alaska Supreme Court affirmed the

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[27] *Arlington Heights*, 429 U.S. at 267-68; *see also Alaska Inter-Tribal Council v. State*, 110 P.3d 947, 960-62 (Alaska 2005) (applying *Arlington Heights* framework).
[28] *Greater Birmingham Ministries v. Sec'y of State for State of Alabama*, 992 F.3d 1299, 1322 (11th Cir. 2021).
[29] This Court also applied the *Arlington Heights* analysis in its decision on the Girdwood challenge, also issued today.
[30] Findings of Face and Conclusions of Law and Order at 68-69. Relying on *Kenai*, this court described such statements as evincing "regional partisanship." [hereinafter FFCL and Order].
[31] FFCL and Order at 65-66.
[32] FFCL and Order at 70; *see also* Alaska Const. art. VI, § 6.
[33] FFCL and Order at 68.
[34] This is particularly telling as Board Members after remand repeatedly referred to JBER as a "community of interest" to justify pairing it with Eagle River. The Board may be estopped from asserting such rationales

"determination that the Board's Senate K pairing of house districts constituted an unconstitutional political gerrymander," nothing in the order addresses the Court's reasoning.[35]

Second, this Court held that "the Board intentionally discriminated against residents of East Anchorage in favor of Eagle River, and this intentional discrimination had an illegitimate purpose."[36] This Court described that the Board's purpose in creating Senate District K was to "give[] Eagle River more representation,"[37] whereas the dilution of Muldoon was "a down-the-road consequence."[38] In other words, this Court never explicitly ruled that Muldoon was an intended target of the Board's improper purpose, but that any dilution was essentially collateral damage. Again, the Alaska Supreme Court affirmed that Senate District K "violat[ed] equal protection under the Alaska Constitution," but it did not expressly identify the Board's discriminatory purpose.[39] The Court cited *Hickel*'s definition of gerrymandering, which in turn quoted the concurrence from *Carpenter v. Hammond*.[40] That definition states that gerrymandering requires acting "with the purpose of bestowing advantages on some and thus disadvantaging others," while observing that the intent "to benefit the political party in power" is an improper motive that may be relatively easy to prove.[41] Although the Board did its utmost to dispel any such negative inference by at least eliminating the appearance of secretive procedures and not holding executive sessions this time, the fact that the Board did so before cannot be ignored.

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now that were not actually proven, much less asserted, in the first round of litigation.

[35] Order, *ITMO 2021 Redistricting Cases*, S-18332, at 6 (Alaska Mar. 25, 2022). Nor did the Court use the term "regional partisanship." Without the Court's full opinion, this court is left to an educated guess at what precise "constitutional error" must be fixed on remand.

[36] FFCL and Order at 70.

[37] FFCL and Order at 69.

[38] FFCL and Order at 68.

[39] Order, *ITMO 2021 Redistricting Cases*, S-18332, at 6 & n.14 (Alaska Mar. 25, 2022) (supporting conclusion that "partisan gerrymandering" is cognizable under the Alaska Constitution).

[40] *See Hickel v. Se. Conf.*, 846 P.2d 38, 45 (Alaska 1992), *as modified on reh'g* (Mar. 12, 1993).

[41] *Carpenter v. Hammond*, 667 P.2d 1204, 1220 (Alaska 1983) (Matthews, J., concurring).

iii. The Lingering Effect of Prior Discriminatory Intent

The East Anchorage plaintiffs (and the Girdwood challengers) raise an interesting argument, *i.e.*, that the JBER-Eagle River pairing was the result of a tainted process and thus "fruit of the poisonous tree." In essence, because this court already found that the Board acted with discriminatory intent by creating Senate District K to give Eagle River more representation, the Board cannot dispel this unconstitutional intent by simply readopting the same JBER-Eagle River pairing with more discussion.

Courts applying the *Arlington Heights* factors have likewise concluded that subsequent events cannot always remove the effect of prior discriminatory intent. In *Hunter v. Underwood*, the U.S. Supreme Court confronted a provision of the Alabama Constitution of 1901 that disenfranchised those with convictions for crimes of "moral turpitude."[42] Although the Court reasoned that the language was facially neutral, the challengers provided ample evidence under the *Arlington Heights* factors that the voting restriction "was enacted with the intent of disenfranchising blacks."[43] Indeed, the original language of the provision included the crime of "miscegenation," although later courts had apparently already struck down that crime and others.[44] The State thus argued that despite the obvious discriminatory intent in 1901, "events occurring in the succeeding 80 years had legitimated the provision."[45] But the Court was not convinced:

> Without deciding whether [the constitutional provision] would be valid if enacted today without any impermissible motivation, we simply observe that its original enactment was motivated by a desire to discriminate against blacks on account of race and the section continues to this day to have that effect. As such, it violates equal protection under *Arlington Heights*.[46]

And more recently, district courts applying *Arlington Heights* and *Hunter* have struck down longstanding immigration laws, initially passed in the 1920s and 1950s amid

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[42] 471 U.S. 222, 224 (1985).
[43] *Id.* at 229.
[44] *Id.* at 226, 233.
[45] *Id.* at 233.
[46] *Id.*; *cf. Cotton v. Fordice*, 157 F.3d 388, 391 n.8 (5th Cir. 1998) (distinguishing *Hunter* by noting that the Court only discounted "involuntary" pruning of the language by courts as opposed to legislative or voter-approved amendments and reenactments).

widespread, open animus toward immigrants.[47] But, the US Supreme Court has also cautioned against imputing the motivations of prior legislatures to subsequent acts. *Abbott v. Perez* is particularly relevant as it deals with discriminatory intent in redistricting.[48] This Court has discussed *Abbott* and its holding on bad intent in more detail in the decision issued today in the Girdwood challenge, so that explanation and discussion is simply incorporated here.

In summary, the Board's prior discriminatory intent remains a "factor" to be considered alongside all other *Arlington Heights* factors, but the bad prior intent is not dispositive. East Anchorage, like the Girdwood challengers still ultimately bears the burden of proving that discriminatory intent was a "motivating factor" for the subsequent action.[49]

Returning to the question presented here, this Court found that the Board was motivated by a desire to effectively bolster the voting strength of Eagle River and give it two Senate seats. In light of secretive procedures employed in the first round of redistricting, this Court reasoned that the Board (or at least three members thereof) acted with discriminatory intent. The Alaska Supreme Court then affirmed that Senate District K was a "political gerrymander." Thus, prior intent that has been held unconstitutional is certainly a factor that must be considered when reviewing the Board's updated map.

But East Anchorage's arguments go too far. East Anchorage argues that it has already proven that the Board's intent was "unlawful," and thus "there is no requirement" that they must "continue to prove the dilutive and discriminatory effect resulting from the Board's unconstitutional and discriminatory intent." Because "the Board's intent was to dilute the voting power of a geographic group compared to another," East Anchorage

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[47] *See, e.g.*, *United States v. Carrillo-Lopez*, 555 F. Supp. 3d 996, 1019 (D. Nev. 2021) (finding that Congressional reenactment of immigration laws in 1952 "not only failed to reconcile with the racial animus of the Act of 1929, but was further embroiled by contemporary racial animus"). *But see United States v. Hernandez-Lopez*, No. CR H-21-440, 2022 WL 313774, at *5-6 (S.D. Tex. Feb. 2, 2022) (refusing to consider the intent of the 1929 Congress and finding no discriminatory intent in the same statute).
[48] *Abbott v. Perez*, 138 S. Ct. 2305, 2313 (2018).
[49] *See Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977) (clarifying that discriminatory intent need not be the "dominant" or "primary" concern, but must be a "motivating factor").

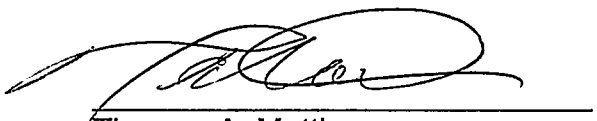
argues that "[t]he only way to cure this illegitimate 'purpose' is to undo its execution."[50] But this position is largely identical to that rejected by the *Abbott* Court. East Anchorage asks this Court to impute the Board's prior intent to its subsequent acts and shift the burden onto the Board to explain how it "cured" any constitutional infirmities. In effect, East Anchorage is now asking the Court to foreclose any further inquiry. That is simply a step too far. Instead, this Court must evaluate the actions of the Board following remand in light of the entire record.[51] Even a gerrymandering Board is entitled to Due Process and an opportunity to defend its record on remand. Under the circumstances, it would thus be improper to apply the Board's intent from November 2021 as the sole deciding factor when reviewing the Board's subsequent actions.

III. CONCLUSION

Ultimately, this Court does not agree with East Anchorage's premise that this Court's illegitimate purpose finding carries over in a dispositive fashion to any decision made on remand. Therefore, East Anchorage's Motion to Reject Proclamation Plan is DENIED. Yet, plaintiffs are encouraged to review the Court's Order relative to the Girdwood plaintiffs challenge, as the conclusion of that order resolves issues important to East Anchorage's motion here.

IT IS SO ORDERED.

DATED at Anchorage, Alaska this 16th day of May, 2022.



Thomas A. Matthews
Superior Court Judge

[50] Motion to Reject Proclamation Plan at 13.

[51] *Abbott*, 138 S. Ct. at 2324 (recognizing a "presumption of legislative good faith" when reviewing redistricting plans); *cf. Luper v. City of Wasilla*, 215 P.3d 342, 345 (Alaska 2009) (applying "a presumption of validity" to agency decisions); *Treacy v. Municipality of Anchorage*, 91 P.3d 252, 260 (Alaska 2004) ("A duly enacted law or rule, including a municipal ordinance, is presumed to be constitutional.").

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the	)	
	)	
2021 REDISTRICTING PLAN.	)	Case No. 3AN-21-08869CI
	)	

ORDER RE GIRDWOOD CHALLENGE TO AMENDED PLAN

This is the second time this year that this Court has been called upon to determine whether the Alaska Redistricting Board fulfilled its constitutional responsibility in drawing the Senate map for Anchorage voters. After this Court found the Board failed in its first attempt, the Alaska Supreme Court confirmed the board had engaged in partisan gerrymandering. Following remand to the Board, a new map was drawn. This time, the process occurred mostly in public. But the Amended Plan still provides Eagle River with effective control of two senate seats. Girdwood Plaintiffs have challenged the map claiming it still amounts to a partisan gerrymander. This Court agrees.

At the outset, it is worth restating the fundamental goal of redistricting and legislative reapportionment: to ensure that all citizens of the state have a fair and equal opportunity to choose their elected representatives. The right to vote is one of the essential rights guaranteed by both the U.S. and Alaska Constitutions, and is essential to the principal of our democratic government. In the process of redistricting, the Board is required to produce a plan and draw a map which fairly divides Alaska into legislative seats using criteria set forth in the Alaska Constitution. In doing so, the Board must avoid partisan gerrymandering and adhere to the principles of equal protection. "There are two basic principles of equal protection when it comes to voting rights, namely that of 'one person, one vote'—the right to an equally weighted vote—and of 'fair and effective representation'—the right to group effectiveness or an equally powerful vote."[1]

[1] *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1371 (Alaska 1987).

This litigation has centered on this fundamental constitutional right. Having once again considered the record as a whole, this Court is left with the firm conviction that the Board's 2022 Amended Proclamation Plan of Redistricting violates the equal protection rights of the Girdwood plaintiffs and should not be implemented.

I. BACKGROUND AND HISTORY OF THE BOARD'S WORK

A. The 2021 Proclamation

On November 10, 2021, the Board adopted its 2021 Final Redistricting Plan and Proclamation ("2021 Redistricting Plan").[2] As it relates to the present challenge, the November 10 Redistricting Plan contained Senate District L, consisting of the pairing of the house districts encompassing Joint Base Elmendorf-Richardson ("JBER") with Eklutna/Chugiak/North Eagle River, and Senate District K, which paired the Eagle River Valley (South Eagle River) house district with the East Anchorage house district.

B. The Litigation

Multiple legal challenges were filed against the 2021 Redistricting Plan,[3] and after a trial on those challenges, on February 15, 2022, this Court issued its Findings of Fact and Conclusions of Law. As it relates to these proceedings, the Court concluded that Senate District K was invalid as a result of partisan gerrymandering.[4]

This Court provided an extensive discussion of the Board's work leading to the 2021 Proclamation in its initial decision. The following discussion provides context for the analysis which follows. As the Court has considered the entire record of these proceedings in addressing the Girdwood challenge, the Court's previous Findings of Fact and Conclusions of Law are incorporated by Reference.[5]

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[2] Findings of Fact and Conclusions of Law, at 21 (Feb. 15, 2022) ("FFCL").
[3] FFCL at Appendix D.
[4] FFCL at 169-70.
[5] This decision incorporates and builds upon the Court's FFCL, with respect to all parts except the limited portions of the rulings on House Districts 3, 4, and 36 that were reversed by the Alaska Supreme Court in

As a brief overview of the context in which this challenge was brought, on February 15, 2022, this Court ruled that the Redistricting Board—the entity charged under the Alaska Constitution with making fair, equitable, representative legislative maps for the State of Alaska—had engaged in partisan gerrymandering in violation of the Constitution's Equal Protection Clause.[6] Specifically, the Court determined the Board had impermissibly divided the two Eagle River house districts to increase Eagle River's Senate representation and dilute the vote in East Anchorage for partisan political reasons.[7] While the Court upheld the vast majority of the Board's work, particularly with respect to redistricting of the 40 House districts, the Court noted the "substantial evidence of secretive procedures, regional partisanship, and selective ignorance of political subdivisions and communities of interest" on a component of the senate map: the favorable treatment of the Eagle River districts to the detriment of East Anchorage.[8] It remanded the Anchorage Senate Pairings to the Board "to craft a pairing that complies with Alaska's Equal Protection Clause."[9]

C. Alaska Supreme Court Review

Following expedited review by the Alaska Supreme Court, this Court's conclusion "that the Board's Senate K pairing of house districts constituted an unconstitutional political gerrymander violating equal protection under the Alaska Constitution" was upheld by the Alaska Supreme Court.[10] The matter was then remanded to this Court for further action.

D. Remand to the Board

On March 30, 2022, this Court remanded the matter to the Board with instructions:

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its March 25, 2022 Order.
[6] FFCL at 73.
[7] FFCL at 69-70.
[8] FFCL at 70.
[9] FFCL at 73.
[10] ITMO 2021 Redistricting Cases, S-18332 Order at 6 (March 25, 2022).

> 1) To correct the Constitutional errors identified by this Court and the Supreme court in Senate District K; 2) To redraw House District 36 to remove the "Cantwell Appendage", and 3) To make other revisions to the proclamation plan resulting or related to these changes.

This Court retained jurisdiction to address any further issues arising from the Board's corrections or related issues in a timely manner and directed the Board to submit a status update by April 15, 2022.

II. THE BOARD'S WORK FOLLOWING REMAND

As explained in further detail below, upon remand, the Board adopted a more public process and took extensive public testimony on two map options. Ultimately, the Board (by a the same 3:2 majority) members adopted the plan option which once again provides Eagle River control of two senate seats. This time, the Board paired one Eagle River district (District 10) with the district of South Anchorage/Girdwood/Turnagain Arm (District 9) to create Senate District E, instead of pairing it with East Anchorage. The Board also paired North Eagle River/Chugiak (District 24) with JBER/downtown Anchorage/Government Hill (District 23) to once again create Senate District L.

On April 2, 2022, the Board met and reviewed the Alaska Supreme Court's decision and this Court's remand order.[11] The Board also took public testimony at this April 2 meeting.[12] Much of the testimony favored quickly adopting senate pairings that complied with the remand order, pairing the Muldoon house districts together and the Eagle River house districts together. The Board's attorney provided a litigation summary, stating in relevant part that the Court ordered the Board to "address the constitutional deficiency in Senate District K (Eagle River Valley and South Muldoon) . . . recognizing that those changes will impact – they'll have some ripple effects."[13] The Board's counsel proposed a process that would involve inviting

[11] ARB2000076 (April 2 Meeting Agenda); *see also* ARB2000084-000177 (April 2 Meeting Transcript).
[12] ARB2000076 (April 2 Meeting Agenda); *see also* ARB2000084-000177 (April 2 Meeting Transcript).
[13] ARB2000153.

the public to offer solutions to the unconstitutional Senate District K, offer feedback on proposed solutions, and then the Board would adopt a final plan.[14]

On April 4, the Board met to discuss and adopt the process by which it would take public testimony and adopt revisions to the 2021 Redistricting Plan that complied with the courts' orders.[15] The Board adopted a procedure to address the discrete Cantwell issue that had been remanded and resolve it at the meeting on Wednesday, April 6.[16] The Board then discussed options for senate pairings, including the pairings previously proposed by Member Bahnke.[17] It then took public testimony, much of which largely favored the "Bahnke map."[18] Other members of the public were opposed to both the pace of the process, and the substance of the Bahnke map. One witness who called and wrote comments several times argued the Bahnke map had been "secretly orchestrated" and amounted to partisan gerrymandering because of the "one-sided testimony" the previous day.[19] Similar sentiments were expressed by Assembly Member Jaime Allard. Member Allard also urged the board to "slow the process down" to allow time for additional plans to be developed and for additional public input.[20]

On April 5, 2022, the Board took additional public testimony.[21] The majority of the testimony related to senate pairings and favored the "Bahnke map."[22] Toward the end of the meeting, the Board discussed specific senate pairing proposals—to include Member Bahnke's proposal, a proposal by the East Anchorage Plaintiffs, and a proposal by Randy Ruedrich.[23] The Board established a schedule for hearings to

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[14] ARB2000153-54.
[15] ARB2000077 (April 4 Meeting Agenda); *see also* ARB2000178-000284 (April 4 Meeting Transcript).
[16] ARB2000214, ARB2000222.
[17] ARB2000247-50.
[18] ARB2000261-66.
[19] ARB2000258-259.
[20] ARB2000259-261.
[21] ARB2000287, ARB2000291.
[22] ARB2000292-384.
[23] ARB2000408-13.

receive public comment on senate pairings before making its decision, and adjourned for the day.[24]

On April 6, the Board again met and took public testimony on changes to House Districts 29, 30, and 36 to fix the "Cantwell Appendage."[25] The Board also discussed different Anchorage senate pairings proposals.[26] Randy Ruedrich of Alaskans for Fair and Equitable Redistricting ("AFFER") testified and offered his proposed plan, which would pair Eagle River Valley with South Anchorage/Girdwood/Turnagain Arm, and North Eagle River with North Anchorage/Government Hill/JBER.[27] Member Marcum also noted that she had independently developed the same pairing plan that Mr. Ruedrich was then proposing.[28]

The Board originally planned to adopt three proposed plans to pair the 16 house districts within the Municipality of Anchorage and Whittier into 8 senate districts: "Option 1," "Option 2," and "Option 3B."[29] But, after considering that Option 1 broadly re-paired senate districts in Anchorage unrelated to and not resulting from fixing Senate District K, the Board voted to withdraw Option 1 from its consideration.[30]

This left the Board considering Option 2 and Option 3B as the Board's proposed plans for Anchorage senate pairings.[31] Both proposed plans resulted in four new senate districts stemming from the revision to Senate District K, but the plans differed

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[24] ARB2000413-17.
[25] ARB2000079 (April 6 Meeting Agenda); *see also* ARB2000446-000599 (April 6 Meeting Transcript). All Board members supported the solution except Chair Binkley, who expressed that he "disagreed with [the Alaska Supreme Court's order]," and therefore he could not support removing Cantwell from District 36. ARB2000455, ARB2000460.
[26] ARB2000079 (April 6 Meeting Agenda); *see also* ARB2000446-000599 (April 6 Meeting Minutes).
[27] ARB2000461-68
[28] ARB2000470.
[29] ARB2000533 (April 6 Meeting Transcript).
[30] ARB2000559-ARB2000560 (April 6 Meeting Transcript).
[31] ARB2000559-ARB2000560 (April 6 Meeting Transcript) (Chairman Binkley: "If there's no objection to the motion, the motion is adopted, and we now have before us two plans, option 2 and option 3 bravo.").

in composition.[32] Both proposed plans also resolved the problems with Senate District K in the same manner by pairing North and South Muldoon into a senate district.[33]

Option 2 proposed four new Senate districts, comprised of: (1) JBER/Downtown district, pairing House Districts 23 and 19; (2) an Eklutna/Eagle River/Chugiak district, pairing House Districts 10 and 24; (3) Mountain View/U-Med district, pairing House Districts 20 and 18; and (4) Senate District K, pairing North Muldoon and South Muldoon.

Option 3B's four new Senate districts that differed from the previous 2021 Redistricting Plan were: (1) Senate District K, pairing House Districts 21 and 22 (North Muldoon and South Muldoon); (2) Senate District E, pairing House Districts 9 (South Eagle River) with and House District 10 (South Anchorage/Girdwood/Whittier); (3) Senate District F, pairing House Districts 11 and 12 (Abbott Loop/Elmore with O'Malley); and (4) Senate District G, pairing House Districts 10 and 13 (Oceanview and Taku).

On April 7, 8, and 9, the Board met and took additional public testimony on Options 2 and 3B.[34] Neither option garnered total support of all the public. There was public testimony in favor of and against both proposals.[35]

The Board also received written testimony from the public. Again, numerically, the majority of the substantive comments favored Option 2, as it preserved the Eagle River community of interest within a single senate district, while maintaining other pairings that preserved downtown communities and the logical connection between South Anchorage, Girdwood, and Turnagain Arm.

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[32] ARB20001828 (ARB Website Showing Options 2 and 3B).
[33] ARB20001828 (ARB Website Showing Options 2 and 3B).
[34] ARB2000080 (April 7 Meeting Agenda); *see also* ARB2000600-000696 (April 7 Meeting Transcript); ARB2000081 (April 8 Meeting Agenda); *see also* ARB2000697-000813 (April 8 Meeting Transcript); ARB2000082 (April 9 Meeting Agenda); *see also* ARB2000814-000946 (April 9 Meeting Transcript).
[35] *See generally* ARB2001094-001226.

Community groups, including local community councils, and the Anchorage Assembly weighed in to support a preferred alternative. Each of the identified groups favored Option 3B, although Mayor Bronson vetoed the Anchorage Assembly resolution.[36] Assembly Member Christopher Constant, who had chaired the MOA reapportionment process, submitted a letter to the Board explaining the process.[37] His letter explained that MOA had considered an option that would pair Eagle River with a South Anchorage neighborhood, and that it had been a "lightning rod" for overwhelming opposition.[38]

Other public testimony and comments emphasized the connection between Eagle River and JBER, or raised concerns of diminishing the military/JBER vote if JBER was paired with downtown. Still other testimony emphasized similarities between Eagle River and the Girdwood area as "rural" communities.

On April 13, the Board met and discussed the competing proposals for Anchorage senate pairings.[39] Each member stated their rationale for their vote on the record.[40] The deliberations were sometimes heated. Members Bahnke and Borromeo vigorously urged the Board to "do its duty" on remand and not perpetuate its gerrymander by continuing to split Eagle River to increase its representation.[41]

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[36] The Mayor's veto was overridden by the Assembly the next day. See Exhibit 5.
[37] ARB2001391-1481.
[38] According to Assembly Member Constant, "One of the maps drafted by the contractors and an additional map submitted by a member of the public paired Chugiak Eagle River with Hillside in South Anchorage. That pairing was a lightning rod causing scores and scores of comments in opposition from the public. The comments came in through all channels. Phone calls to members, emails through our regular email system. Comments posted to the portal, and substantial in person testimony in opposition. The opposition was overwhelming that the pairing of Eagle River and Hillside is inappropriate and shouldn't be promulgated." ARB2001392. Assembly Member Constant included with his letter extensive documentation of comments the Assembly had received on the Eagle River issue. ARB2001391-1481.
[39] ARB2000083 (April 13 Meeting Agenda); *see also* ARB2000947-001083 (April 13 Meeting Transcript).
[40] *See* ARB2000954-000960 (Member Bahnke); ARB2000962-000974 (Member Simpson); ARB2000975-000980 (Member Borromeo); ARB2000980-000981 (Member Marcum); ARB2000981-000991 (Member Binkley).
[41] ARB2000959-60, ARB2000975-80.

On the other hand, members Marcum and Simpson emphasized the need to keep the military on JBER with Chugiak/Eagle River. Member Simpson described JBER as its own community of interest.[42] He also noted there was "nothing wrong with pairing 9 [South Anchorage/Turnagain Arm] and 22 [Eagle River Valley] . . . they are contiguous."[43] Member Marcum noted she was very uncomfortable with Option 2 because it would uncouple JBER from Eagle River and link it with downtown.[44]

The Board voted to adopt proposed plan "Option 3B" as its new Anchorage senate pairings.[45] Members Binkley, Marcum and Simpson voted in favor of Option 3B, and Members Bahnke and Borromeo voted against it.[46] The Board issued its Amended Proclamation of Redistricting the same day it voted, April 13 ("April 2022 Amended Redistricting Plan"). Unlike the November 2021 cycle, during its meetings to adopt the April 2022 Amended Redistricting Plan—between April 2 and April 13, 2022—the Board did not engage in executive sessions.[47]

III. THE GIRDWOOD CHALLENGE

On April 25, 2022, Plaintiffs Louis Theiss, Ken Waugh, and Jennifer Wingard (collectively the "Girdwood Plaintiffs") filed a complaint challenging Senate District E, which is comprised of House Districts 9 and 10. The three Girdwood plaintiffs live in Girdwood, Alaska, in House District 9.

The Girdwood Plaintiffs assert that Senate District E in the April 2022 Amended Redistricting Plan violates their equal protection rights under the Alaska Constitution by denying them "an equally powerful and geographically effective vote and ignor[ing]

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[42] ARB2000971-972.
[43] ARB2000971-972.
[44] ARB2000980-981 ("Downtown has almost nothing in common with the military base. It absolutely makes the least sense of any possible pairing for District 23, JBER.").
[45] ARB2001015-001016 (April 13 Meeting Transcript).
[46] ARB2001015-001016 (April 13 Meeting Transcript).
[47] *See* Affidavit of Peter Torkelson, ¶ 15 (May 4, 2022); *see also* ARB2000084-000177 (April 2 Meeting Transcript); ARB20000178-000284 (April 4 Meeting Transcript); ARB20000285-000445 (April 5 Meeting Transcript); ARB20000446-000599 (April 6 Meeting Transcript); ARB2000600-000696 (April 7 Meeting Transcript); ARB2000697-000813 (April 8 Meeting Transcript); ARB2000814-000946 (April 9 Meeting Transcript); and ARB2000947-001083 (April 13 Meeting Transcript).

the demographic, economic, political and geographic differences between the Eagle River and Girdwood communities."[48] The Girdwood Plaintiffs also allege that "[t]he Board's creation of two separate Eagle River Senate districts constitutes unlawful political gerrymandering."[49] Lastly, they claim that Senate District E violates the substantive criteria for senate districts in Alaska because it is non-compact, is "falsely contiguous," and ignores geographic features.[50] The Girdwood Plaintiffs ask this Court to compel the Board to adopt Option 2, which pairs House District 9 with House District 13 (Oceanview), and JBER (House District 23) with Downtown (House District 17).[51]

IV. JURISDICTION AND VENUE

Under Article VI, § 11 of the Alaska Constitution, the superior court has original jurisdiction over lawsuits to compel correction of any error in redistricting. "Any qualified voter may apply to the superior court to compel the Redistricting Board, by mandamus or otherwise, to perform its duties under this article or to correct any error in redistricting."[52] Venue is appropriate under Civil Rules 3 and 90.8(f).

V. PROCEDURAL BACKGROUND

The Girdwood Plaintiffs' challenge is timely under Article VI, §11 of the Alaska Constitution.[53] In an effort to resolve this challenge prior to the impending June 1, 2022 filing deadline for legislative candidates, the parties stipulated to submit the case in writing (rather than by trial) on an expedited timeframe. The Board provided the record from its remand proceedings on April 28, additional supplementation of e-mail and text messages on May 2. Opening briefs were submitted on May 6, Opposition briefs were due May 10, with proposed findings due May 11. The Court held oral

[48] Compl. at 9, ¶ 30.
[49] Compl. at 10, ¶ 31.
[50] Compl. at 9.
[51] Girdwood Opening Br. at 30.
[52] Alaska Const. art. VI, § 11.
[53] Because of the extraordinarily short time frame to resolve any challenges prior to the June 1, 2022 filing deadline for legislative candidates, this Court issued an Order on April 27, 2022 accelerating the deadline for any further challenges to the Amended Plan to May 3, 2022. No further challenges have been filed.

argument on May 12. The parties also submitted supplemental Corrections and Affidavits on May 13, 2022.

VI. THE RECORD BEFORE THE COURT

Pursuant to Civil Rule 90.8, the record before this court included the record from the Redistricting Board. In this case, the record includes the full court record from the first round of this litigation, the record from the Board's remand process as filed on April 28 and supplemented on May 2, and all materials submitted by the parties to the Girdwood Challenge.[54]

The Girdwood Plaintiffs supported their written arguments with affidavit testimony from each Plaintiff, two expert reports from Dr. Chase Hensel,[55] references to the Board record, e-mails and text messages from Board members that were provided by the Board, and a limited number of additional exhibits. Similarly, the Board supported its written arguments with citations to the record, and affidavits from Peter Torkelson, the Board's Executive Director.

VII. STANDARD OF REVIEW

A. The General Standard

The Board's actions are, generally, reviewed under a deferential arbitrary and capricious standard.[56] The Court may not substitute its judgment for that of the Board or choose among constitutional alternative plans. The wisdom or "sagacity" of a particular plan is not subject to review, so long as it is otherwise constitutional.[57]

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[54] Once again, because of the accelerated timetable for this latest challenge, the parties had no time to conduct discovery. This Court has accepted all materials submitted by the parties, regardless of timing, and has reviewed them under a somewhat relaxed standard of evidence, as it did in the first round of the litigation. The Court has considered the materials for their relevance to the issues presented and given them the weight they were due under the totality of the circumstances.

[55] Chase Hensel previously served as the expert for the East Anchorage Plaintiffs, and his prior testimony is part of the record in this case.

[56] *Kenai Peninsula Borough*, 743 P.2d at 1358. *In re 2011 Redistricting Cases* (*2011 Appeal III*), 294 P.3d 1032, 1037 (Alaska 2012)

[57] FFCL at 27. *Carpenter v. Hammond*, 667 P.2d 1204, 1214 (Alaska 1983) (quoting *Groh v. Egan*, 526 P.2d 863, 866-67 (Alaska 1974)).

However, the Court applies its independent judgment to questions of law, and must adopt the rule of law that is most persuasive in light of precedent, reason, and policy.[58]

B. The Burden of Proof on Remand

> Girdwood argues for a less deferential standard of review in light of the Court's previous finding that the Board engaged in partisan gerrymandering. The Board takes the position that the deferential "arbitrary and capricious" standard continues to apply, while the Girdwood Plaintiffs argue that the Board does not deserve such deference in light of its proven history of illegitimate purpose. This appears to be an issue of first impression in Alaska.[59]

In this case, Girdwood Plaintiffs in their Complaint ask this court to impute the Board's prior bad intent to its subsequent acts and shift the burden onto the Board to explain how it "cured" any constitutional infirmities. While such a shift in the burden of proof might, as a matter of policy, be appropriate, it is not one this Court is prepared to adopt at this stage of these very accelerated proceedings. Instead, that is a question for the Alaska Supreme Court to decide.

This court must generally begin with the presumption that the Board's actions were valid.[60] That presumption was certainly afforded to the Board during the initial phase of this litigation. But the Court's previous finding that the Board engaged in partisan gerrymandering changes the equation. The Court does not simply turn a blind eye to the Board's past transgressions. In a less accelerated proceeding, where both parties knew in advance that the burden of proof would shift to the Board upon the Court's finding of partisan gerrymandering, such a shift seems entirely fair. Stated

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[58] *Wielechowski v. State*, 403 P.3d 1141, 1146 (Alaska 2017) (internal quotation marks omitted) (quoting *State v. Ketchikan Gateway Borough*, 366 P.3d 86, 90 (Alaska 2016)).

[59] *Cf. Abbott v. Perez*, 138 S. Ct. 2305, 2324-25 (2018) (balancing the "presumption of legislative good faith" against prior findings of discriminatory intent in federal review of redistricting plans, while directing courts to consider prior intent as one factor).

[60] *Abbott*, 138 S. Ct. at 2324 (recognizing a "presumption of legislative good faith" when reviewing redistricting plans); *cf. Luper v. City of Wasilla*, 215 P.3d 342, 345 (Alaska 2009) (applying "a presumption of validity" to agency decisions); *Treacy v. Municipality of Anchorage*, 91 P.3d 252, 260 (Alaska 2004) ("A duly enacted law or rule, including a municipal ordinance, is presumed to be constitutional.").

differently, should the Board's actions on remand be subject to strict scrutiny rather than an arbitrary and capricious standard?

In *Treacy v Municipality of Anchorage*, the Alaska Supreme discussed the different level of scrutiny that applies to the equal protection analysis where the constitutionality of a statute or ordinance is challenged.[61] After first noting that a duly enacted law or ordinance is presumed to be constitutional.[62] But when a challenge is made that the ordinance violates the constitutional guarantee of equal protection, it may be subject to strict scrutiny if it impinges on a fundamental right or disadvantages a suspect class.[63]

The constitutional analysis outlined in *Treacy* provides guidance to this Court in evaluating whether the Board's actions should be subject to a different standard or burden of proof upon remand after a finding of gerrymandering. This Court would shift the burden to the Board to demonstrate that its Amended Proclamation including the new senate pairings were made in good faith and without partisan considerations. But that standard and shift in the burden of proof will not be applied retroactively to this matter. Assuming further review of this Court's decision by the Alaska Supreme Court, the undersigned encourages the Supreme Court to provide guidance for the future.

While this Court is not changing the standard of review or the burden of proof for this challenge, the Court is also not ignoring the Board's past actions. Instead, the Court considers the Board's actions in the context of the record as a whole.

VIII. THE GIRDWOOD CHALLENGE UNDER ARTICLE VI, SECTION SIX

Count I of the Girdwood Plaintiffs' Complaint alleges the Board violated the redistricting criteria in Article VI, § 6 of the Alaska Constitution. They argue the pairing

[61] 91 P.3d 252 (Alaska 2004).
[62] *Treacy*, 91 P.3d at 260.
[63] *Treacy*, 91 P.3d at 264.

of Districts 9 and 10 into Senate District E violates the Constitution's contiguity requirement and disregards local government boundaries without explanation.

The Alaska Constitution provides that "[e]ach senate district shall be composed as near as practicable of two contiguous house districts," and that "[c]onsideration may be given to local government boundaries." [64] Contiguous territory "is territory which is bordering or touching."[65] A district is contiguous "if every part of the district is reachable from every other part without crossing the district boundary (i.e., the district is not divided into two or more discrete pieces).'"[66] As such, contiguity is a visual concept.[67] In practice, a district that includes transportation barriers such as mountains or waterways physically separating portions of the district may still be considered contiguous.[68]

The Girdwood Plaintiffs acknowledge that Senate District E is "technically" contiguous,[69] but they argue for a more "qualitative" approach. The Girdwood Plaintiffs do not dispute that House Districts 9 and 10 are connected by a miles long border and are in fact physically touching. Instead, they argue that contiguity should also be meaningful from the perspective of representation. The Girdwood Plaintiffs argue that a different approach is appropriate here because the pairing of 9 and 10 is so egregious that it is contiguous in only the most technical of terms. Because several hundred miles of uninhabited state park, including the Chugach Mountains, divide the actual population centers contained in Senate District E, the Girdwood Plaintiffs argue the Board created a "false contiguity."

Much of the Girdwood argument for a more qualitative approach to "contiguity" in the senate pairings is similar to arguments raised in the previous challenges by Valdez and Mat-Su to the House pairings, and by East Anchorage to

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[64] Alaska Const. art. VI, § 6.
[65] *Hickel v. Southeast Conference*, 846 P.2d 28, 45 (Alaska 1992).
[66] *Id.*
[67] *In re 2001 Redistricting Cases*, 2002 WL 34119573, at 36 (Alaska Super. Ct. Feb. 1, 2002).
[68] FFCL, at 74-75 ("This Court agrees with Judge Rindner's analysis.").
[69] Girdwood Opening Br. at 20.

the senate pairings of District K. This court rejected those arguments previously, and declines to expand the concept of contiguity here.

This Court rejected the "transportation contiguity" argument asserted by the Matanuska-Susitna Borough and Valdez plaintiffs in the first round of redistricting litigation over House District 29: "The fact that the road connection between Mat-Su and Valdez meanders in and out of two districts as it traverses around the Chugach mountains does not take away from the fact that every part of the district is physically connected. District 29 is contiguous."[70] The Alaska Supreme Court found no error when it affirmed this Court's rejection of a transportation contiguity requirement.[71]

Similarly, this Court rejected the Girdwood Plaintiffs' argument that contiguity must be maximized "as near as practicable," when asserted in the East Anchorage Plaintiffs' challenge to Senate District K (from the 2021 Redistricting Plan). There, the East Anchorage Plaintiffs argued that Senate District K was not truly contiguous or contiguous "as nearly as practicable" because "one cannot travel between [the house districts] without leaving the Senate district and [the house districts] are separated by a mountain range."[72] East Anchorage also urged "that South Muldoon and Eagle River Valley are located in separate drainages, and are even separated by a drainage."[73] This Court rejected that argument because the "boundaries [of Senate District K] are in fact physically touching [and] [n]o more is required."[74]

The Girdwood Plaintiffs acknowledge this Court's prior determinations regarding contiguity, but nevertheless argues their theory is new and different. They support their argument with an expert report from Dr. Chase Hensel. In his report, Dr. Hensel offers the opinion that the "as near as practicable" language in the Constitution applied in two directions: first, to the Board, to give it some flexibility in making its pairings; but second, to the districts themselves, because the underlying purpose of

[70] FFCL at 74-75.
[71] Order on Petitions for Review, S-18332, at 3.
[72] FFCL at 39.
[73] FFCL at 41.
[74] FFCL at 42.

the contiguity requirement is to pair neighboring communities with themselves, to achieve compact and effective representation. As Dr. Hensel wrote, "Implicit in the requirement for contiguity as a pairing criterion is also an assumption that political representation is facilitated by the proximity – as near as practicable – of the populations sharing representation ... The practicability clause in this respect is not a loophole but an exhortation."[75]

Dr. Hensel's testimony regarding "practical contiguity" in his expert report amounts to a legal conclusion about what Dr. Hensel believes Article VI, § 6 should require for senate districts. But such legal opinions are not the proper subject of expert testimony. Interpretation of the constitution is the "distinct and exclusive province of [this] court."[76]

Moreover, the concept of practical contiguity advocated by Dr. Hensel ignores the language of Section 6 imposing different limitations on house and senate districts. If Dr. Hensel's concept of representational contiguity were adopted, it would add an additional overlay of socio-economic integration to the evaluation of senate districts. Had the framers of the Constitution intended such a result, they surely would not have provided for different standards.[77]

To be sure, when the Board chose to pair Districts 9 and 10, it created a senate district with unusual obstacles to practical contiguity that reveal a lack of compactness, in essence a "bizarre design." Several hundred miles of uninhabited state park, including the Chugach Mountains, divide the actual population centers contained in

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[75] Hensel Report at 2.

[76] *Nationwide Transport Finance v. Cass Information Systems, Inc.*, 523 F.3d 1051, 1058 (9th Cir. 2008) (quoting *Hangarter v. Provident Life & Accident Ins. Co.*, 373 F.3d 998, 1016 (9th Cir. 2004)); *see also Berckeley Inv. Grp. Ltd. v. Colkitt*, 455 F.3d 195, 217 (3d Cir. 2006) ("Although Federal Rule of Evidence 704 permits an expert witness to give expert testimony that 'embraces an ultimate issue to be decided by the trier of fact,' an expert witness is prohibited from rendering a legal opinion.").

[77] This Court previously noted the constitutional framers intended Senate districts to use geographic criterion rather than the socio-economic integration requirements set forth in Article VI, Section 6. FFCL at p40, citing *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1365 (Alaska 1987).

Senate District E. The contiguous borders of the two house districts are almost entirely based in the Chugach Mountains.

Nonetheless, nothing in Section 6 requires maximum contiguity. A senate district that is comprised of two house districts that share a border fulfills the contiguity requirement. Senate District E does not violate Article VI, § 6.

IX. EQUAL PROTECTION CHALLENGES

Count II of the Girdwood Plaintiffs' Complaint alleges Equal Protection violations of the Alaska Constitution. In particular, they allege that Senate District E in the 2022 Proclamation denies Girdwood voters and others in their House district their constitutional right to an equally powerful and geographically effective vote and ignores relevant differences between the Eagle River and Girdwood communities.[78] The Girdwood Plaintiffs also allege the Board's creation of two separate Eagle River Senate districts, including Senate District L, constitutes unlawful political gerrymandering.[79]

A. Article VI, Section 11 Timeliness of Redistricting Challenge to Senate District L

The Board first argues that Girdwood's challenge to Senate District L is untimely. Article VI, Section 11 provides time limitations on redistricting challenges:

> Any qualified voter may apply to the superior court to compel the Redistricting Board, by mandamus or otherwise, to perform its duties under this article or to correct any error in redistricting. . . . Application to compel correction of any error in redistricting must be filed within thirty days following the adoption of the final redistricting plan and proclamation by the board.[80]

[78] Compl. at 9, ¶ 30.
[79] Compl. at 9,1.
[80] Alaska Const. art. VI, § 11.

According to the Board, since Senate District L was unchanged from the initial 2021 Proclamation to the 2022 Amended Proclamation, the Girdwood Plaintiffs' claim comes too late.

A similar claim was made in the 2001 Redistricting litigation. After remanding the 2001 redistricting plan back to the Board to fix excessive population deviations under Section 6,[81] challengers appealed again, raising several arguments pertaining to district and statewide population deviations that "could have been raised against the original Proclamation Plan but were not."[82] Applying the 30-day deadline in Section 11, the Alaska Supreme Court rejected as untimely alleged errors "that were largely carried over from the [original] Proclamation Plan."[83] The Court likewise rejected untimely Section 6 challenges to the compactness of two house districts "even though [the challenged] appendage existed in the board's original Proclamation Plan."[84]

Here, the Board notes that new Senate District L contains the same underlying house districts as the former Senate District L, *i.e.*, JBER and North Eagle River.[85] Because Girdwood did not challenge former Senate District L within 30 days of the November 2021 redistricting plan, the Board argues that any challenge to the new Senate District L—consisting of the same underlying house districts—is untimely.[86] The Board thus asserts that Girdwood is foreclosed from arguing that splitting Eagle River constitutes a political gerrymander.[87]

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[81] *See In re 2001 Redistricting Cases*, 44 P.3d 141, 145-46 (Alaska 2002); Alaska Const. art. VI, § 6 (requiring house districts to "contain a population as near as practicable to the quotient obtained by dividing the population of the state by forty").
[82] *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1090 & n.5 (Alaska 2002).
[83] *Id.* at 1090 n.5.
[84] *Id.* 1091-92 & n.16.
[85] Alaska Redistricting Board's Proposed Findings of Fact and Conclusions of Law ("Board FFCL") at 4, 13.
[86] Board FFCL at 12-14. The Board also argues that because the original plan split Eagle River into two senate districts, and "the Alaska Supreme Court has already approved the splitting of Eagle River-Chugiak into multiple election districts," Girdwood's Section 6 arguments are time-barred. Board FFCL at 13-14.
[87] Board FFCL 13.

Girdwood responds by quoting the precise language of this court's prior findings identifying the constitutional error affirmed on appeal.[88] Girdwood thus argues that the new Senate District E—which the Board does not argue is time-barred—is an "unconstitutional downstream consequence of *the exact same political gerrymander*" that created former Senate District K.[89] Girdwood also points to the Board's actions after remand as evidence that the Board created a new record and made a new decision to split Eagle River despite this court's finding that the Board had previously acted with illegitimate purpose.[90]

Although the Board is correct that any Section 6 challenges to the JBER-Eagle River pairing could have been brought before and are time-barred under Section 11, the Board misinterprets Girdwood's equal protection challenge. Instead, what Girdwood argues is the Board acted with discriminatory intent when it first split Eagle River into two senate districts, that this court and the Supreme Court found such purpose to be illegitimate, and that on remand the Board was charged with fixing the constitutional errors in Senate District K.[91] The "constitutional errors" established in East Anchorage's equal protection challenge consisted of the Board's "intentional discrimination" and any "down-the-road consequences" of the Board's "illegitimate purpose."[92] In other words, what Girdwood primarily challenges is the lingering effect of the Board's prior discriminatory intent.

In the Court's view, this situation is more akin to what occurred in the 2011 challenges. After the Alaska Supreme Court remanded for the Board to comply with the *Hickel* process,[93] the Board reasoned that it need not revisit districts that were previously unchallenged.[94] The Board thus redrew the district lines only for a portion

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[88] Girdwood Plaintiff's Proposed Findings of Fact and Conclusions of Law ("Girdwood FFCL" at 18.
[89] Girdwood FFCL at 18 (emphasis in original).
[90] Girdwood FFCL at 19.
[91] *See* Order, *In re 2021 Redistricting Cases*, S-18332, at 6 (Alaska Mar. 25, 2022); Order Following Remand at 1 (Mar. 30, 2022).
[92] FFCL and Order at 69-70 (Feb. 15, 2022);
[93] *See In re 2011 Redistricting Cases*, 274 P.3d 466, 467-68 (Alaska 2012). In particular, the Court held that the Board improperly elevated VRA compliance over the "traditional redistricting principles" contained in Section 6. *Id.* at 468.
[94] *In re 2011 Redistricting Cases*, 294 P.3d 1032, 1035 (Alaska 2012).

of the map, assuming that the unchallenged districts were not affected by the Board's prior constitutional error.[95] But on appeal, the Court remanded again, explaining that the Board's initial error, *i.e.*, creating VRA districts first and placing VRA considerations above Section 6 criteria, "necessarily affected the contours of the entire map."[96] That certain districts were unchallenged "does not change the fact that they were drawn with VRA considerations as the first priority," and therefore the only way to fix the constitutional error was to start the process over from the beginning.[97]

Here, the constitutional errors occurred much later in the process, and the scope on remand is accordingly narrower. But the error remains that the Board, for inappropriate purposes, sought to give Eagle River more representation. Girdwood thus argues that the error has not been fixed as the Board continues to split Eagle River *for improper purposes*. Girdwood could not have brought this challenge against Senate District L in November 2021, because at that point Girdwood was not paired with South Eagle River, and no court had yet found that the Board acted with discriminatory intent. That intent has since been established, and the Alaska Supreme Court affirmed this court's ruling. Girdwood's challenge is thus that the prior unconstitutional intent persists, and that the Board failed to actually "fix" anything. Regardless of the theory, the Board cannot escape a challenge to new Senate District L based on the Board's motivations for adopting Option 3B and rejecting Option 2. Unlike the various Section 6 challenges that were untimely in the 2001 challenges,[98] Girdwood's equal protection challenge depends on the Board's previously established discriminatory intent. Because Girdwood could not have raised its equal protection

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[95] *Id.* at 1035-36. The Court rejected the Board's arguments, noting "that at least three of [the Board's] template districts were drawn with or approved with VRA requirements in mind," *i.e.*, the same constitutional error as before. *Id.* at 1035 n.13.
[96] *Id.* at 1037-38.
[97] *Id.* at 1038.
[98] *See In re 2001 Redistricting Cases*, 47 P.3d 1089, 1090-92 & nn.5, 16 (Alaska 2002). In contrast, if Girdwood raised any Section 6 challenges to Senate District L or challenges to any of the underlying house districts, those *could* have been brought back in December 2020 and this court would consider such challenges time-barred. Because the Board's discriminatory intent was established in March 2022 when the Alaska Supreme Court affirmed this court's finding as to Senate District K, any reverberations of that intent are effectively new challenges.

claim in December 2021, it may challenge whatever decisions the Board made in April 2022 that may be tainted by this court's prior finding of discriminatory intent.

B. Article I, Section 1 Equal Protection Clause

1. *Kenai* Neutral Factors Test

Girdwood's primary argument is that the Board acted with illegitimate purpose when it adopted Option 3B. Under Alaska's Equal Protection Clause,[99] challengers of otherwise neutral state action must show that the government acted with "a discriminatory purpose."[100] Alaska's equal protection analysis employs a sliding scale approach that varies depending on the nature of the right affected, the government's purposes, and the means-ends fit.[101] In the redistricting context, the Alaska Supreme Court has described "a voter's right to an equally geographically effective or powerful vote" as "a significant constitutional interest," while not necessarily "a fundamental right."[102] The Board therefore "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."[103] Where the Board acts in a discriminatory manner, the Board must adduce "proof of a legitimate purpose" and "a substantial relationship between the Board's means and ends."[104] But even under this lower standard, courts will apply "a more exacting scrutiny" and "facts will no longer be hypothesized" as might otherwise occur under the federal equal protection standard.[105]

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[99] Alaska Const. art. I, § 1 ("[A]ll persons are equal and entitled to equal rights, opportunities, and protection under the law . . . .").
[100] *State v. Schmidt*, 323 P.3d 647, 659 (Alaska 2014).
[101] *See Planned Parenthood of The Great Nw. v. State*, 375 P.3d 1122, 1137 (Alaska 2016); *State v. Erickson*, 574 P.2d 1, 12 (Alaska 1978).
[102] *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1372 (Alaska 1987).
[103] *In re 2001 Redistricting Cases*, 44 P.3d 141, 144 (Alaska 2002). The Court cited the concurring opinion in *Karcher v. Daggett* for the notion that a "group of voters must establish that it belongs to [a] 'politically salient class' as [the] first element of [a] claim of invidious discrimination." 462 U.S. 725, 754 (1983) (Stevens, J., concurring).
[104] *Kenai Peninsula Borough*, 743 P.2d at 1373 n.40.
[105] *Id.* at 1371 & n.35; *see also Com. Fisheries Entry Comm'n v. Apokedak*, 606 P.2d 1255, 1264 (Alaska 1980) (noting that any legitimate purpose must have "a substantial basis in reality").

While the easiest way to establish discriminatory intent may be by direct evidence, intent can also be shown through the "totality of the circumstances."[106] In *Kenai Peninsula Borough v. State*, the Court adopted the "neutral factors test" for determining "whether the Board intentionally discriminated against a particular geographic area."[107] The *Kenai* Court specifically identified several factors as indicative of "an illegitimate purpose," such as (1) "[w]holesale exclusion of any geographic area from the redistricting process," (2) "secretive procedures," (3) boundaries that "selectively ignore political subdivisions and communities of interest," and (4) other "evidence of regional partisanship."[108] The Court has also recognized that one way to "raise an inference of intentional discrimination" is by showing that "a redistricting plan unnecessarily divides" any "politically salient class," such as boroughs and municipalities, "in a way that dilutes the effective strength of [that class of] voters."[109] Claims of regional gerrymandering can be rebutted by showing that the "intentional discrimination resulted in increased proportionality of geographic representation in the state legislature."[110] Although the Court has previously confronted "regional partisanship," *i.e.*, favoring certain geographic communities over others, in the equal protection context, "political partisanship" has not yet been squarely addressed.[111] Nevertheless, the Court has observed that "[i]n the context of discrimination against a political group, the intent requirement is probably minimal."[112]

It is worth observing at this point the unique nature of the Girdwood challenge. The parties cite no Alaska case law addressing the issue of how this court should treat subsequent decisions on remand after a confirmed judicial finding of discriminatory

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[106] *Kenai Peninsula Borough*, 743 P.2d at 1372 ("A totality of the circumstances assessment of the Board's reapportionment process is unnecessary here because the Board's intent was discriminatory on its face.").
[107] *Id.* (citing *Davis v. Bandemer*, 478 U.S. 109, 174 (1986) (Powell, J., concurring in part and dissenting in part), *abrogated by Rucho v. Common Cause*, 139 S. Ct. 2484 (2019)).
[108] *Id.*
[109] *In re 2001 Redistricting Cases*, 44 P.3d 141, 144 (Alaska 2002); *accord Kenai Peninsula Borough*, 743 P.2d at 1370-73.
[110] *Kenai Peninsula Borough*, 743 P.2d at 1372.
[111] *Cf. Rucho*, 139 S. Ct. at 2498-502 (holding that partisan gerrymandering claims are nonjusticiable under the federal Equal Protection Clause).
[112] *Hickel v. Se. Conf.*, 846 P.2d 38, 49 n.18 (Alaska 1992), *as modified on reh'g* (Mar. 12, 1993); *see also Bandemer*, 478 U.S. at 129 ("As long as redistricting is done by a legislature, it should not be very difficult to prove that the likely political consequences of the reapportionment were intended.").

intent by the Board. Ostensibly, if this court were deciding Girdwood's equal protection challenge on a blank slate, *i.e.*, nothing more than the record on remand, this might be a less complicated decision.

But the Court did not make lightly its previous finding that secretive procedures were evident in the Board's process. And Girdwood presents evidence that some secretive procedures were continually used following remand, suggesting the Board created the April 2022 Senate parings with illegitimate purpose.

On the other hand, the Court acknowledges that the Board, on the record, did a much better job adhering to a transparent, open process. The Board adopted two proposed plans on April 6, 2022 which provided the public with a meaningful opportunity to provide testimony on either map.[113] The Board took public testimony on April 2, 4, 6, 7, 8, and 9,[114] and voted to adopt the final plan on April 13, 2022.[115] In this time, the Board held no executive sessions.[116] This stands in stark contrast to the last-minute, opaque procedures leading up to the Senate pairings which led to remand.

However, Girdwood plaintiffs offer evidence that suggests that the Board continued to act in "coalition" to further a common, pre-arranged goal. The Girdwood plaintiffs point out that correspondence between Members Binkley, Marcum, and Simpson generally occurred over the phone, and correspondence was notably

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[113] ARB2000559-ARB2000560 (April 6 Meeting Transcript) (Chairman Binkley: "If there's no objection to the motion, the motion is adopted, and we now have before us two plans, option 2 and option 3 bravo.").
[114] ARB2000076 (April 2 Meeting Agenda); *see also* ARB2000084-000177 (April 2 Meeting Transcript); ARB2000077 (April 4 Meeting Agenda); *see also* ARB2000178-000284 (April 4 Meeting Transcript); ARB2000079 (April 6 Meeting Agenda); *see also* ARB2000446-000599 (April 6 Meeting Transcript); ARB2000080 (April 7 Meeting Agenda); *see also* ARB2000600-000696 (April 7 Meeting Transcript); ARB2000081 (April 8 Meeting Agenda); *see also* ARB2000697-000813 (April 8 Meeting Transcript); ARB2000082 (April 9 Meeting Agenda); *see also* ARB2000814-000946 (April 9 Meeting Transcript).
[115] ARB2001015-001016 (April 13 Meeting Transcript).
[116] *See* Affidavit of Peter Torkelson, ¶ 15 (May 4, 2022); *see also* ARB2000084-000177 (April 2 Meeting Transcript); ARB20000178-000284 (April 4 Meeting Transcript); ARB20000285-000445 (April 5 Meeting Transcript); ARB20000446-000599 (April 6 Meeting Transcript); ARB2000600-000696 (April 7 Meeting Transcript); ARB2000697-000813 (April 8 Meeting Transcript); ARB2000814-000946 (April 9 Meeting Transcript); and ARB2000947-001083 (April 13 Meeting Transcript).

between these three Members, leaving out Members Borromeo and Bahnke. Initially, plaintiffs deem it significant that Members Binkley, Marcum, and Simpson were steadfastly against beginning the hearing processes earlier, given the exceptionally condensed timeline and the Supreme Court's week early decision. To be sure, this Court has gone to great lengths to compress the timeline for litigation such that a decision can be issued, and potentially appealed, in time for the June 1, 2022 deadline. Still, it is not entirely clear why the Board would intentionally delay the process and force uncertainty on the public relative to the democratic process.

Girdwood plaintiffs also accuse Members Marcum and Simpson of undertaking considerations from a partisan political perspective. Initially, Girdwood presents evidence that Member Simpson has acknowledged that he was appointed specifically because he was "a Republican from the Southeast."[117] Following the Supreme Court's order, Member Simpson wrote an email to an unknown number of contacts stating in part that the Court's Order "implies that what the court perceived as a political gerrymander must be replaced with a different political gerrymander more to their liking."[118] Additionally, plaintiffs argue that rather nasty emails sent and received regarding articles written about the redistricting process[119] demonstrate that Member Simpson was "preoccupied by his partisan politics" such that his vote was improperly influenced. Girdwood plaintiffs argue that this is evidence that Member Simpson, on remand, continued to consider Senate pairings in "partisan political terms."[120]

Plaintiffs then turn to Member Marcum, who was subscribed to the mailing list of the National Republican Redistricting Trust, whose concerns were "the preservation of ... shared conservative values for future generations."[121] Girdwood also points out the despite the Courts finding, based on clear evidence and established by Member Marcum's own testimony that she had seen incumbent data, she stated on remand

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[117] Trial Tr. 1725:15-1727:16 (Feb. 3, 2022); Simpson Depo. 210:9-12.
[118] ARB2-507161-62.
[119] ARB2-507137; ARB2-507140.
[120] Girdwood Plaintiffs' Opposition to ARB Brief at 17.
[121] Girdwood Plaintiffs' Opposition to ARB Brief at 19; ARB 502232-35; National Republican Redistricting Trust website, *available at*: thenrrt.org/about-us/.

that she did not read any incumbent data, and that she was not concerned with incumbents.

The Court also expresses concern over Member Binkley's choice to vote against a motion because he did not agree with the Supreme Court's ruling relative to the so-called "Cantwell Appendage."[122] The Court understands that each Board Member is an Alaskan in their own right and, like every individual, has the right to agree or disagree with the Court's decisions. Yet, it is not the Board's place to *act* in its capacity as the Redistricting Board based on whether the individual Board Members agree or disagree with the law. The Rule of Law should be abided in all respects. To the extent that any Board Member felt it was appropriate to act contrary to the clear direction of the highest Court of this State, that is unacceptable.

Girdwood takes the position that on its own, this correspondence may not tip the scales. However, in the face of this Court's previous finding of illegitimate intent, such political correspondence supports the notion that the Board's intent continues unabated. The Court is inclined to agree. While the Board reduces plaintiffs' arguments to unproductive "mudslinging," the evidence is quite clear that a pattern of markedly partisan correspondence between specific Board Members occurred, and aligns with the intent found during the first round of litigation. Further, in the previous order, the Court found that the majority of the Board acted in what appeared to be a sort of coalition. Given the exclusive correspondence between the same majority of the Board, that coalition seems to have continued. The previous illegitimate intent finding renders such partisan and behind-the-scenes correspondence all the more suspect. Alone, this correspondence carries some weight. When viewed in light of the previous finding of illegitimate purpose, that weight becomes heavier.

While the Board Members are Alaskans in their own rights entitled to their own "opinions," actions taken while acting in one's capacity as a Board Member, particularly actions that appear to be influenced by such correspondence, are facially

[122] April 6, 2022, Meeting Tr. at 9-14.

suspicious, especially in light of the Court's previous findings. Indeed, Girdwood's arguments are largely premised on the observation that the Board simply found a new way to accomplish what it improperly sought to do before.[124] Needless to say, the Board avoids this issue entirely and selectively ignores this court's prior findings on discriminatory intent.[125] In response, Girdwood asserts that the Board's lack of "contrition and respect" for this court's findings "negates any presumption that those members were making [*sic*] good-faith effort to comply with both the spirit and the letter of the remand orders."[126] Regardless of intent, the public's trust of the Board's integrity is vital, and is jeopardized by correspondence of this nature. Given this court's findings, and given the possibility that a future Board may operate with similar or even more grave intent, the Court is wary of an order that effectively lights a path both legally and procedurally to creating a gerrymandered map.

Turning to communities of interest, this Court has previously established that Eagle River is a community of interest.[127] Girdwood plaintiffs through their expert witness, Dr. Chase Hensel, offer compelling evidence that Girdwood is a community of interest with South Anchorage.[128] Plaintiffs also cite to extensive testimony during the public hearing process after remand that House District 9 is a community of interest with South Anchorage as a whole, and is markedly distinct and removed from Eagle River. Member Marcum stated that Senate District E is a "natural pairing" as the "Chugach Mountain district."[129] She also noted that both districts "have their own road services."[130] Chair Binkley similarly stated that the districts both have road service districts, both included the Chugach Mountains, and that citizens of those districts "deal with wildlife closer to their homes," have "higher snow loads," and face "wildfire dangers."[131] Chair Binkley also reasoned that both districts were "large, more

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[124] *See* Girdwood FFCL at 26-27.
[125] *See* Board FFCL at 19-22.
[126] Girdwood FFCL at 16-17.
[127] FFCL at 68.
[128] Expert Report of Chase Hensel, May 5, 2022 at 6-7.
[129] ARB2001004, 2001005.
[130] ARB2001005.
[131] ARB2000984.

rural, and share a really long, physical border," which makes them constitutionally contiguous.[132]

As previously discussed, to comply with article VI, section 6, senate districts need only be contiguous, meaning the borders must be touching. Insofar as the Board was considering the similarities between districts its decision, it is not necessarily problematic that the Board used additional considerations when determining which contiguous pairing would be most appropriate. However, upon considering whether communities of interest were ignored for Equal Protection purposes, there is no authority, and no argument offered, that the Court should consider communities of similar interests to be communities of interest. It is clear to the Court that the Senate District E's boundaries ignore the Eagle River and South Anchorage communities of interest. That these communities may have similar interest does not inform the analysis for Equal Protection purposes.

The Board does not appear to contest this point. Rather, the Board interprets the Court's February 15, 2022 ruling and supporting caselaw to mean that if the Board ignores communities of interest, it must justify that choice. Here, the Board argues that the justification was twofold. First, a majority of the Board insisted continuously that Senate District L remain intact, which meant that it was necessary to pair Eagle River's other House District with another contiguous part of Anchorage. Second, Board Members believe that a single senator would be able to represent Senate District E aptly, as the districts have similar interest given their more rural nature and common needs. Ultimately, this pairing strikes the Court not as a conscious decision to pair Eagle River and South Anchorage, but rather another "down-the-road consequence of a majority of Board members insisting that the JBER and Eagle River Districts remain paired in a single senate district.

The Court notes, however, that ignoring the Eagle River and South Anchorage communities of interest was not necessary, but a product of the majority of the Board's

[132] ARB2000985.

preference. The Court observes that Option 2 keeps both the Eagle River and South Anchorage communities in unified Senate Districts. Ultimately, communities of interest were ignored here. The Court acknowledges that justification was provided, and was not unreasonable. However, the fact that other pairings that did not split communities of interest were available serves to undercut the strength of the Board's argument and tips the scales in the Girdwood plaintiffs' favor.

Further, Girdwood largely argues that the Board ignored public comment and that its decision is not supported by the evidence.[133] But aside from some factual discrepancies, there is minimal evidence of regional partisanship.[134] However, the Court still finds that, particularly given the preexisting finding of illegitimate intent and the way that the Board's behavior on remand seems to echo its behavior leading up to the first Proclamation, the Court is compelled to find illegitimate intent under the neutral factors test. As such, the burden then shifts to the Board.

The Court in *Kenai* established a burden shifting standard in the context of the *Kenai* litigation. The Court stated that "intentional geographic discrimination in reapportionment is justifiable only if greater proportionality in geographic representation in the legislature will result therefrom."[135] Additionally, in *In re 2001*, the Court considered an argument that the Matanuska Susitna Borough's equal

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[133] Many of Girdwood's arguments focus on the Board's stated justifications, *i.e.*, protecting the military vote, and how that was a pretext not supported by the record, and thus arbitrary and capricious. Indeed, Girdwood concludes "that the Board acted arbitrarily and capriciously, in a manner that violated the Equal Protection Clause of the Alaska Constitution." Girdwood FFCL at 67. But Girdwood does not raise any due process or Section 10 challenges, nor does Girdwood's complaint allege that the Board acted in an arbitrary and capricious manner. *See* Girdwood Complaint at 8-10. Instead, Girdwood appears to be seeking to apply this court's prior "hard look" analysis under a different constitutional provision. *See* Girdwood FFCL at 15-17. But on appeal the Alaska Supreme Court reversed this court's prior findings on "hard look" review as it related to the Skagway challenge and House Districts 3 and 4. Without further guidance from the Court to clarify the proper standard, this court declines to apply the same analysis under a different name. Nevertheless, Girdwood's arguments that the Board ignored substantive factors it should have considered do serve an important purpose under the federal framework discussed below.
[134] The Board's purported justification that it "sought to preserve the military community's voting strength," Board FFCL at 21, at least as it relates to Senate District E, appears to lack "a substantial basis in reality" and thus would not qualify as a "legitimate purpose." *Com. Fisheries Entry Comm'n v. Apokedak*, 606 P.2d 1255, 1264 (Alaska 1980). But this court does not reach the issue of weighing the Board's purpose unless and until Girdwood first establishes that the Board acted with discriminatory intent.
[135] *Kenai*, 743 P.2d 1352, 1373 n. 40.

protection rights were violated as it was not given strictly proportional representation.[136] However, the Court determined that the Board had presented a "valid non-discriminatory justification," that the challenged pairing was a necessary result of other pairings that were required to avoid violating the Voting Rights Act.[137]

Looking to strictly numerical proportionality, Eagle River Valley and North Eagle River/Chugiak are underrepresented by -1.65% and -0.71% respectively. South Anchorage is underrepresented by -0.28%. Pairing Eagle River Valley and South Anchorage results in an average deviation of roughly -0.97%, whereas pairing the Eagle River districts together results in an average deviation of -1.18%, and pairing South Anchorage with Oceanview/Klatt, as in Option 2, results in an average deviation of roughly -0.48%. The districts in question vary by as much as 250 persons per district, and thus different pairing create a multitude of different variations among Senate Districts. When looking to the deviations present in the challenged districts in Option 3B, average deviation among both Senate Districts is roughly -0.73%. Average deviations when looking to Option 2 are roughly -0.83%. This is a difference of eighteen individuals. Therefore, Option 3B leads to slightly more proportional representation.

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[136] *In re 2001 Redistricting Cases*, 44 P.3d 141, 146-47 (Alaska 2002).
[137] *Id.*

District	All persons	Target	Deviation	Difference	Averages	
Senate District Pairings in Option 3B						
South Anchorage -E- 9	18,023	18,335	-0.28%	-51	-177 -0.965%	-133.5 -0.73%
Eagle River Valley -E- 10	18,032	18,335	-1.65%	-303		
JBER -L- 23	18,285	18,335	-0.27%	-50	-90 -.49%	
North Eagle River/ Chugiak -L- 24	18,205	18,335	-0.71%	-130		
Senate District Pairings in Option 2, Advocated by Plaintiffs						
South Anchorage -E- 9	18,023	18,335	-0.28%	-51	-86.5 -0.475%	-151.5 -0.83%
Oceanview/Klatt -G- 13	18,213	18,335	-0.67%	-122		
Eagle River Valley -E- 10	18,032	18,335	-1.65%	-303	-216.5 -1.18%	
North Eagle River/ Chugiak -L- 24	18,205	18,335	-0.71%	-130		

The Court considers the burden shifting standard in the context of the current challenges regarding Senate districts. In this case, there is no evidence that greater proportionality was a factor the Board considered when crafting Senate pairings. In fact, the Board seemed particularly focused on article VI section 6 requirements relevant to House districts, like socio-economic integration, and whether the districts shared common interests. Where strict proportionality is not a clear consideration by

the Board, the Court hesitates to conclude that the discrimination and illegitimate purpose is overcome by the unintended *de minimis* increase in proportionality that Option 3B presents. Realistically, the Board would not generally be expected to consider numerical proportionality upon determining Senate pairings, as at that point the House districts would have already been created. To be sure, all deviations in the affected Senate districts are below 2%, and most are below 1%. Thus, any argument that Senate Districts are more proportional are ultimately after-the-fact rationalizations rather than legitimate justifications.

Here, the intent carries forward. The Court found that the Board crafted Senate Districts with illegitimate purpose. The Court acknowledges that the Board offered non-discriminatory reasons for pairing House Districts 9 and 10; however, those reasons stemmed from a preference for keeping House Districts 23 and 24 together. While the Court has not determined that Senate District L is unconstitutional, the Board's preference for keeping it intact does not mirror the Voting Rights Act requirements considered in *In re 2001*. It may prefer keeping those districts together, but it is not required to, and mere preference, no matter how strong, cannot justify a finding that districts were created with illegitimate purpose.

Yet, the court is operating without clear guidance from the Alaska Supreme Court establishing the legal framework to apply. Therefore, this court is left to its own judgment as to whether prior findings of discriminatory intent must be taken into consideration and how much weight should they be afforded. Fortunately, Alaska is not the only state that conducts redistricting every 10 years, and federal court decisions provide some guidance under a more expansive standard.

2. The *Arlington Heights* Framework and Subsequent Federal Equal Protection Clause Decisions Addressing Prior Discriminatory Intent

Much like Alaska's Equal Protection Clause, the federal version protects individuals from intentional discrimination by state actors.[138] Under the federal Constitutional standard, challengers need not prove that discriminatory intent was the government's "dominant" or "primary" purpose, but it must be a "motivating factor."[139]

In *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, the U.S. Supreme Court detailed several types of circumstantial evidence that it had previously used when determining the existence of discriminatory intent.[140] These factors include: (1) discriminatory effect;[141] (2) the historical background, *i.e.*, whether the action is the latest in "a series of official actions taken for invidious purposes"; (3) the preceding sequence of events, *i.e.*, the timing of the action relevant to other events; (4) departures from normal procedures and substantive norms, *i.e.*, whether the factors normally relevant would counsel a different conclusion; and (5) legislative history, *e.g.*, "contemporary statements by members of the decisionmaking body."[142] And because this is a non-exhaustive list, federal appellate courts have recognized additional factors: "(6) the foreseeability of the disparate impact; (7) knowledge of that impact, and (8) the availability of less discriminatory alternatives."[143] Federal courts routinely apply these *Arlington Heights* factors to uncover discriminatory intent in a variety of equal protection challenges, including redistricting cases.[144]

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[138] *See* U.S. Const. amend. XIV; *Washington v. Davis*, 426 U.S. 229, 239 (1976).
[139] *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265-66 (1977).
[140] *Arlington Heights,* 429 U.S. at 266-68.
[141] There are also rare cases where "a clear pattern" emerges in the application of an otherwise facially neutral law that is "unexplainable on grounds other than [intentional discrimination]," and thus proof of discriminatory effect alone is sufficient. *Id.* at 266 & nn.13-14; *see also Yick Wo v. Hopkins*, 118 U.S. 356 (1886) (laundromat licensing); *Gomillion v. Lightfoot*, 364 U.S. 339 (1960) (redistricting).
[142] *Arlington Heights*, 429 U.S. at 266-68; *see also Alaska Inter-Tribal Council v. State*, 110 P.3d 947, 960-62 (Alaska 2005) (applying *Arlington Heights* framework).
[143] *Greater Birmingham Ministries v. Sec'y of State for State of Alabama*, 992 F.3d 1299, 1322 (11th Cir. 2021).
[144] *See, e.g.*, *Miller v. Johnson*, 515 U.S. 900, 913-14 (1995) (applying *Arlington Heights* factors to Georgia redistricting plan); *N. Carolina State Conf. of NAACP v. McCrory*, 831 F.3d 204, 220-33 (4th Cir. 2016) (invalidating redistricting plan based on North Carolina's history of discrimination and other factors).

In *Hunter v. Underwood*, the U.S. Supreme Court confronted a provision of the Alabama Constitution of 1901 that disenfranchised those with convictions for crimes of "moral turpitude."[145] Although the Court reasoned that the language was facially neutral, the challengers provided ample evidence under the *Arlington Heights* factors that the voting restriction "was enacted with the intent of disenfranchising blacks."[146] Indeed, the original language of the provision included the crime of "miscegenation," although later courts had apparently already struck down that and other crimes.[147] Alabama thus argued that despite the obvious discriminatory intent in 1901, "events occurring in the succeeding 80 years had legitimated the provision."[148] But the Court was not convinced:

> Without deciding whether [the constitutional provision] would be valid if enacted today without any impermissible motivation, we simply observe that its original enactment was motivated by a desire to discriminate against blacks on account of race and the section continues to this day to have that effect. As such, it violates equal protection under *Arlington Heights*.[149]

Hunter thus established that subsequent events cannot always remove the taint of prior discriminatory intent.[150] And more recently, district courts applying *Arlington Heights* and *Hunter* have struck down longstanding immigration laws, initially passed in the 1920s and 1950s amid widespread, open animus toward immigrants.[151]

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[145] 471 U.S. 222, 224 (1985).
[146] *Id.* at 229.
[147] *Id.* at 226, 233.
[148] *Id.* at 233.
[149] *Id.*
[150] *See, e.g.*, *N. Carolina State Conf. of NAACP v. McCrory*, 831 F.3d 204, 239 (4th Cir. 2016). *But cf. Johnson v. Governor of State of Fla.*, 405 F.3d 1214, 1223-25 (11th Cir. 2005) (finding subsequent legislative reenactment eliminated taint from discriminatory law); *Cotton v. Fordice*, 157 F.3d 388, 391 n.8 (5th Cir. 1998) (distinguishing *Hunter* by noting that the Court only discounted "involuntary" pruning of the language by courts as opposed to legislative or voter-approved amendments and reenactments).
[151] *See, e.g.*, *United States v. Carrillo-Lopez*, 555 F. Supp. 3d 996, 1019 (D. Nev. 2021) (finding that Congressional reenactment of immigration laws in 1952 "not only failed to reconcile with the racial animus of the Act of 1929, but was further embroiled by contemporary racial animus"). *But see United States v. Hernandez-Lopez*, No. CR H-21-440, 2022 WL 313774, at *5-6 (S.D. Tex. Feb. 2, 2022) (refusing to consider the intent of the 1929 Congress and finding no discriminatory intent in the same statute).

On the other hand, the U.S. Supreme Court also cautioned against imputing the motivations of prior legislatures to subsequent redistricting efforts in *Abbott v. Perez*.[152] There, several groups challenged Texas's 2011 redistricting plans, which eventually led to a three-judge federal court creating interim plans by making minor adjustments to the 2011 plans.[153] The Texas legislature then adopted those as its permanent plans in 2013, with minor changes, to "'confirm the legislature's intent' to adopt 'a redistricting plan that fully comports with the law.'"[154] After multiple trials, the federal court concluded that the original 2011 plans "were the result of intentional vote dilution."[155] Upon turning to the 2013 plans, the district court "attributed this same intent to the 2013 Legislature because it had failed to 'engage in a deliberative process to ensure that the 2013 plans cured any taint from the 2011 plans.'"[156] On appeal, the Court clarified:

> The allocation of the burden of proof and the presumption of legislative good faith are not changed by a finding of past discrimination. "[P]ast discrimination cannot, in the manner of original sin, condemn governmental action that is not itself unlawful." The "ultimate question remains whether a discriminatory intent has been proved in a given case." The "historical background" of a legislative enactment is "one evidentiary source" relevant to the question of intent. But we have never suggested that past discrimination flips the evidentiary burden on its head.[157]

The Court distinguished *Hunter* by observing that the Alabama constitutional provision at issue there "was never repealed, but over the years, the list of disqualifying offenses had been pruned"—in other words, subsequent deletions "did not alter the intent with which the article, including the parts that remained, had been adopted."[158] Over vigorous dissents, the Court reversed the district court's conclusion, but it reiterated that prior discriminatory intent should not be ignored either:

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[152] *Abbott v. Perez*, 138 S. Ct. 2305, 2313 (2018).
[153] *Id.* at 2315-16.
[154] *Id.* at 2317.
[155] *Id.*
[156] *Id.* at 2318 (quoting *Perez v. Abbott*, 274 F. Supp. 3d 624, 649 (W.D. Tex. 2017)).
[157] *Id.* at 2324-25 (citations omitted).
[158] *Id.* at 2325 (distinguishing *Hunter v. Underwood*, 471 U.S. 222 (1985)).

> In holding that the District Court disregarded the presumption of legislative good faith and improperly reversed the burden of proof, we do not suggest either that the intent of the 2011 Legislature is irrelevant or that the plans enacted in 2013 are unassailable because they were previously adopted on an interim basis by the Texas court. Rather, both the intent of the 2011 Legislature and the court's adoption of the interim plans are relevant to the extent that they naturally give rise to—or tend to refute—inferences regarding the intent of the 2013 Legislature. They must be weighed together with any other direct and circumstantial evidence of that Legislature's intent.[159]

In other words, any prior discriminatory intent remains a "factor" to be considered alongside all other *Arlington Heights* factors, but the prior intent is not dispositive, and the challengers still ultimately bear the burden of proving that discriminatory intent was a "motivating factor" for the subsequent action.

3. Applying the *Arlington Heights* Factors and *Abbott*

In this Court's view, the *Arlington Heights/Abbott* framework provides useful guidance in addressing the board's prior bad intent. Both the *Kenai* "neutral factors test" and the *Arlington Heights* framework are versions of the same "totality of the circumstances" test.[160] Further, the *Kenai* Court specifically observed that "the equal protection clause of the Alaska Constitution imposes a stricter standard than its federal counterpart,"[161] thereby providing greater protection to potentially disaffected voters. If the Board's intent is considered discriminatory under the federal test, then it must be discriminatory under Alaska's Equal Protection Clause as well. Accordingly, given this Court's prior finding of discriminatory intent, this Court will look to the

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[159] *Id.* at 2326-27.

[160] *Compare Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1372 (Alaska 1987) (noting that the "neutral factors" evidence should be "considered with the totality of the circumstances" to determine intent), *with Washington v. Davis*, 426 U.S. 229, 242 (1976) ("Necessarily, an invidious discriminatory purpose may often be inferred from the totality of the relevant facts . . . ."), *and N. Carolina State Conf. of NAACP v. McCrory*, 831 F.3d 204, 233 (4th Cir. 2016) (admonishing the district court for considering "each piece of evidence in a vacuum, rather than engaging in the totality of the circumstances analysis required by *Arlington Heights*").

[161] *Kenai Peninsula Borough*, 743 P.2d at 1371.

Arlington Heights framework to address the Board's prior discriminatory intent as part of the "totality of the circumstances" in addressing the Girdwood challenge.

a. Discriminatory Effect

Girdwood argues that the South Anchorage district in which Girdwood resides "is majority-leaning but not always majority-electing," and thus essentially a "swing" district.[162] This contention is supported by an expert report from Dr. Chase Hensel,[163] whose testimony this court previously relied on to determine that Muldoon and Eagle River are "communities of interest."[164] In contrast, as Dr. Hensel explained before, Eagle River "votes solidly and predictably Republican."[165] Girdwood thus argues that pairing South Eagle River with South Anchorage has the effect of overpowering District 9's moderate views, thus precluding Girdwood from "a meaningful opportunity to influence state senate elections at the margin."[166] In other words, Girdwood frames the relevant "politically salient class" as not just the community of Girdwood but "District 9 as a whole."[167]

The Board responds that Girdwood's voting-age population ("VAP") comprises only 12.34% of its current house district, and only 6.33% of new Senate District E.[168] Analyzing historical voting data, the Board asserts that Girdwood lacks the population to control any senate district, and that Girdwood's current house district with Hillside is already heavily Republican-leaning.[169] The Board thus concludes "that there is no likelihood that Eagle River voters would drown out Hillside voters, or vice versa."[170] The Board produces two affidavits from its executive director, Peter Torkelson, examining the voting age populations and voting patterns of the communities of

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[162] Girdwood FFCL at 62.
[163] *See* Hensel Report at 7-8 (May 5, 2022).
[164] *See* FFCL and Order at 55-56, 68-70 (Feb. 15, 2022).
[165] Hensel Affidavit at 17 (Jan. 15, 2022).
[166] Girdwood FFCL at 64.
[167] Girdwood FFCL at 63.
[168] Board FFCL at 10.
[169] Board FFCL at 22-23; Board Opposition at 21-23.
[170] Board FFCL at 22.

Girdwood and Hillside.[171] The Board supplies no expert testimony to support its contentions.

On the balance, this court is not entirely convinced that the Board's pairings will necessarily result in any significant discriminatory effect. Much of the arguments regarding future elections is conjecture—no court can actually predict how future elections will unfold. Still, based on the numbers and evidence presented, any pairing of Eagle River with another more moderate community would likely yield a safe Republican seat for the foreseeable future. But there is an equal likelihood that even under Option 2, Girdwood may be represented by a Republican senator. Regardless, that is not the end of the inquiry. And rather than focus on actual discriminatory impact in partisan gerrymandering claims, perhaps the more important question to ask is whether the Board *intended* the pairings to have a substantial effect, *i.e.*, that splitting Eagle River and pairing it with South Anchorage would create two safe Republican senate seats.

b. Historical Background

Under *Abbott*, prior findings of discriminatory intent must be considered as a factor alongside other past evidence of discrimination. In particular, this court previously held that "the Board intentionally discriminated against residents of East Anchorage in favor of Eagle River, and this intentional discrimination had an illegitimate purpose."[172] This court explained that the Board's purpose in creating Senate District K was to "give[] Eagle River more representation,"[173] whereas any dilution of Muldoon's voting strength was "a down-the-road consequence."[174] The Alaska Supreme Court then affirmed this "court's determination that the Board's Senate K pairing of house districts constituted an unconstitutional political gerrymander violating equal protection under the Alaska Constitution."[175] Girdwood

[171] *See* Torkelson Affidavit at 1-6 (May 4, 2022); Torkelson Supp. Affidavit at 1-2 (May 9, 2022).
[172] FFCL and Order at 70.
[173] FFCL and Order at 69.
[174] FFCL and Order at 68.
[175] Order, *ITMO 2021 Redistricting Cases*, S-18332, at 6 (Alaska March 25, 2022).

highlights this court's prior findings of discriminatory intent, arguing that the Board's proceedings after remand were merely pretext "to launder gerrymandered maps through the courts."[176] While the Board disagrees with this court's prior findings, the Board cannot avoid the import of this court's findings, which the Alaska Supreme Court upheld on appeal.

The key question, therefore, is how much weight should this court afford to prior findings of discriminatory intent after remand? Much like the constitutional issue in *Hunter*, the Board did not voluntarily repeal and reenact its prior discriminatory decision—the unconstitutional portions of the 2021 redistricting plan were reversed by the courts, including the highest appellate Court in this State.[177] Nothing about the Board's action here can plausibly be considered "voluntary." And unlike the subsequent legislature adopting the tainted redistricting plans in *Abbott*,[178] there was no intervening election—the Board's membership remains unchanged, and the same three members who voted in favor of splitting Eagle River before have split Eagle River again. Indeed, the Board's discriminatory intent formed roughly six months ago. In light of the contemporaneity of the Board's prior intent, this factor weighs heavily in Girdwood's favor. But this does not end the inquiry. As the *Abbott* Court cautioned, prior intent alone cannot forever preclude the Board from adopting pairings that may otherwise be upheld absent discriminatory intent.

c. Procedural and Substantive Departures

Without question, this court's prior finding of discriminatory intent was heavily dependent on procedural irregularities, *i.e.*, "secretive procedures," such as the Board's abuse of executive sessions and the appearance of off-the-record decision-making.[179] After remand, the Board therefore sought to eliminate any appearance of

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[176] Girdwood Opposition Brief at 40.
[177] *See Cotton v. Fordice*, 157 F.3d 388, 391 n.8 (5th Cir. 1998) (differentiating between "involuntary" pruning by courts and legislative or voter-approved amendments and reenactments).
[178] *Abbott v. Perez*, 138 S. Ct. 2305, 2316, 201 L. Ed. 2d 714 (2018) (noting that Texas conducted elections using the interim plans in 2012).
[179] *See* FFCL and Order at 65-68 (Feb. 15, 2022).

impropriety by stating each member's rationale on the record and never once entering executive session.[180] As noted above, during this expedited challenge, this court has not been presented with *direct evidence* of "secretive procedures" or other departures from procedural norms. Instead, the Girdwood Plaintiffs rely primarily upon inference and circumstantial evidence.

Nevertheless, departures from *substantive* norms also come in under this factor. The *Arlington Heights* Court explained that the relevant question here is whether "the factors usually considered important by the decisionmaker strongly favor a decision contrary to the one reached."[181] Arguably, the factors the Board should have considered important are the limited constitutional criteria for senate districts, *i.e.*, contiguity, local government boundaries, and geography.[182] Article VI, Section 10 also requires the Board to "hold public hearings on the proposed plan."[183] Indeed, the Board itself stated that public comment was an important consideration, and it sought to extend public comment after remand to "give the public their due."[184] Thus, where the Board substantively departed from such considerations, this may constitute circumstantial evidence of invidious intent.

Girdwood's challenge is replete with instances where the Board either ignored public testimony, geography, and even the boundaries of Eagle River to justify adopting Option 3B, or simply downplayed it.[185] This court need not recount every substantive deviation—it should be enough to observe that the Board fails to actually dispute any of Girdwood's observations.[186] Instead, the Board now argues that senate districts need not even be strictly contiguous.[187] The Board also now asserts that it

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[180] Board FFCL at 6-9.
[181] *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 267 (1977).
[182] Alaska Const. art. VI, § 6.
[183] Alaska Const. art. VI, § 10.
[184] ARB2000238; *see also* ARB000226-42. The record shows that it was actually the Board members that voted in favor of Option 3B who initially sought to elicit greater public testimony "to meaningfully implement the findings of the Supreme Court." ARB2000241.
[185] Girdwood FFCL at 39-61.
[186] Indeed, the Board's rejoinder on public comment is merely that "[n]either option garnered *total* support of all the public." Board FFCL at 4 (emphasis added).
[187] In particular, the Board interprets the qualifier "as near as practicable" in Section 6 to mean that it can

has no obligation to listen to or follow the weight of public testimony.[188] This Court acknowledges it previously criticized the Board for failing to take an appropriate "hard look" at the public testimony in mapping the house districts for Skagway and Juneau, but the Alaska Supreme Court reversed this Court's remand order.[189] Nonetheless, this Court does not believe the Board's discretion is unfettered. For purposes of this decision, the Court simply notes the weight of the substantive public testimony appeared to favor Option 2 rather than Option 3B. And as for respecting the boundaries of Eagle River, the Board offers no arguments as to why North Eagle River could not be paired with South Eagle River.[190]

Rather than relying on any of the aforementioned considerations, the Board's stated rationale for adopting Option 3B was "to preserve the military community's voting strength" as a "community of interest."[191] But this court never found that JBER was a "community of interest." The Board has never presented *any* expert testimony on that issue. And the record does not appear to contain specific public comment from *any* JBER resident.[192] On the other hand, this court did find that Eagle River was a "community of interest," and yet the Board made no effort to preserve its boundaries.[193] Not only is the Board's stated purpose not supported by the weight of the record,[194] it is also contrary to precedent.[195]

"pair non-contiguous house districts together if it is not practicable to adopt contiguous pairings." Board FFCL at 16. This court rejects that narrow reading. Instead, the more reasonable interpretation of this phrase is that it allows contiguity across bodies of water or inaccessible mountain ranges. *See Hickel v. Se. Conf.*, 846 P.2d 38, 45 (Alaska 1992), *as modified on reh'g* (Mar. 12, 1993). Moreover, the Supreme Court has already interpreted the phrase "as near as practicable" in Section 6 as it applies to population deviations to require "a good faith effort" to reduce deviations below the federal threshold. *In re 2001 Redistricting Cases*, 44 P.3d 141, 146 (Alaska 2002).

[188] Board Opposition Brief at 3-7. This court observes that, once again, the clear weight of public testimony was opposed to splitting Eagle River. *Compare* Girdwood FFCL at 48-56, *with* FFCL and Order at 68 (Feb. 15, 2022). Moreover, the Municipality of Anchorage and every community council that weighed in on the pairings preferred Option 2. Girdwood FFCL at 53-54.

[189] Order, *ITMO 2021 Redistricting Cases*, S-18332, at 3 (Alaska March 25, 2022).

[190] The Board even concedes that Option 2 had bipartisan support, as "two Republican senators and a member from Governor Dunleavy's administration spoke out against Option 3B." ARB2000973.

[191] Board FFCL at 21.

[192] Girdwood FFCL at 56.

[193] *See* FFCL and Order at 68 (Feb. 15, 2022).

[194] This is addressed more below as it pertains to whether the Board's purpose was "legitimate."

[195] *See In re 2001 Redistricting Cases*, 44 P.3d 141, 147 (Alaska 2002) ("Neither military personnel nor

As previously noted, the record does support the conclusion that some military officers and ex-military members live in Eagle River. On the other hand, the record contains negligible support for the pairing of Girdwood/Turnagain Arm with South Eagle River.[196] While the Board members supporting that pairing talked of rural road service, wildlife issues, and even the geographic connections (the Chugach Mountains and the Ship Creek drainage), there was little discussion of the obvious pairing of the two Eagle River house districts. If the Board had instead relied on "the factors usually considered important" for senate district pairings, pairing Eagle River with Eagle River would have received more attention. The Board's stated motivations about protecting the JBER connection and supporting military voters appears pretextual. This court therefore views these substantive departures as weighing heavily in Girdwood's favor.

d. Contemporary Statements of Board Members

Legislative history, or contemporaneous statements of the decision-makers, is another factor relevant here. This factor primarily concerns public statements, such as those normally found in meeting minutes or reports.[197] In the context of large legislative bodies, "statements from only a few legislators, or those made by legislators after the fact, are of limited value."[198] Courts may also rely on trial testimony, deposition statements, and other available evidence.[199] But "statements

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members of any other group have any constitutional right to be divided among two or more districts to maximize their opportunity to influence multiple districts rather than control one.").

[196] The Board cites only superficial similarities between South Eagle River and Girdwood, such as being "close to the mountains" and "generally more rural." Board FFCL at 7-8. Instead, the Board admits that new Senate District E is essentially another downstream consequence of pairing North Eagle River with JBER. ARB2000970.

[197] *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 268 (1977).

[198] *N. Carolina State Conf. of NAACP v. McCrory*, 831 F.3d 204, 229 (4th Cir. 2016).

[199] *See, e.g.*, *Smith & Lee Assocs., Inc. v. City of Taylor, Mich.*, 13 F.3d 920, 928 (6th Cir. 1993) (relying on testimony from city officials); *cf. Smith v. Town of Clarkton, N.C.*, 682 F.2d 1055, 1064-65 (4th Cir. 1982) ("Municipal officials acting in their official capacities seldom, if ever, announce on the record that they are pursuing a particular course of action because of their desire to discriminate against a racial minority. Even individuals acting from invidious motivations realize the unattractiveness of their prejudices when faced with their perpetuation in the public record. It is only in private conversation, with individuals assumed to share their bigotry, that open statements of discrimination are made, so it is rare that these statements can be captured for purposes of proving racial discrimination in a case such as this. The trial court, in making findings of fact, was faced with the same problems confronting trial courts everywhere

made by private individuals," such as those offered during public comment, are irrelevant without additional "evidence that the private motives . . . are fairly attributable to the State."[200]

Girdwood offers very few public statements in support of its arguments. Instead, Girdwood focuses on private communications between the members as evidence of discriminatory intent. For example, Member Simpson's email correspondence evinced knowledge that the South Eagle River district was "reliably republican," and that the Board previously paired it with South Muldoon because it was also "majority non-minority" and voted "republican 2/3 of the time."[201] Member Simpson then complained that the Alaska Supreme Court upheld this court's finding that the Board "politically gerrymandered" Senate District K, which now "must be replaced with a different political gerrymander more to their liking," and that "the Ds will push to dilute both of them to make it easier to elect their candidates."[202] In context, Member Simpson was most likely venting his frustrations. But that does not change the fact that Member Simpson knew that Eagle River was "reliably republican," and that splitting Eagle River again would be viewed as another "political gerrymander."[203] Aside from that, Girdwood provides no reasons why this court should attribute statements from private individuals to Board members, and this court declines to do so.[204]

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sitting as finders of fact in cases involving racial discrimination.").

[200] *City of Cuyahoga Falls, Ohio v. Buckeye Cmty. Hope Found.*, 538 U.S. 188, 189 (2003).

[201] Girdwood FFCL at 35; ARB2-507161-62.

[202] ARB 2-507161-62. Member Simpson also expressed relief that the Court upheld his Skagway-Mendenhall Valley pairing, and mused that Skagway "will be stuck with that arrangement for the next 10 years, at least." ARB2-507161.

[203] If anything, this statement goes more to some of the additional *Arlington Heights* factors that other federal courts have recognized, such as the foreseeability and knowledge of discriminatory impact. *See Greater Birmingham Ministries v. Sec'y of State for State of Alabama*, 992 F.3d 1299, 1322 (11th Cir. 2021). And as for "the availability of less discriminatory alternatives," as this court observed above, Option 2 had widespread, bipartisan support. These additional factors, while potentially less important, also weigh in Girdwood's favor.

[204] One email cited by the Girdwood Plaintiffs and apparently received by Member Simpson on April 13, 2022, is particularly unkind. The email subject line noted the heading "Alaska Redistricting Board adopts GOP-friendly plan, pairing Eagle River with South Anchorage" but the sender appears to attack Members Bahnke and Borromeo for their vote against the plan. ARB2-507140.

There is also the question of whether Board members' statements from earlier in this redistricting cycle continue to come in under this factor. To the extent that this court already found that the Board acted with discriminatory intent, and that the Board's prior intent continues to be a consideration, this court will not "double-count" Board members' prior statements. Nevertheless, because those statements continue to be pertinent to this court's analysis, it is worth reiterating what members previously stated on the record about their motivations for splitting Eagle River, as the Board now repeats this result.

As this court previously noted, the one who proposed and then fervently advocated for the Eagle River-JBER pairing was Member Marcum.[205] For context, Bethany Marcum is the CEO of the Alaska Policy Forum.[206] She served as a member of the Air National Guard stationed at JBER, and has lived in both Eagle River and on the Lower Hillside.[207] She was appointed to the Board by Governor Mike Dunleavy.[208] On November 8, 2021, as the Board was debating senate pairings, Member Marcum observed that "the connection between Eagle River and the military was not given any consideration during the House district drawing process."[209] She stated that splitting Eagle River into two senate districts "actually gives Eagle River the opportunity to have more representation, so they're certainly not going to be disfranchised by this process."[210] In support of pairing North Eagle River with JBER, Member Marcum also read into the record one particular public comment that described Eagle River as "a somewhat friendlier, safer part of Anchorage."[211] But the actual public testimony in the

[205] FFCL and Order at 58-62 (Feb. 15, 2022).
[206] Marcum Affidavit at 2 (Jan. 12, 2022).
[207] Marcum Affidavit at 1 (Jan. 12, 2022).
[208] ARB000005.
[209] ARB006671-72.
[210] ARB006672. Member Borromeo later reiterated this statement in opposition to the Board's final pairings: "Member Marcum said that splitting Eagle River into two Senate seats would extend the electoral influence of the community resulting in more representation." ARB007190.
[211] ARB006695. The record shows that this statement came from the written testimony of Eagle River resident Dan Saddler on October 12, 2021. ARB003610-11. Mr. Saddler also submitted written testimony at least two more times, urging the Board to connect JBER and Eagle River in a senate district. ARB003612-13 (Nov. 10, 2021); ARB2001332 (April 4, 2022).

record described Eagle River as "a somewhat friendlier, safer, *and more conservative* part of Anchorage."[212]

Member Marcum's prior statements, viewed in context, thus paint the picture that partisan politics was indeed a "motivating factor" behind her desire to pair North Eagle River with JBER. However, because this court has already taken the Board's prior discriminatory intent into consideration, Member Marcum's past statements are not afforded any additional weight here. It certainly appears to this court that Board members took extra precautions so as not to inadvertently include any blatantly partisan statements on the record after remand.[213] But as a whole, this factor weighs only slightly in favor of Girdwood if at all.

In the end, Girdwood has identified ample evidence in the record to support its argument that the Board substantially deviated from substantive norms in order to achieve a preordained result. Whereas other relevant factors, such as discriminatory effect and "legislative history", are less conclusive. On the record after remand alone, this court does not find that there is sufficient circumstantial evidence of discriminatory intent. Ultimately, the factor that tips the balance in Girdwood's favor is this court's prior finding on intent.

The Board knew that this court found that Senate District K was the result of intentional discrimination. And the Board knew that the Alaska Supreme Court affirmed this court's findings in the East Anchorage challenge on equal protection grounds. Yet the Board has proceeded through the remand as though this court reversed Senate District K on a procedural technicality. The majority of the Board appears to have assumed it could reach the same result – two reliably conservative senate seats for Eagle River - if only it submitted the senate pairings to additional public comment, regardless of what the public actually preferred. Once again, this

[212] ARB003610 (emphasis added). This omission of Mr. Saddler's actual testimony speaks volumes as to Member Marcum's true rationale behind pairing Eagle River and JBER.
[213] *See* Girdwood FFCL at 27-34. This is apparent by the number of private phone conversations between the three-member majority. Members Bahnke and Borromeo appear to have been excluded from any of those discussions.

court does not make this finding lightly. But when viewed under the totality of the circumstances, this court finds that the Board once again intentionally discriminated against the communities of Girdwood and South Anchorage in order to maximize senate representation for Eagle River and the Republican party. The Board was keenly aware that its actions would be perceived by the public as a political gerrymander—this court simply agrees with that observation.

e. Evaluating the Board's Purpose and Means-End Fit

Because this court finds that the Board acted with discriminatory intent, the burden shifts to the Board to show a "legitimate" purpose for its actions. This court then must evaluate whether there is "a substantial relationship between means and ends."[214] The Board argues that pairing Girdwood with South Eagle River "provides greater proportionality of representation to Girdwood voters," because every other contiguous pairing reduces Girdwood's overall percentage of voting-age population.[215] But the record unambiguously shows that advancing Girdwood's interests was never the Board's "purpose." This court rejects such obvious post-hoc rationalizations.[216] Instead, the Board's primary "purpose"—and its only stated goal on the record—was to protect military voters.[217] But, as explained below, the Board effectively admits that partisan politics is exactly what drove its decision.

Members repeatedly brought up the military connections between Eagle River and JBER.[218] When explaining his vote, Member Simpson referred to House District 23 as "the military district."[219] Member Marcum claimed to "speak for thousands of full-

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[214] *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1371 (Alaska 1987) (quoting *Alaska Pac. Assur. Co. v. Brown*, 687 P.2d 264, 269-70 (Alaska 1984)).
[215] Board FFCL at 10-11, 22.
[216] *See Com. Fisheries Entry Comm'n v. Apokedak*, 606 P.2d 1255, 1264 n.39 (Alaska 1980) (requiring "a substantial basis in reality" and rejecting "hypothesize[d] or invent[ed] purposes"); *cf. Raad v. Alaska State Comm'n for Hum. Rts.*, 86 P.3d 899, 905 (Alaska 2004) (rejecting "fictitious, post-hoc justifications" for intentional discrimination in the employment context (quoting *Thomas v. Anchorage Tel. Util.*, 741 P.2d 618, 624 (Alaska 1987))).
[217] Board FFCL at 6-8.
[218] *See, e.g.*, ARB2000968 ("We heard a lot of testimony about interactions between Eagle River, Chugiak, and JBER, that that area has essentially developed as a bedroom community . . . for the military families.").
[219] ARB2000967-68.

time Alaska residents who serve this state and country in the military" in her support of Option 3B.[220] And when his turn came, Chair Binkley noted "concerns that putting the more *conservative* or swing district of the military base with downtown would drown out the *military voters*."[221] In light of those justifications on the record, the Board argues that it "was concerned that pairing JBER with downtown Anchorage would result in JBER's *preference for candidates* being usurped by downtown Anchorage's *preference for opposing candidates*."[222]

Although Board members repeatedly couched their reasoning in terms of "military voters," as the Board's argument confirms, Board members either knew or assumed that JBER residents preferred the same political candidates as Eagle River, *i.e.*, Republicans. The Board thus candidly admits that its decision to pair JBER with North Eagle River was to amplify conservative voices by creating a safe Republican senate seat.

The Board responds that Option 2 would have resulted in even more of a political gerrymander. The three members voting for Option 3B each stated their belief that JBER was a "community of interest."[223] Based on that view, Member Marcum opined that she was "very uncomfortable with [Option] 2," because "Downtown has almost nothing in common with the military base," and pairing it with JBER "could be viewed as, like, an intentional action to break up the military community."[224] And after noting that several Republican officials had testified against Option 3B, Member Simpson argued that "the most partisan [option] is the proposed pairing of JBER and Downtown," which "would diminish the voice of our valued Alaska military

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[220] ARB2001003.
[221] ARB2000989 (emphasis added).
[222] Board FFCL at 21 (emphasis added); ARB2000973-74. Of course, Girdwood's whole argument is that pairing South Eagle River with Girdwood does the same thing.
[223] *See* ARB2000968 ("I think pairing the military bases with downtown overlooks JBER as a significant community of interest . . . ."); ARB2000980 ("The military, JBER, is absolutely a community of interest, I think."); ARB2000988 ("I understand that the Court has found . . . Eagle River to be a community of interest, but I think the testimony has also established very clearly that the military community is also a community of interest, and I don't believe that we should be trading one community of interest for the other.").
[224] ARB2000980.

personnel."[225] The Board now argues that JBER is itself a "community of interest" and that pairing JBER with Downtown would cause "undue dilution of the military vote."[226] But evidence of bipartisan support for Option 2 is not evidence that Option 3B is not "partisan." And merely because the Board learned to parrot the language from this court's prior order does not automatically turn JBER into a "community of interest." As noted above, this court has made no such finding and the Board has not offered evidence on that issue.

Moreover, as Girdwood points out, House District 23 includes a large portion of Downtown in addition to JBER.[227] All of the community councils within House District 23 who passed resolutions on the pairing opposed Option 3B.[229] Dr. Hensel explains that District 23 as a whole is also much more ethnically diverse than Eagle River, and actually has more in common geographically and demographically with Downtown.[230] And Girdwood points out that all of this information was brought before the board in the form of public testimony.[231]

It thus appears that the majority of the Board adopted Option 3B for political reasons—to protect *conservative* voters. Even accepting *arguendo* the Board's stated purpose of maximizing the voting strength of military voters, the Court previously rejected this rationale as illegitimate.[232] And acting to amplify the strength of conservative voters at the expense of moderate or liberal voters is even less

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[225] ARB2000973-74. Chair Binkley repeated these arguments. ARB2000982-83. Member Borromeo later retorted that the "military" arguments were "just dog-whistle politics to get people riled up that we're somehow disenfranchising the Armed Services," noting that the Board "shouldn't even be considering socioeconomic integration" at that point. ARB2000995.
[226] Board FFCL at 21.
[227] Girdwood FFCL at 40-42. Indeed, House District 23 also includes the neighborhoods of Government Hill, North Muldoon, and Downtown north of Fourth Avenue.
[229] Girdwood FFCL at 11-12, 41.
[230] Hensel Supp. Report at 3-4 (noting that the Board's data shows that 57% of House District 23 residents identify as "White," compared to 75% of House District 24). This difference is almost as striking as the Eagle River-Muldoon pairing this court previously invalidated.
[231] Girdwood FFCL 39-48.
[232] *See In re 2001 Redistricting Cases*, 44 P.3d 141, 147 (Alaska 2002) ("Neither military personnel nor members of any other group have any constitutional right to be divided among two or more districts to maximize their opportunity to influence multiple districts rather than control one."). This is precisely what the Board sought to do for Eagle River.

legitimate.[233] Because the Board once again acted with discriminatory intent, and because the Board has not put forth any legitimate, nondiscriminatory purpose for its actions, this court concludes that the Board violated the equal protection rights of the residents of Girdwood and House District 9.[234]

C. The Totality of the Circumstances

As outlined and discussed above, this Court has weighed the totality of the circumstances in reaching its conclusions. The Court's discussion of the *Arlington Heights* factors informs this Court's application of the *Kenai* "totality of the circumstances" analysis in a fuller context. In light of the substantial evidence of secretive procedures, regional partisanship, and selective ignorance of political subdivisions and communities of interest on the *whole* record, developed both in this 2022 amended redistricting process, and the earlier 2021 redistricting process, the Court finds above that the Board intentionally discriminated against residents of District 10, including Girdwood in order to favor of Eagle River, and this intentional discrimination had an illegitimate purpose. This Court also takes the opportunity to highlight some of the other evidence that factored into this analysis. Some of these observations fall under the Arlington Heights factors and are separately listed above. Although this Court does not base its decision on the following observations, it is worthwhile to highlight some of the small inconsistencies and peculiarities in the Board's process, in the aggregate, also support this Court's conclusion that the Board acted with discriminatory intent and improper purpose.

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[233] Indeed, the whole reason why the framers of the Alaska Constitution included requirements for contiguity, compactness, and socio-economic integration was to prevent partisan gerrymandering for political gain. *See Hickel v. Se. Conf.*, 846 P.2d 38, 45 & n.11 (Alaska 1992), *as modified on reh'g* (Mar. 12, 1993); *cf.* Order, *ITMO 2021 Redistricting Cases*, S-18332, at 6 (Alaska Mar. 25, 2022) (affirming invalidation of former Senate District K as an "unconstitutional political gerrymander"). The Board does not explain how political gerrymandering becomes "legitimate" or constitutional when the limited Section 6 criteria are met. Because the Board fails to put forth any legitimate purpose, this court need not determine whether there is a substantial relationship between the Board's goal and its decision.

[234] This does not mean that JBER and Eagle River, or Girdwood and Eagle River, can never be paired together in a senate district. It is, however, highly unlikely that *this* Board, given its past actions, can legitimately split Eagle River into two senate districts. The existence of discriminatory intent is key.

For example, the Board's stated justification, as before was to preserve the military ties between North Eagle River/Chugiak and JBER. This Court previously noted the plausibility of this justification, and noted there was at least some public testimony in support of this pairing. But there was also considerable public testimony to the contrary, both this time, and in the 2021 hearings. To be sure, there is little question in the supplemental record that both factions, supporters of Option 2 and supporters of Option 3B, marshalled the troops to write and call in support of their competing positions. Indeed, many of the written comments submitted to the Board appear to be simple "cut and paste" campaign type scripts. While this is true of both supporters and opponents alike, it appears to be much more true of the Option 3B camp. Many of the written comments used the same language. For example, numerous individuals called or wrote in merely to state that they opposed Option 2, with no explanation given;[235] or that they opposed it because it was "partisan" or "political," without further explanation.[236]

Where there was substantive testimony in favor of pairing Eagle River with South Anchorage/Girdwood/Turnagain Arm, it focused on tenuous similarities between the districts rather than substantive connections: individuals testified that both districts were concerned about things like fire danger, snow, and bears.[237]

In the context of voting rights in redistricting litigation, equal protection under the Alaska Constitution guarantees each person one vote and the right of fair and effective representation – the right to group effectiveness or an equally powerful vote.[238] As discussed earlier, Girdwood's expert, Dr. Hensel noted:

> if a pairing presents particularly unnecessary obstacles to the population that a district encompasses, and there are other pairings that do not present such difficulties, and the people who have chosen the pairing

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[235] *E.g.,* ARB2001685; ARB2001687; ARB2001689; ARB2001692; ARB2001695; ARB2001696; ARB2001697; ARB2001699 (small sampling of comments).
[236] *E.g.,* ARB2000260; ARB2000294; ARB2001690; ARB2001693
[237] ARB2000356; ARB2000363; ARB2000483-84; ARB2001617.
[238] *Kenai Peninsula Borough*, 743 P.2d at 1370-71 (quoting *Alaska Pacific Assurance Co. v. Brown*, 687 P.2d 264, 269 (Alaska 1984)).

> also have previously engaged in partisan gerrymandering, it raises the question of "why this pairing, and not that?[239]

Dr. Hensel's point is well-taken. In analyzing the circumstances which led the board to adopt Senate District E, it is appropriate for the Court to compare the promulgated district with other proposed and possible districts. The Board's Option 2, or even Option 1, would have created Anchorage senate pairings that do not include a senate district where the only population centers in the constituent house districts are separated by a significant mountain range including vast, unpopulated areas (or empty census blocks). While such expanses may be unavoidable in rural areas of the state, this Court looks warily upon the creation of such a district in urban/suburban Anchorage by a Board already found to have acted with illegitimate purpose in this exact area.

Similarly, the Board generally disregarded local government boundaries in establishing District E. While all districts in both proposals are technically within the Municipality of Anchorage, there are other local boundaries, including school zones, community councils and even the Downtown Improvement District which the Board could have considered. Both the Anchorage Assembly and the Girdwood Board of Supervisors issued Resolutions opposing the Board's senate pairing, but these resolutions were ignored.[240] In addition, the Downtown Community Council ("DCC"), Government Hill Community Council ("GHCC"), and Anchorage Downtown Partnership ("ADP") all formally supported a pairing of downtown with North Anchorage.[241]

By contrast, no formal resolutions or messages were received from community councils or other community government bodies in any Eagle River communities—nor were any resolutions or messages received from any community government body or entity representing the JBER population. While a few individual commenters

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[239] Hensel Report at 3.
[240] Girdwood Exhibits 4 and 5.
[241] ARB2001782-83 (ADP Resolution); ARB2001381 (testimony from Government Hill Community Council President); Exhibit 1 (Downtown Community Council Resolution).

supported a District 23/24 pairing or a District 9/10 pairing, the majority of the testimony was against it.

Further, this Court's observation from the first round of this litigation appears once again to be true. "The public portion of the record leads to only one reasonable inference: some sort of coalition or at least a tacit understanding between Members Marcum, Simpson, and Binkley."[242] The text messages certainly suggest there were private phone calls occurring between the three majority members.[243] In addition, the email evidence indicates Member Marcum was subscribed to the mailing list of the National Republican Redistricting Trust ("NRRT").[244] Since the stated goal of the NRRT is to preserve "our shared conservative values for future generations" through the redistricting process, the only reasonable inference that can be drawn is that Member Marcum's stated partisan goal from the first round of redistricting remained paramount in her work on the Board.[245]

The communications also demonstrate these members were keen to avoid the process problems identified by the Court the last time. While Members Bahnke and Borromeo questioned the need for an extensive process given that the Board had already heard testimony to move quickly and to use the constitutionally acceptable pairings proposed in November 2021,[246] the other three Board members insisted on a longer public process "to meaningfully implement the findings of the Supreme Court, "[247] "to give the public their due,"[248] and "allow the public to engage and look at that plan."[249] Member Simpson went so far as to state: "I refuse to be badgered into a decision made on partial information before I'm ready to do it."[250] These statements

[242] FFCL at pp 65-66.
[243] ARB2-507072-74, ARB 2-507136.
[244] ARB2-502232–35.
[245] Girdwood Exhibit 5; See also FFCL at p58 (referencing Board Transcripts).
[246] ARB2000235-37.
[247] ARB2000240-41.
[248] ARB2000238.
[249] ARB2000232.
[250] ARB2000240.

are admirable and certainly suggest the Board understood this Court's criticism of their senate pairing process in November 2021.

But despite the more open public process the Board engaged for this round, the justification provided for the Senate District pairings was virtually unchanged from stated justification in November – the military connection. The communications and statements suggest the majority board members approached the process with a pre-determined outcome in mind. The record indicates a disregard for the weight of public testimony, and lack of geographic awareness of what was in the districts at issue. Instead, totality of the circumstances indicates a goal-oriented approach; they paid attention to the details only as much as they needed to say the right words on the public record when explaining their choice.

In summary, the totality of the circumstances leads this Court to conclude that the majority of the Board acted in concert with at least a tacit understanding that Eagle River would again be paired in such a way as to provide it with two solidly Republican senate seats – an unconstitutional partisan gerrymander. The result deprives the voters of District 10 of fair and effective representation – the right to group effectiveness or an equally powerful vote[251] - in violation of the Equal Protection clause of the Alaska Constitution.

X. THE REMEDY

Having concluded the Board once again engaged in a partisan gerrymander in violation of the equal protection clause of the Alaska Constitution, the Court must determine how best to correct the constitutional error. Because of the extraordinarily short time remaining for legislators to file for political office, further uncertainty must be avoided. Article VI of the Alaska Constitution provides the starting point for the Court's analysis. Section 11 (Enforcement) provides in relevant part:

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[251] *Kenai Peninsula Borough*, 743 P.2d at 1370-71 (quoting *Alaska Pacific Assurance Co. v. Brown*, 687 P.2d 264, 269 (Alaska 1984)).

> Any qualified voter may apply to the superior court to compel the Redistricting board, by mandamus or otherwise, to perform its duties under this article or to correct any error in redistricting . . .. Upon a final judicial decision that a plan is invalid, the matter *shall* be returned to the board for correction and development of a new plan. If that new plan is declared invalid, the matter *may* be referred again to the board.[252]

Here, there has already been a final judicial determination that the Board's initial plan was invalid. Upon that determination, the matter was returned to the Board to correct the error. This Court has now declared the Amended plan invalid, so the court may return the matter to the Board again, but is not required to do so.

The Court is also mindful that it is not the court's role to draw the map, or to decide which map it prefers.[253] The Court may not substitute its judgment for that of the Board or choose among constitutional alternative plans. But having determined the Board acted in an arbitrary and unconstitutional manner, the Court must chart a path which balances the constitutional rights of Alaska voters to fair and effective representation at the ballot box with the rights of legislators and potential legislators to seek political office.

The statutory deadline for candidates to file a declaration of candidacy is a short two weeks away - June 1, 2022.[254] Under the circumstances, there must, at a minimum, be an interim map in place in sufficient time for potential candidates to make an informed decision and declare their candidacy. During this phase of the redistricting process, the Board considered two proposals for senate pairings: Option 2 and Option 3B, which has now been declared unconstitutional. Given what has transpired to date, there is simply no practical way for the Board to develop, debate and approve yet another map which would correct the constitutional error.

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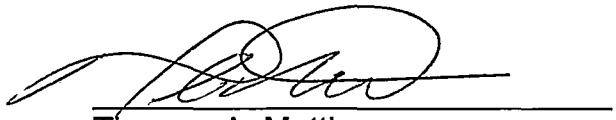
[252] Alaska Const. art. VI, § 11 (emphasis added).
[253] FFCL at 27. *Carpenter v. Hammond*, 667 P.2d 1204, 1214 (Alaska 1983) (quoting *Groh v. Egan*, 526 P.2d 863, 866-67 (Alaska 1974)).
[254] AS 15.25.040(a)(1).

The Court has the power, by mandamus,[255] to order the Board to correct any error in redistricting.[256] The only practical solution is for this Court to order the Board to adopt a map of senate pairings. Having determined that Option 3B was an unconstitutional political gerrymander, the Court orders the Board to adopt Option 2 on an *interim* basis for the 2022 general election. With the time pressure of the impending deadline removed, the matter should then be remanded once again to the Board to correct its constitutional error and adopt a new plan of redistricting for the balance of the decade.

This Court anticipates and encourages immediate appellate review of this decision by the Alaska Supreme Court. Accordingly, unless this Order is stayed by the Alaska Supreme Court, the Board shall prepare a Second Amended Proclamation incorporating the proposed senate pairings in Option 2 not later than May 23, 2022.

IT IS SO ORDERED.

DATED at Anchorage, Alaska this 16th day of May, 2022.



Thomas A. Matthews
Superior Court Judge

[255] "Traditionally, a suit asking the court to order a government official to act in a certain way is an action for mandamus." *Anderson v Dept. of Administration, Div. of Motor Vehicles*, 440 P.3d 217, 220 (Alaska 2019). See also *Wade v Dworkin*, 407 P.2d 587, 587 (Alaska 1965) (action to compel the Secretary of State to order a recount of votes.) The Writ of Mandamus has been abolished in Alaska, but the relief itself is still available. The court retains the power under Civil Rule 65 to issue a mandatory or reparative injunction. Alaska R. Civ. P. 91(b). *Anderson*, 440 P.2d at 220.
[256] Alaska Const. art. VI, § 11.

I certify that 5/16/22 a copy of this Order
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