

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
2 THIRD JUDICIAL DISTRICT AT ANCHORAGE
3

4)
5 In the Matter of the)
6 2021 Redistricting Plan.)
7)

8) Case No. 3AN-21-08869CI

9 **ALASKA REDISTRICTING BOARD'S**
10 **OPPOSITION TO EAST ANCHORAGE PLAINTIFFS'**
11 **MOTION TO REJECT AMENDED PROCLAMATION PLAN**
12 **AND FOR MODIFICATION OF ORDER ON REMAND**

13 **I. INTRODUCTION**

14 On remand, the Alaska Redistricting Board (“Board”) completed an amended
15 redistricting plan that paired the South Muldoon area (House District 21) with the North
16 Muldoon area (House District 22) to form the new Senate District K. The Board also
17 maintained Senate District L from the Board’s 2021 Redistricting Plan that paired the
18 North Eagle River-Chugiak area (House District 24) with the JBER area (House District
19 23). The Board’s creation of a new Senate District K consisting of Muldoon house
20 districts solved the East Anchorage Plaintiffs’ concern about how East Anchorage was
21 represented in the Alaska Senate. Yet the East Anchorage Plaintiffs are still not
22 satisfied.
23

24 Now the East Anchorage Plaintiffs improperly seek to have this Court revisit an
25 existing senate district from the 2021 Redistricting Plan that neither this Court nor the
26

1 Alaska Supreme Court invalidated. The East Anchorage Plaintiffs misread this Court’s
2 prior rulings and the remand instructions of the Alaska Supreme Court. For several
3 reasons, this Court should deny their motion.
4

5 First, the East Anchorage Plaintiffs’ complaints about Senate District L—a
6 senate district that was challenged but not struck down in the litigation on the 2021
7 Redistricting Plan—are barred by the doctrine of *res judicata* and collateral estoppel.
8 Article VI, Section 11 provides that any challenge to the Board’s redistricting plan must
9 be filed within 30 days of the Board’s adoption of that plan. In their initial complaint
10 regarding the 2021 Redistricting Plan, the East Anchorage Plaintiffs expressly sought
11 a ruling striking down as unconstitutional Senate District L, arguing that the Court
12 should invalidate both “Eagle River senate districts.” This Court did not grant the East
13 Anchorage Plaintiffs this relief, instead issuing a narrower order focused on the equal
14 protection implications for Muldoon voters of pairing then-House District 22 (Eagle
15 River valley) with then-House District 21 (South Muldoon). This Court did not strike
16 down Senate District L and expressly acknowledged that the Board had articulated
17 justification for pairing the North Eagle River-Chugiak and JBER districts together.¹
18 This Court declined to invalidate Senate District L,² and the East Anchorage Plaintiffs’
19 did not appeal or cross-appeal that aspect of this Court’s decision. *Res judicata* and
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21
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23

24 ¹ Findings of Fact and Conclusions of Law, at 67 (Feb. 15, 2022) (“While justification for
25 pairing North Eagle River and JBER was strongly contested by other Board members, there
26 was some justification provided for uniting Districts 24 and 23.”).

² See Findings of Fact and Conclusions of Law, at 67 (Feb. 15, 2022).

1 collateral estoppel prevent the East Anchorage Plaintiffs from re-litigating a senate
2 district that was challenged and upheld in the 2021 Redistricting Litigation.

3
4 Second, the East Anchorage Plaintiffs are improperly asking this Court to ignore
5 the rules that govern challenges to the Board's redistricting plans. Alaska Civil Rule
6 90.8 governs those challenges, and neither a litigant nor a superior court may ignore its
7 provisions. That rule requires the transmittal of the Board's record to the superior court.
8 On remand, the Board held sessions to receive public comment and received hundreds
9 of comments regarding its proposed new senate pairings. Civil Rule 90.8 requires this
10 Court to consider that record in adjudicating any challenges to the 2022 Amended
11 Redistricting Plan. This Court cannot simply accept East Anchorage's cherry-picked
12 excerpts when neither the Plaintiffs nor the Court have received the full and complete
13 Board record.
14
15

16 Third, on the merits, the Alaska Supreme Court has already rejected the
17 arguments that the East Anchorage Plaintiffs make in their instant motion. In
18 challenging Senate District L, the East Anchorage Plaintiffs are asking the Court to
19 ignore the controlling precedent from the Alaska Supreme Court that the Eagle River
20 area of the Municipality of Anchorage is part of Anchorage and may be in a *house*
21 district with the Anchorage hillside. In the 2001 redistricting litigation, the Alaska
22 Supreme Court rejected the following arguments: that Eagle River-Chugiak must be
23 paired together and that the Eagle River-Chugiak area cannot be drawn into districts
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1 with the Anchorage hillside.³ Making the practical point that it had approved house
2 districts that place areas outside of the Municipality with areas within the Municipality
3 (northern Kenai Peninsula with South Anchorage), twenty years ago the Court affirmed
4 the house districts that combined the Eagle River area with the Anchorage hillside.
5

6 **II. FACTUAL AND PROCEDURAL BACKGROUND**

7 On November 10, 2021, the Board issued its “Final Plan and Proclamation of
8 Redistricting” (hereinafter “2021 Redistricting Plan”).⁴ Five lawsuits were filed
9 challenging the 2021 Redistricting Plan, including a challenge filed by the East
10 Anchorage Plaintiffs.⁵ The East Anchorage Plaintiffs asserted five claims,⁶ all of which
11 sought a court order that the house districts that comprised the Eagle River portion of
12 the Municipality of Anchorage had to be paired together.⁷
13
14

15 Indeed, the East Anchorage Plaintiffs only asked the Court to mandate one
16 specific senate pairing: that the Eagle River area house districts had to be paired
17 together in a senate district.⁸ The East Anchorage Plaintiffs asked the Court to issue an
18 order:
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20

21 _____
22 ³ *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1090 (Alaska 2002).

23 ⁴ Findings of Fact and Conclusions of Law, at 21.

24 ⁵ Findings of Fact and Conclusions of Law, at 22.

25 ⁶ Findings of Fact and Conclusions of Law, at Appendix D.

26 ⁷ First Amended Application to Compel the Alaska Redistricting Board to Correct its Senate District Pairings in Anchorage, at 13 (Dec. 15, 2021).

⁸ First Amended Application to Compel, at 13.

1 declaring the Board’s adoption of the Anchorage pairings void and
2 directing it to adopt the Bahnke East Anchorage/Eagle River Pairings
3 or, alternatively, lawful pairings that place both Eagle River house
4 districts in a single senate district and pair East Anchorage house
districts with contiguous communities of interest.⁹

5 After trial, this Court issued its Findings of Fact and Conclusions of Law (“Decision”).
6 The Decision did not invalidate Senate District L.¹⁰ This Court did not issue the ruling
7 desired by the East Anchorage Plaintiffs that certain house districts had to be paired
8 together to form senate districts.¹¹ This Court did not rule that Senate District L
9 unlawfully split the Eagle River “community of interest.”¹² This Court did not issue
10 any ruling that Senate District L’s composition violated the equal protection clause.¹³
11

12 The East Anchorage Plaintiffs did not petition the Alaska Supreme Court to
13 review the lawfulness of Senate District L. Only the Board, the Skagway Plaintiffs, the
14 Matanuska-Susitna Borough Plaintiffs, and the City of Valdez Plaintiffs filed petitions
15 for review with the Alaska Supreme Court.¹⁴ The East Anchorage Plaintiffs did not
16 appeal *any* portion of this Court’s Decision.
17

18 On March 25, 2022, the Alaska Supreme Court issued its order upholding this
19 Court’s decision that Senate District K (South and North Muldoon) violated equal
20

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22 _____
23 ⁹ First Amended Application to Compel, at 13.
24 ¹⁰ Findings of Fact and Conclusions of Law, at 169-170.
25 ¹¹ Findings of Fact and Conclusions of Law, at 169-170.
26 ¹² Findings of Fact and Conclusions of Law, at 169-170.
¹³ Findings of Fact and Conclusions of Law, at 169-170.
¹⁴ See Order Petitions for Review, S-18332, at 1 (Mar. 25, 2022).

1 protection.¹⁵ The Supreme Court reversed this court’s conclusion that the Board must
2 make a “good-faith attempt to incorporate the public testimony of Alaska citizens” in
3 drawing election districts.¹⁶ The Supreme Court also held that there was “no
4 constitutional infirmity with House Districts 3 and 4 and no need for further work of
5 the Board.”¹⁷

7 On March 30, this Court issued its Order Following Remand from the Alaska
8 Supreme Court. Because the higher court only invalidated Senate District K, and not
9 all Anchorage senate pairings, this Court pared down its remand order to the following:
10

11 1) To correct the Constitutional errors identified by this Court to
12 the Supreme Court in Senate District K; 2) To redraw House
13 District 36 to remove the “Cantwell Appendage”; and 3) To make
14 other revisions to the proclamation plan resulting or related to
15 these changes.¹⁸

16 Nothing in this Order required the Board to redraw Senate District L.

17 In light of these rulings, the Board reconvened starting on April 2, 2022. It held
18 seven public hearings, published two versions of Anchorage senate pairings to its
19 website, and received over 400 written submissions and live testimony of more than
20 100 Alaskans. The Board is transcribing all of these meetings and will be prepared to
21 supplement the record during the week of April 25, 2022, to include the full meeting
22

23
24 ¹⁵ See Order Petitions for Review, S-18332, at 5-6 (Mar. 25, 2022).

25 ¹⁶ See Findings of Fact and Conclusions of Law, at 146-147 (Skagway).

26 ¹⁷ See Order Petitions for Review, S-18332, at 3 (Mar. 25, 2022).

¹⁸ Order Following Remand from the Alaska Supreme Court (Mar. 30, 2022).

1 transcripts, all written public testimony, all proposed plans, and the adopted 2022
2 Amended Proclamation Plan.

3
4 On remand, the Board made a good-faith effort to fix the problems identified in
5 the Alaska Supreme Court’s order on this Court’s Decision. Contrary to the East
6 Anchorage Plaintiffs’ assertions, there was a significant split in the testimony with
7 compelling arguments in favor of both the options presented to the Board. At the outset
8 of the public hearings, there was much testimony urging the Board to re-vamp all of the
9 senate districts within the Municipality of Anchorage in accordance with the “Bahnke
10 Plan.” But the Board unanimously voted to reject the Bahnke Plan because the courts
11 had invalidated only Senate District K, not all Anchorage senate districts. The Board
12 carefully considered all of the testimony, discussed the testimony as it deliberated over
13 the two options presented by the public, and ultimately voted to leave Senate District L
14 intact from the 2021 Redistricting Plan. While the record has yet to be completed and
15 bates stamped, the Board attaches hereto a full transcript from its April 13, 2022
16 hearing, which reflects that each Board member explained his and her rationale in detail
17 and considered the salient points raised by members of the public.¹⁹

21 **III. ARGUMENT**

22 Unhappy that the Board did not rubber stamp the Plaintiffs’ preferred Anchorage
23 Senate pairing plan, the Plaintiffs are back before this Court seeking to have it supplant
24
25

26 ¹⁹ See Transcription of April 13, 2022 Board Meeting, attached as **Exhibit A**.

1 its judgment for the sagacity of the Board.²⁰ But their challenges are barred by *res*
2 *judicata*, collateral estoppel, and Article VI, Section 11’s 30-day statute of limitation.
3
4 Because Senate District L was challenged and upheld in the litigation over the 2021
5 Redistricting Plan, the East Anchorage Plaintiffs may not challenge Senate District L
6 again. Moreover, Senate District L is constitutional on the merits under the Alaska
7 Supreme Court’s decision in *In re 2001 Redistricting Cases*, where the Court reaffirmed
8 that voters have no constitutional right for Eagle River-Chugiak to be in a single
9 election district and that a house district that includes the Eagle River-Chugiak area and
10 the Anchorage hillside area is constitutional.²¹

12 **A. East Anchorage’s Challenge to Senate District L is Barred by *Res***
13 ***Judicata*/Collateral Estoppel and Article IV, Section 11’s 30-Day Statute of**
14 **Limitations.**

15 Pursuant to Section 11 of Article VI of the Alaska Constitution, any challenge
16 to the Boards’ redistricting decisions must be brought within 30 days: “Application to
17 compel the board to perform must be filed not later than thirty days following expiration
18 of the ninety-day period specified in this article.” Senate District L, combining North
19 Eagle River/Chugiak with JBER, was adopted in the November 10, 2021 Proclamation
20

22 ²⁰ *In re 2011 Redistricting Cases*, 294 P.3d 1032, 1037 (Alaska 2012) (“We may not substitute
23 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.”).

24 ²¹ *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1090 (Alaska 2002); *see also In re 2001*
25 *Redistricting Cases*, 2002 WL 34119574, *2 (Alaska Sup. Ct. May 9, 2002) (rejecting claims
26 by Eagle River-Chugiak plaintiffs regarding the splitting of the Eagle River-Chugiak area into
multiple house districts and pairing that area with the Anchorage hillside into House District
32).

1 Plan. East Anchorage timely challenged Senate District L and expressly sought to have
2 it invalidated. East Anchorage had the opportunity to litigate its case in a trial on the
3 merits, and it did not prevail on this issue.²² This Court did not invalidate Senate
4 District L. On appeal, East Anchorage did not seek review of this Court’s decision with
5 regard to Senate District L. The Alaska Supreme Court affirmed that Senate District K
6 was constitutionally infirm, but did not invalidate any other senate district, including
7 Senate District L.
8
9

10 Pursuant to the doctrines of *res judicata* and collateral estoppel, and the 30-day
11 time bar, East Anchorage is legally prohibited from renewing a challenge it has already
12 lost.
13

14 First, allowing East Anchorage a second bite at the apple would invalidate the
15 30-day filing requirement under Section 11, and open the door to endless potential
16 challenges to the Board’s redistricting plan. With candidate filing deadlines quickly
17 approaching, allowing an end run around the constitutional statute of limitations would
18 be contrary to the public interest in a final redistricting plan.
19

20 Second, *res judicata* bars the East Anchorage challenge to Senate District L. “A
21 judgment is given *res judicata* effect by this court when it is (1) a final judgment on
22 the merits, (2) from a court of competent jurisdiction, (3) in a dispute between
23

24
25 _____
26 ²² Findings of Fact and Conclusions of Law, at 67, 169-170 (noting the justification in the Board record for Senate District L and a list of the Court orders which does not include invalidation of Senate District L).

1 the same parties (or their privies) about the same cause of action.”²³ This Court’s
2 Decision was a final judgment on the merits of the 2021 Redistricting Plan, and was
3 treated as such by the Alaska Supreme Court on appeal. The dispute involved the same
4 parties and involved the very same senate district pairing of House District 23 and
5 House District 24. East Anchorage is not entitled to second bite at the apple.
6

7 Third, collateral estoppel bars a new challenge to Senate District L. Collateral
8 estoppel prohibits re-litigation of issues actually decided in earlier proceedings
9 where: (1) the party against whom the preclusion is employed was a party to or in
10 privity with a party to the first action; (2) the issue precluded from re-litigation is
11 identical to the issue decided in the first action; (3) the issue was resolved in the first
12 action by a final judgment on the merits; and (4) the determination of the issue was
13 essential to the final judgment.²⁴ All of these elements are satisfied here, and so again
14 East Anchorage is precluded from re-litigating an issue it has already lost.
15
16

17 **B. No Litigant May Challenge Senate District L, Which is the Exact Same**
18 **District as in the 2021 Redistricting Plan.**

19 The Board acknowledges that pursuant to Article IV, Section 11, any party
20 aggrieved by a *new* decision of the Board, that was not part of the 2021 Redistricting
21 Plan, should be entitled to seek judicial review by filing a legal challenge within 30
22 days of the Board’s April 13 2022 Amended Proclamation Plan. The Amended
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24
25 ²³ *Patterson v. Infinity Ins. Co.*, 303 P.3d 493, 497 (Alaska 2013) (quoting *Angleton v. Cox*,
283 P.3d 610, 614 (Alaska 2010)).

26 ²⁴ *State, Dep’t of Revenue v. BP Pipelines (Alaska) Inc.*, 354 P.3d 1053, 1068 (Alaska 2015).

1 Proclamation Plan contains four new senate districts (new Senate District K, new
2 Senate District E, new Senate District G, and new Senate District I). The Amended
3 Proclamation Plan also removed Cantwell from House District 36 and placed it in
4 House District 30. As to any of these new decisions, a legal challenge filed within 30
5 days of April 13, 2022 would be timely. In contrast, any challenge to a redistricting
6 decision contained in the Board’s November 2021 Redistricting Plan is now untimely
7 because it is beyond Section 11’s 30-day statute of limitations.
8
9

10 The Board is working expeditiously to prepare a supplemental record and will
11 have it ready for production no later than the week of April 25. Because the Board’s
12 work on remand was limited, and because it was done entirely in public meetings on
13 the record, the Board believes that any legal challenges can likely be resolved with
14 expedited cross-motions for summary judgment after the record is finalized.
15

16 It is noteworthy that the East Anchorage Plaintiffs make no attempt in their
17 motion to apply the neutral factors test adopted by this Court to evaluate an equal
18 protection claim. That is because they cannot prevail if it is applied. That test considers
19 if there was indicia of secretive proceedings, regional partisanship, and a lack of
20 justification on the record for splitting a community of interest.²⁵ The Board anticipates
21 that should there be any such challenge, it will demonstrate a robust, inclusive public
22 process, no evidence of regional partisanship, and well-explained reasons articulated
23
24

25 _____
26 ²⁵ Findings of Fact and Conclusions of Law, at 54 (applying neutral factor test to Senate District
K under the 2021 Redistricting Plan).

1 on the record for each of its new senate districts. That the East Anchorage Plaintiffs
2 disagree with Senate District L has no bearing on its constitutionality.

3
4 As an example, the new Senate District E, pairing the Eagle River valley and the
5 Upper Hillside, is coextensive with a prior house district that the Alaska Supreme Court
6 found to be compact, contiguous and socio-economically integrated.²⁶ In *In re 2001*
7 *Redistricting Cases*, Alaska residents argued that the “Eagle River-Chugiak area is
8 socio-economically integrated area that should not have been divided” into multiple
9 house districts and should not have been drawn into a house district with the Anchorage
10 hillside.²⁷ The Alaska Supreme Court easily rejected both arguments. As to the
11 argument that the Eagle River-Chugiak area should not be split the Court reasoned:
12 “[w]hile the Eagle River-Chugiak area is socio-economically integrated, its residents
13 have no constitutional right to be in a single district.”²⁸ As to the argument that Eagle
14 River should not be in a house district with the Anchorage hillside (House District 32
15 under the 2002 Amended Redistricting Plan in that litigation), the Court noted that all
16 “communities within the Municipality of Anchorage are socio-economically integrated
17 as a matter of law, and we have previously upheld a district combining the northern
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25 ²⁶ *In re 2001 Redistricting Cases*, 47 P.3d 1089, 1090 (Alaska 2002).

26 ²⁷ *Id.*

²⁸ *Id.*

1 Kenai peninsula with Anchorage.”²⁹ The East Anchorage Plaintiffs are now making
2 the same arguments rejected in this binding precedent from two decades ago.

3
4 In pushing for their preferred Anchorage senate map, the East Anchorage
5 Plaintiffs ignore that Senate District K from the 2021 Redistricting Plan struck down
6 by this Court was comprised of *two* house districts, not four. Specifically, the East
7 Anchorage Plaintiffs ask for a ruling that “[r]equires the Board to correct *both* of the
8 unconstitutional pairings underlying Senate District K, pairing the Eagle River house
9 districts together and the Muldoon house districts together and only disrupt the
10 promulgated senate pairings to the extent necessary to effectuate these pairings[.]”³⁰
11 Again, the Alaska Supreme Court only affirmed the invalidation of Senate District K,
12 which was comprised of South Muldoon (then-House District 21) and Eagle River
13 (then-House District 22). There were no other house districts in Senate District K.
14
15

16 Searching for a cognizable claim to support their desired result in the Eagle
17 River-Chugiak area, the East Anchorage Plaintiffs offer contradictory arguments as to
18 the harm purportedly inflicted by Senate District L. In their actual pleading, East
19 Anchorage claims that Senate District L results in the over-representation of the Eagle
20 River-Chugiak areas in the Alaska Senate.³¹ Yet, East Anchorage’s expert in the last
21
22

23
24 ²⁹ *Id.*

25 ³⁰ East Anchorage Plaintiffs’ Motion, at 14 (emphasis in original).

26 ³¹ East Anchorage Plaintiffs’ Motion, at 2 (“Thus, on remand, the Board’s intent to split Eagle River districts to *increase* the representation of the majority political party remains”) (emphasis added).

1 round of litigation, Dr. Chase Hensel, submitted a public comment (that East Anchorage
2 attaches to its motion) that says the exact opposite—that Senate District L results in the
3 “[d]ivision of the Eagle River community of interest” and will “dilute [Eagle River’s]
4 voting power by splitting it between two districts.”³² The fact that East Anchorage and
5 its former expert cannot agree whether Senate District L enhances or dilutes the voting
6 power of Eagle River-Chugiak residents (in reality, it does neither) strongly suggests
7 political motivations in search of a legal theory. *In re 2001 Redistricting Cases*
8 confirms that neither the East Anchorage Plaintiffs nor Eagle River-Chugiak residents
9 have their constitutional rights injured by Senate District L.
10
11

12 Setting aside the East Anchorage Plaintiff’s penchant for hyperbole, the Board’s
13 replacement of Senate District K in the 2022 Amended Redistricting Plan addresses the
14 equal protection problem identified by this Court regarding voters who reside near
15 Muldoon Road. The new Senate District K otherwise follows the requirements of the
16 Alaska Constitution. The East Anchorage Plaintiffs’ motion should be denied.
17
18

19 **C. The Court Needs the Board Record to Adjudicate New Challenges to the**
20 **Board’s 2022 Amended Redistricting Plan.**

21 The East Anchorage Plaintiffs seek to enlist this Court in achieving their political
22 desires by submitting cherry-picked testimony and without giving the Court the benefit
23 of the Board’s record. Alaska Civil Rule 90.8(d) mandates otherwise. That rule states
24 that the record in the superior court proceedings “consists of the record from the
25

26 ³² **Exhibit E** at 5 to East Anchorage Plaintiffs’ Motion to Reject.

1 Redistricting Board” and supplemented “by such additional evidence as the court, in its
2 discretion, may permit.”³³ The East Anchorage Plaintiffs ask this Court to act without
3 the record.
4

5 This Court’s review of the Board’s record following remand is crucial. The new
6 senate pairings were supported by significant public testimony to the Board. The East
7 Anchorage Plaintiffs and the Board proposed the same solution for the stricken Senate
8 District K: pair North Muldoon and South Muldoon together to form a senate district.
9 The Board adopted a new Senate District K that paired those Muldoon areas together.
10 Testimony about Senate District E focused on the rural nature of the two house districts,
11 the relationship of those neighborhoods to the geography of the Chugach Mountains
12 and Chugach State park, the common use of road service areas, and similar concerns
13 with regard to wildlife management, snow, wildfire risk, and wells and septic. While
14 others testified for different approaches to crafting Anchorage senate districts, the
15 Board acted well within its discretion when it selected one of multiple potential options
16 and explained its reasons on the record in a fulsome debate. The Board held zero
17 executive sessions and took significant time to invite testimony, listen to the public,
18 debate options in public, and then articulate a final decision. The Board understood
19 this Court’s concerns from its prior rulings and addressed them with a careful public
20 process on remand.
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26 ³³ Alaska Civil Rule 90.8(d).

1 **IV. CONCLUSION**

2 For the foregoing reasons, the Board respectfully requests the Court deny the
3 East Anchorage Plaintiffs’ untimely challenges to Senate District L that recycle
4 arguments previously rejected by the Alaska Supreme Court in *In re 2001 Redistricting*
5 *Cases*. While Alaskans are entitled to come forward with concerns about any new
6 changes to the redistricting plan, the East Anchorage Plaintiffs should not be permitted
7 through a late motion to re-litigate decisions that are already final and fully resolved by
8 the courts.
9
10

11 DATED at Anchorage, Alaska, this 19th day of April, 2022.

12 SCHWABE, WILLIAMSON & WYATT, P.C.
13 Attorneys for Alaska Redistricting Board

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1 CERTIFICATE OF SERVICE

2 I hereby certify that on the 19th day of April, 2022,
3 a true and correct copy of ALASKA REDISTRICTING BOARD'S
4 OPPOSITION TO EAST ANCHORAGE PLAINTIFFS' MOTION
5 TO REJECT AMENDED PROCLAMATION PLAN AND FOR
6 MODIFICATION OF ORDER ON REMAND (17 pages) was
7 served upon the following by:

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In the Matter Of:

ALASKA REDISTRICTING BOARD MEETING

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April 13, 2022

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**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

1 P R O C E E D I N G S

2 -oOo-

3 MR. TORKELSON: All right, Mr. Chairman. I
4 believe we're ready to start. It's just after 1, and
5 we have -- folks are all online through Zoom and in
6 person.

7 CHAIR BINKLEY: Okay. Good afternoon.
8 We'll go ahead and start the Alaska Redistricting
9 Board meeting, on April 13th, at 1:00, 1:02.

10 And we're both in person at the LIO office,
11 I believe, and also online. We have a draft agenda
12 before us.

13 The first item, though, is to call us to
14 order and establish that a quorum is present.

15 Peter, could you please call the roll?

16 MR. TORKELSON: Thank you, Mr. Chairman.
17 Member Bahnke.

18 MEMBER BAHNKE: I'm here.

19 MR. TORKELSON: Member Borromeo.

20 MEMBER BORROMEEO: Present.

21 MR. TORKELSON: Member Marcum.

22 MEMBER MARCUM: Here.

23 MR. TORKELSON: Member Simpson.

24 MEMBER SIMPSON: Here.

25 MR. TORKELSON: And Member Binkley.

1 CHAIR BINKLEY: I'm here.

2 MR. TORKELSON: Okay. We have all five
3 members present.

4 CHAIR BINKLEY: We have all members present.
5 And the first item on the agenda is adoption
6 of the agenda.

7 So any discussion on the agenda or motion to
8 adopt the agenda?

9 MEMBER BORROMEO: So moved. This is Nicole.

10 CHAIR BINKLEY: Go ahead, Nicole.

11 MEMBER BAHNKE: This is Melanie. I'll
12 second.

13 CHAIR BINKLEY: Okay. Motion before us and
14 seconded to adopt the agenda as presented.

15 First item is discussion of proposed
16 Anchorage Senate pairings.

17 MEMBER BORROMEO: John.

18 CHAIR BINKLEY: Nicole, go ahead. You've
19 got your hand up, and then I think Budd's got his
20 hand up.

21 MEMBER BORROMEO: I would like to --

22 MEMBER SIMPSON: Mr. Chair, my -- my hand
23 was up --

24 MEMBER BORROMEO: -- on option No. 2 and
25 move to a vote on option No. 2 with the board's plan.

1 MEMBER BAHNKE: Mr. Chair, I second Nicole's
2 motion.

3 CHAIR BINKLEY: Okay. Maybe there was a bit
4 of confusion there. Sorry about that.

5 But there's an option -- there's a motion
6 before us and seconded to adopt option 2. Is there
7 objection to the motion?

8 Well, first, let's have discussion on the
9 motion. Discussion on the motion?

10 Hearing no discussion -- go ahead, Budd.

11 MEMBER SIMPSON: I'm sorry. I was
12 inadvertently talking over Ms. Borrromeo. I had a
13 question going to the agenda, and it got -- it
14 moved -- moved on without me getting that in.

15 My question was: If we get through the
16 agenda and adopt pairings, should we put something on
17 about dealing with the truncation question or any
18 other kind of housekeeping things if we do get
19 through this?

20 CHAIR BINKLEY: Maybe what I would suggest
21 is -- since we have a motion -- a live motion on the
22 floor, is we can go back and revisit the agenda
23 anytime, make adjustments to the agenda later on if
24 we so choose.

25 So why don't we stick with the motion that's

1 before us, and then we can go back to that?

2 MEMBER SIMPSON: That's -- that's fine,
3 Mr. Chair.

4 And then along the same lines, I believe I
5 was talking over Ms. Borrromeo, so I didn't clearly
6 hear the -- the motion. So could that be repeated,
7 please?

8 CHAIR BINKLEY: Nicole, could you please
9 repeat the motion?

10 MEMBER BORRROMEO: Thanks. I'm happy to.

11 And I'm sorry about the delay there, Budd,
12 and I appreciate you asking questions.

13 The motion on the floor is that I move to
14 call the question on option No. 2 and move to a vote
15 on that plan.

16 CHAIR BINKLEY: Okay. So that was different
17 than the first motion that I heard. It sounded like
18 you want to cut off debate by calling for the
19 question now, in the body of the motion.

20 MEMBER BORRROMEO: I'm -- I'm happy to engage
21 in debate, and I will entertain a friendly motion
22 from the one who seconded my motion. But I do want
23 some time certain stoppage on debate and to move to a
24 vote on option 2.

25 MEMBER BAHNKE: Thank you, Mr. Chair. I'll

1 second that.

2 My intention at least wasn't to end
3 discussion and debate. I actually seconded the
4 motion so that we can enter into discussion and
5 debate.

6 CHAIR BINKLEY: Yeah. That's what I had --
7 that was the original motion, as I interpreted it. I
8 didn't hear her calling for the question in the
9 motion itself.

10 Typically, you'd make the motion, second the
11 motion, and then if there is another motion to stop
12 debate and call the question immediately, then that's
13 a separate motion that would -- depending on if it
14 succeeded or not, would either end debate or allow
15 debate to continue.

16 So I did hear that Melanie wanted to cut off
17 debate in her second motion.

18 MEMBER BAHNKE: No, I did not intend for
19 that.

20 And then just for clarity's sake, I believe
21 it requires a three out of five vote to end debate,
22 which I learned from the last time in November.

23 And I do have -- I have discussion and --
24 discussion to offer on this motion, Mr. Chair. But I
25 see Budd still has his hand up.

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

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

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

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

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

16 MEMBER BAHNKE: Yes, Mr. Chairman.

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

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

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

23 Okay. And Budd --

24 CHAIR BINKLEY: Okay. Go ahead, Melanie.

25 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.

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

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

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

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

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

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

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

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

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

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

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

24 When you look at the maps, there is
25 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

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

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

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

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

23 And I'm not just saying you personally, but
24 Bethany, as well, has expressed, again, strong
25 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.

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

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

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

18 So I've -- I've heard the argument made
19 repeatedly that under the Court ruling Eagle
20 River/Chugiak has to be paired with Eagle River, but
21 that's actually not what the Court said. The
22 Court -- the Court decreed that the way Eagle River
23 was placed in the proclamation version was done at
24 the expense of Muldoon. "At the expense of Muldoon"
25 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

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

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

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

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

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

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

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

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

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

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

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

13 Thank you, Mr. Chair.

14 CHAIR BINKLEY: Thank you, Budd.

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

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

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

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

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

3 MEMBER BORROMEO: Thank you very much.

4 CHAIR BINKLEY: No, that's fine.

5 MEMBER BORROMEO: Are we ready? Okay.

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

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

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

1 It's 87 miles, nonetheless.

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

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

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

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

1 as we're going after the rich white voters.

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

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

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

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

1 under this new plan we are going to give them
2 20 percent of the Senate. It makes no sense, no
3 sense whatsoever.

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

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

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

25 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

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

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

8 Thank you, Mr. Chairman.

9 CHAIR BINKLEY: Thank you, Bethany.

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

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

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

21 We had, I believe, seven different public
22 hearings on this. We heard directly from over a
23 hundred Anchorage residents, over 300 pieces of
24 written testimony that's come in, and it's just a --
25 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.

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

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

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

22 We've also heard interesting testimony
23 connecting JBER to North Muldoon. And I think
24 that's -- that's got legitimacy. And I can see --
25 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

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

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

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

21 And in the two districts that really made up
22 Senate District K, I think we need to be very
23 cautious that such a pairing wouldn't invite -- I
24 think as other people have suggested, really invite a
25 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 Senate seat pairings," dot, dot, dot. I'll skip
2 through some of the other technical stuff.

3 But it does say, "The public portion of the
4 record leads to only one reasonable inference: some
5 sort of coalition or at least a tacit understanding
6 between Members Marcum, Simpson, and Binkley. All
7 three appeared to agree on all four of Member
8 Marcum's maps with little public discussion." At
9 least this time we're having -- we've had public
10 discussions.

11 "Most surprising was at that time, it is
12 unclear in the transcript, and was apparently also
13 unclear to Member Borromeo, which of Member Marcum's
14 maps the Board had apparently reached a majority on
15 when the deliberative discussion was ended. It seems
16 that what the three Board Members had reached a
17 majority was the only element of the map that was
18 consistent between them: that Eagle River was split
19 and North Eagle River was paired with JBER."

20 And I'd like to point out that if we go with
21 option 3B, we are adopting a plan that still, going
22 back to November where there was some intent or
23 motive or -- maybe that's not the word that was
24 used -- evidence of secretive procedures.

25 And we'll be basically adopting a plan

1 drafted by Ruedrich, who was found to have supplied
2 incumbent information to two members of the board,
3 and then apparently to the whole board through our
4 redistricting e-mail. But thankfully Juli redacted
5 that information before it was distributed. And
6 Bethany, who claimed to have not looked at that
7 incumbent data but was found to have actually looked
8 at it.

9 I have not looked at incumbent data. You
10 mentioned -- you mentioned a few Republicans opposed
11 3B, so therefore it must be nonpartisan. I haven't
12 looked at incumbent data. I have no understanding
13 what the motives of those Republicans are who have
14 called in to testify. I'm viewing this as a
15 statesperson's perspective, not giving more weight to
16 any person's testimony, looking at this logically,
17 and from a matter of what abides by the constitution,
18 what the Court found, what the Court has told us to
19 do.

20 And if you want to go back to who was
21 appointed by who, I mean, I think there's a reason
22 why I was selected by the Supreme Court Justice of
23 the state, because he probably thought that I could
24 look at this objectively and not from a partisan
25 perspective.

1 I just think it's very audacious for us to
2 actually think that Judge Matthews isn't going to
3 sniff this out. And I know that we don't have the
4 votes. I don't think that -- again, when I said in
5 my closing remarks in November I was discouraged for
6 a moment, but then I was encouraged because this is
7 going to shine a light on the public process and that
8 we should expect more from our elected and appointed
9 officials.

10 And I still feel that way. I feel like, you
11 know, I'm not going to be deterred by this process.
12 It is exhausting, like one of the people who
13 testified said, but I'm not going to -- my stamina is
14 probably boundless when it comes to ensuring that
15 justice is served and that we do the right thing.

16 So I do hope that the Courts will correct
17 this, because apparently we can't ourselves. We are
18 like a hung jury of some sort.

19 Thank you, Mr. Chairman.

20 CHAIR BINKLEY: Thank you, Melanie.
21 Nicole.

22 MEMBER BORROMEO: Thanks. I'm going to just
23 take a second to lower my hand here.

24 All right. I also want to echo Melanie's
25 thanks that the three of you have at least put some

1 rationale on the record, which is what is required.
2 And so let's just go back and visit a couple of them.

3 The JBER thing, the military is not a
4 protected class. This is just dog-whistle politics
5 to get people riled up that we're somehow
6 disenfranchising the Armed Services. It couldn't be
7 farther from the truth. And I say that as a Navy
8 wife, as a daughter of a Vietnam veteran, as the
9 granddaughter of a veteran who served in Korea. I'm
10 sorry, JBER is not protected. They are not entitled
11 to any special consideration.

12 Also at this stage of the game, we shouldn't
13 even be considering socioeconomic integration in
14 factors. Our only job at this point is to follow
15 Article VI, Section 6. That part is over. We did
16 that already when we did the House maps.

17 Just pair as contiguous as practicable two
18 districts. The two districts that are as contiguous
19 as practicable are the two Eagle River districts.

20 Another justification that was brought up
21 was the public testimony. And I don't say this
22 lightly, but a good majority of it was canned,
23 inconsistent, and at least one case that I have
24 personal knowledge to, submitted without the
25 knowledge of the person who submitted it supposedly,

1 because his wife was, quote, put up to it by Jamie
2 Allard, who's also filed to run in the district.
3 It's just -- you can't make this stuff up.

4 To the point that the Court didn't say we
5 had to pair Eagle River, true. What the Court said
6 is to stop gerrymandering, and here we are back
7 again, two-and-a-half weeks later, apparently not
8 ready to quit robbing the bank of public trust, but
9 we are brazen enough to come back in broad daylight
10 without face masks. I don't understand. But at the
11 same time, I'm hogtied in the back with Melanie and
12 we can't stop the three of you.

13 John, you in November had a lot of trust
14 that you were putting into Bethany's Senate pairings
15 because you didn't have familiarity with Anchorage.
16 Now come to find out that you own a condo in Ship
17 Creek area. It's just mind-boggling to me.

18 The community of interest, again, with JBER,
19 this is a transient community, okay? They get
20 orders. They are not up here living in Alaska
21 because they are necessarily doing it of free will.
22 They are sent here by Uncle Sam. And in a lot of
23 cases they leave. Sometimes they do come back and
24 retire here, and I'm thankful to have them in the
25 community.

1 But to have a community of interest, you
2 have to have shared place based on experience and
3 knowledge. And I submit to you, when you have
4 enlisted personnel, officers that come up, doing
5 rotation, check off their overseas box and leave,
6 they do not share the same experiences and knowledge.

7 John, I can't even believe that you said
8 that this board was not found guilty of looking at
9 election data. It's true. Bethany was questioned
10 about it in her deposition, said she didn't look at
11 it, then, lo and behold, the East Anchorage
12 plaintiffs pulled out a video of her and Budd looking
13 at the election data that Randy sent to them.

14 The public doesn't believe us, especially
15 when we're caught on tape doing what we say we're not
16 going to do. So, yes, at least two of us looked at
17 that data. And I will tell you, the only person --
18 the only person throughout this entire redistricting
19 process that attempted to share incumbent data with
20 me was Randy Ruedrich. It happened in Anchorage
21 after the hearing.

22 And that's why I distanced myself from him.
23 He was talking about Fairbanks North Star Borough and
24 how we should just chop off the top because we'd be
25 taking equal parts conservative and liberal.

1 I told him I don't care about the voter
2 data. I want to break the borough boundaries at the
3 place that makes the most constitutional sense. So
4 it's just absolutely -- I don't want to use the word
5 crazy, but it's the only one that comes to mind. I'm
6 sorry.

7 And finally, John, to your point that you
8 haven't heard any criticism regarding 3B in the
9 voting powers, I don't know what redistricting board
10 you've been in for the last couple of months, but
11 it's a lot of what I've heard lately. And this
12 process doesn't even feel Alaskan. I feel like I'm
13 in 1950s Alabama. What are we doing here?

14 CHAIR BINKLEY: Okay. Melanie, go ahead.

15 MEMBER BAHNKE: Yeah. I just want to
16 make -- I just -- sorry. Go ahead, Mr. Chair. I
17 didn't mean to cut you off.

18 CHAIR BINKLEY: No. Go ahead, Melanie. You
19 have the floor.

20 MEMBER BAHNKE: I just want to make one
21 thing clear, in terms of some kind of insinuation
22 that option 2 would disenfranchise the military.

23 I have the utmost respect for the military.
24 Like Nicole, my father served in the Vietnam War, and
25 I've got several relatives who are and have been in

1 the military.

2 I just don't think any group deserves
3 special treatment at the -- you know, we shouldn't --
4 it's equal protection, not more voting powers for any
5 groups. And I continue to look at splitting Eagle
6 River and Eagle River as an attempt to provide Eagle
7 River with two senators instead of the one that their
8 population warrants.

9 And I feel like there were four ways that it
10 was presented to be done in November. The majority
11 of the board voted on one. We were told that that's
12 not okay, so now the actions are going to be that we
13 just found another way to still split Eagle River to
14 guarantee it more representation.

15 And that's the part that I -- I am looking
16 at, in terms of our constitutional responsibilities
17 and being fair. So I want to make it clear that in
18 no way am I suggesting that we harm the military
19 community or do something, you know, to
20 disenfranchise them at all. That's not the
21 perspective and lens that I'm looking at this from.

22 Thank you.

23 CHAIR BINKLEY: Okay. Thank you, Melanie.

24 Is there further debate on the motion? If
25 not, we'll call for the question on the motion.

1 Peter, could you please call the roll on the
2 motion?

3 MR. TORKELSON: Thank you, Mr. Chairman.

4 CHAIR BINKLEY: And the motion is to --
5 could you restate the motion, too just so we're
6 clear?

7 MR. TORKELSON: The motion before the board
8 is to adopt map option No. 2 for Anchorage Senate
9 pairings.

10 Member Bahnke?

11 MEMBER BAHNKE: Yes. Because it's
12 constitutional and complies with the Court's remand,
13 I vote yes.

14 MR. TORKELSON: Member Borromeo?

15 MEMBER BORROMEO: Yes, because it doesn't
16 give Eagle River any more representation. It gives
17 them the representation that they're due, which is
18 one senator.

19 MR. TORKELSON: Member Marcum?

20 MEMBER MARCUM: Member Marcum votes no on
21 proposal 2.

22 MR. TORKELSON: Member Simpson?

23 MEMBER SIMPSON: No.

24 MR. TORKELSON: Member Binkley?

25 CHAIR BINKLEY: No.

1 MR. TORKELSON: By a vote of two to three,
2 the motion fails.

3 CHAIR BINKLEY: Okay. The chair would
4 entertain a motion on proposed adoption for
5 senator -- Senate pairings.

6 Bethany?

7 MEMBER MARCUM: Thank you, Mr. Chairman. I
8 would like to propose that the board adopt
9 proposal 3B, as in Bravo, for Senate pairings.

10 CHAIR BINKLEY: Is there a second to the
11 motion?

12 MEMBER SIMPSON: Mr. Chair, I'll second.

13 CHAIR BINKLEY: There's a motion before us
14 and seconded to adopt pairing 3B. Is there a
15 discussion on the motion?

16 Bethany.

17 MEMBER MARCUM: Thank you, Mr. Chairman.

18 All right. So in looking back at the East
19 Anchorage lawsuit, the East Anchorage plaintiffs
20 challenged both Senate seats K and L. And per the
21 remand from the Court, we are being asked to address
22 Senate seat K.

23 Senate seat L, which is now comprised of
24 District 23, JBER, and District 24, JBER, Chugiak,
25 Peters Creek, Eagle River, it was found -- was not

1 found to be invalid. So Senate K was found to be
2 invalid, which we are working on now, and Senate L
3 was not found to be invalid.

4 Both of the proposals for the pairings that
5 we are now considering, so proposal 2 and
6 proposal 3B, both of those address the Senate K issue
7 in the same way: by pairing Districts 20 with 21.

8 And this is what the East Anchorage
9 plaintiffs wanted. So I find it really interesting
10 that, even though the Muldoon/East Anchorage issue is
11 addressed in both proposals in a way that seems
12 satisfactory to the East Anchorage plaintiffs, those
13 individuals continue to be very involved in
14 advocating for one plan over the other.

15 Both of the plans address their issue in the
16 same way, so why are they now so heavily investing
17 themselves in what is essentially the business of
18 Eagle River, JBER, and Chugiak? I have to conclude
19 that there must be some political motive.

20 The existing pairing of District 23 and 24
21 plays a very important role in maintaining the
22 community of interest of the Anchorage area military.
23 And the best way to acknowledge that community of
24 interest is to keep our current combination of
25 District 23, JBER, with District 24, JBER, Chugiak,

1 Eagle River, Peters Creek.

2 So I object to the characterization that has
3 been made by others that the military is just
4 transients. As a 20-plus year member of the Guard
5 and Reserve, the Military Guard and Reserve, I speak
6 for thousands of full-time Alaska residents who serve
7 this state and country in the military, Guard, and
8 Reserve services as full-time, long-term residents of
9 the state, many of whom live in District 23 and 34.

10 In the plan that we are discussing now,
11 plan 3B, just as in the existing proclamation plan,
12 there is a large amount of interplay between
13 Districts 23 and 24, both of which contain portions
14 of JBER. And then when combined, those two districts
15 in one Senate seat create a full and complete JBER
16 Senate district.

17 And that allows the military, which lives on
18 base in District 23, to be combined with -- where
19 much of the military and veterans live off base, in
20 District 24.

21 During this process we also heard a lot of
22 testimony about the Anchorage Muni redistricting
23 process. We heard this testimony from the public.
24 We heard this testimony was directed specifically to
25 South Anchorage.

1 I took a look on Sunday at the most current
2 assembly proposal for redistricting reapportionment,
3 and I noticed that, lo and behold, it combines Eagle
4 River with JBER, which conforms with the concept
5 contained in the pairings we are now discussing, 3B.

6 I personally am very comfortable with
7 combining Districts 9 and 22, and I feel that the
8 Chugach Mountain district that is created there makes
9 a lot of sense. And we've heard compelling testimony
10 that supports this that's been referenced here by
11 other members of the board.

12 I'd also like to state on the record that,
13 contrary to what has been claimed here, I actually
14 did not read incumbent data that was e-mailed to all
15 members of the board. I did not then and I do not
16 now care about incumbents. That is not our role, and
17 I take that seriously.

18 Just because there is a legitimate
19 difference of opinion does not make me or any other
20 member of the board a gerrymanderer, and I won't be
21 pressured to try to change my very reasonable views
22 just because people want to call me names. So I
23 firmly reject, and I also object to, attempts to
24 characterize me in that way.

25 With that I'd like to explain why I support

1 each of the pairings in district -- I'm sorry -- in
2 each of the pairings that are in the 3B proposal.

3 So I'd like to start with the response to
4 the Court's ruling on Senate K. So the natural
5 response to that pairing is what was laid out in both
6 proposals, both proposal 2 and proposal 3B, by
7 creating a Muldoon Road district. And this is a road
8 district that combines Senate -- I'm sorry --
9 combines into the Senate House Districts 20, plus 21.

10 And that Muldoon Road district has a very
11 wide mix of infrastructure. It's got zero lot lines,
12 and single-family homes, mobile home parks. It's got
13 plenty of big-box stores, small businesses. And it
14 joins the residential neighborhoods that are now
15 along the major east/west transportation boundary of
16 DeBarr Road.

17 When we put 20 and 21 together, what we have
18 is 22 that's now left with no partner. So it needs a
19 new pairing. And so the natural pairing for 22 is
20 District 9, which is another of the Anchorage Chugach
21 Mountain districts. We've heard it said here on the
22 record, as well as during public testimony, that
23 there is over 30 miles of contiguity. Residents have
24 their own road services that are separate from Muni
25 services.

1 And also, as far as geography, it includes
2 Ship Creek, which is in the east part of District 22,
3 that winds itself through both districts to the Ship
4 Creek drainage in District 9, near Bird Creek.

5 So that now leaves District 10 without a
6 partner. So being able to put District 10 with
7 District 13 creates a new pairing that unites
8 neighborhoods along the three major north/south
9 transportation arteries which travel the length of
10 both districts. So you have the Old Seward Highway,
11 you have C Street, and you have Minnesota.

12 That leaves District 14 stranded, so that's
13 going to require a new pairing, and that allows us to
14 take the two primary Midtown roads that travel east
15 to west, Northern Lights and 36th Avenue, and allows
16 those to be combined into one Senate pairing. Both
17 of those districts have similar commercial
18 infrastructure. They've got lots of hospital and
19 medical buildings, high-rise offices.

20 So with that, then, you've got the four
21 remaining districts, which are as they exist now in
22 our population plan, that don't require any changes.
23 You've got 23/23, which is JBER, and then Chugiak,
24 Peters Creek.

25 There's also some geography that ties those

1 together, in addition to the military connections
2 we've talked about. Both of those districts have
3 very long boundaries along the Knik Arm waterway.

4 17 and 18, again, the same as in our current
5 proclamation plan. And those -- that pairing unites
6 those two districts that are around the Merrill Field
7 infrastructure.

8 Districts 11 and 12, again, no changes, the
9 same as in our proclamation plan. So you've got the
10 shared boundary of Abbott Road that allows those two
11 to be united. You've got lots of parks, greenbelts
12 in that area.

13 And then Districts 15 and 16, again, the
14 same as in our current plan. This is largely a Cook
15 Inlet coastal district.

16 So, again, four changes that were -- that
17 result from responding to the Court's ruling to make
18 a change to District K, but then four districts that
19 remain the same.

20 Thank you, Mr. Chair.

21 CHAIR BINKLEY: Thank you.

22 And we had Melanie, and then Nicole.

23 MEMBER BAHNKE: Just a second, Mr. Chair.

24 I'm not an East Anchorage plaintiff, but you
25 asked why are they still so involved, Bethany.

1 I can tell you why I'm still so concerned
2 about this matter of splitting Eagle River. Although
3 it's a great step forward to pair Muldoon with
4 Muldoon, as we were, you know, told to correct Senate
5 District K, I don't think continuing to give Eagle
6 River more -- more representation by simply splitting
7 it in another direction is what's fair and what's
8 right.

9 So at least for me that's why I continue to
10 pursue this matter of not splitting communities of
11 interest in an effort to give them more
12 representation than they are due.

13 The most natural pairings, in my mind, would
14 have been Eagle River and Eagle River and Muldoon and
15 Muldoon. I do consider it a step forward in the
16 right direction that we are at least pairing Muldoon
17 with Muldoon.

18 But had we had a chance to discuss and
19 deliberate the map that I had proposed in November,
20 which -- option 1, which I voted to remove because I
21 recognized that the Court directed us to only fix a
22 certain part of the Anchorage maps. But had we had
23 that chance, I don't think we'd be arguing that JBER
24 and Eagle River is a great pairing comparatively.

25 Comparatively to the map that I had

1 presented in November, I think what we're stuck with
2 is narrow direction from the Court to fix one portion
3 of the map and not present the best possible map. So
4 I still don't think that the best possible map is
5 even one of the two options right now, but we're
6 limited, and I recognize that. I respect the Court,
7 I respect their directives, and I respect the
8 constitution.

9 So that's -- if you're asking me if I'm
10 doing this for partisan purposes, I am not. Just
11 because Muldoon and Muldoon are now rightfully
12 paired, why am I continuing to pursue this? Because
13 the same outcome is happening here. The stated
14 purpose of splitting Eagle River was to give it more
15 representation, and our end outcome is still going to
16 do that.

17 CHAIR BINKLEY: Okay. Nicole?

18 MEMBER BORROMEO: Thank you. It's been
19 asked by Bethany -- sorry.

20 Bethany started off that last round with:
21 Haven't the East Anchorage plaintiffs got what they
22 wanted?

23 No, they haven't got what they wanted. They
24 wanted us to stop gerrymandering and give Alaska a
25 fair map. We haven't done that. So I submit to the

1 board that the East Anchorage plaintiffs are far from
2 getting what they wanted.

3 The assertion, too, that they're all of a
4 sudden heavily investing themselves, all of a sudden,
5 Bethany, this is -- this is from -- I don't know if
6 you can see that date, August 13th, 2001 [as spoken].
7 The list of testifiers on here, Yarrow Silvers
8 testifying as an individual, but she also is a member
9 of the Scenic Hills Community Council. She did not
10 want East Anchorage combined with South Anchorage and
11 East Anchorage vote diluted.

12 Who testified after her? Major Felisa
13 Wilson, same thing.

14 So no, they didn't just pop out of thin air
15 all of a sudden. They've been here from the
16 beginning, and I guarantee you they're going to be
17 here until the end, so we'd better get used to it.

18 Bethany, please stop saying you didn't look
19 at incumbent data. You were already asked about this
20 in deposition. You were found to be untruthful in
21 the deposition. It is on page 56 of the Matthews
22 opinion. "[Randy] Ruedrich emailed the Board at its
23 designated email address as well as directly to
24 Members Marcum and Simpson separately, incumbent
25 information for each of the house districts."

1 "Member Marcum testified that while she had
2 access to incumbent information provided to the Board
3 by Ruedrich, she, 'didn't bother looking at the
4 incumbent information,' and explained that such
5 information was 'irrelevant to the process that we
6 were tasked with, and it just muddied the waters...'"

7 Then he went on to say when she was looking
8 at the data presented in the deposition that she
9 could, quote, "'Honestly say this is the first time
10 that I have ever looked at the names that are on the
11 document.' However, Marcum also admitted that she
12 went to her computer to pull up the unredacted
13 version of the incumbent information when speaking
14 with Member Simpson."

15 So just because you say you did doesn't mean
16 it's true, especially when you're caught on video.
17 So thank goodness we had that Owl in the room.

18 I appreciate, Bethany, that you have been
19 under a lot of public scrutiny, but the assertion
20 that we are calling you names is absolutely false. I
21 have called you a gerrymanderer, and if you want me
22 to stop calling you a gerrymanderer, then, by all
23 means, stop gerrymandering. That's how this will
24 work.

25 The other assertion that you made here that

1 22 has no natural partner, the natural partner to 22
2 is 24. Look to the north. Quit trying to poach the
3 Anchorage districts for Eagle River, to give Eagle
4 River more power in the Senate. The jig is up. We
5 see what you're doing. All of Alaska sees what the
6 members of the majority are about at this point.

7 And, again, I'm going to strongly encourage
8 the Court to exercise its Article VI, Section 11
9 powers and just draw the map itself.

10 And I will say, as a final point in this
11 round, too, that if Alaskans want the Court to quit
12 drawing the boundaries, then they need to make sure
13 that the board is following the constitution so the
14 Court doesn't have to. Our job is so simple. Ignore
15 the socioeconomic integration stuff at this point.
16 Just pair the two that are most practicable, okay?
17 That's Eagle River. Eagle River all day long is the
18 most natural pairing for itself.

19 Thank you.

20 CHAIR BINKLEY: I just want to clarify
21 something. I think I heard you, Nicole, but maybe I
22 was wrong, that you said that Bethany had perjured
23 herself, that she had lied in -- before the Court.
24 Is that -- did I misunderstand that?

25 MEMBER BORROMEO: You did. You're putting

1 the word perjury in my mouth. I never said that.

2 I did say she lied, because she did. She
3 was deposed. She said she didn't have incumbent
4 data, she never looked at it, and then, lo and
5 behold, the East Anchorage plaintiffs brought up a
6 video recording.

7 All of this is public knowledge. I am not
8 making this stuff up. So I see the reaction here
9 that you guys are sort of, like, bewildered, like I
10 might be making it up. I'm not. Dig it up. It's
11 out there. It's in the record. We can watch it over
12 and over again, just like we can watch her when she
13 said she was splitting Eagle River to give Eagle
14 River more representation.

15 And, you know, this dumpster fire could have
16 been put out a long time ago by many different
17 people. I don't know why it's not. I don't
18 understand why we continue to go back and just
19 frustrate the purpose of the constitution.

20 We said in the beginning as a group of five
21 that we wanted a fair map that we could be proud of
22 that wouldn't get us sued. When did that change?
23 When -- I'm asking you guys, when did it change? No
24 answer.

25 CHAIR BINKLEY: It never changed for me, if

1 that's a question to me. Still is. I mean, I
2 respect your opinion is different. We all have
3 different opinions. We come at this differently.
4 But that's my objective, as well.

5 Further debate on the motion?

6 MEMBER BORROMEIO: I have a question, John,
7 that is it -- is it your position that we should wrap
8 up our work before the June 1 filing deadline?

9 CHAIR BINKLEY: My position is there's a
10 motion before us, and we should, if there's no more
11 debate on the motion, vote on the motion.

12 MEMBER BORROMEIO: And the --

13 CHAIR BINKLEY: Is there further debate on
14 the motion?

15 MEMBER BORROMEIO: Yes. I'm still talking.
16 Thank you.

17 MEMBER SIMPSON: I'll call the question.

18 CHAIR BINKLEY: Okay. The question is --

19 MEMBER BORROMEIO: And the reason that I'm
20 asking that is because you were overheard on
21 November 10th saying that it's going to be, quote,
22 "incredibly difficult for the Court to change
23 anything before the June 1 filing deadline."

24 CHAIR BINKLEY: I don't know -- overheard.
25 I don't know what you're talking about. But it's

1 irrelevant. You have something --

2 MEMBER BORROMEEO: It's --

3 CHAIR BINKLEY: -- to speak to the motion?

4 MEMBER BORROMEEO: 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 Borrromeo?

23 MEMBER BORROMEEO: No. It's still a partisan
24 gerrymander to give Eagle River more power.

25 MR. TORKELSON: Member Marcum?

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

3 MR. TORKELSON: Member Simpson?

4 MEMBER SIMPSON: Yes.

5 MR. TORKELSON: Member Binkley?

6 CHAIR BINKLEY: Yes.

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

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

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

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

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

1 MR. TORKELSON: So the proclamation will
2 include new metes and bounds to fix the Cantwell, as
3 well as new maps which reflect the adopted Senate
4 pairings. The proclamation itself doesn't say option
5 this or option that. That will be reflected in the
6 maps and the Senate truncation table and the Senate
7 core constituency report.

8 So the new language to the proclamation is
9 shown in highlighting. All the -- all the material
10 above it here is the same as our original
11 proclamation. But working with our legal team we
12 added an additional "whereas" that just talks about
13 the Court decisions and directions, and there is, of
14 course, a new date. That's just highlighted there.
15 I didn't know what day, so we'll fill that in.

16 And then there is a Senate label difference
17 between option 2 and 3B. We have to correct that.
18 And then the signature page. So it's just a very
19 modestly changed proclamation, and I would defer to
20 legal counsel if he wants to, you know, recommend any
21 specific process, whether we can adopt this now or
22 after I correct a few little things.

23 CHAIR BINKLEY: Matt, do you want to weigh
24 in on this, please?

25 MR. SINGER: Mr. Chair, I would recommend

1 that Peter finalize the proclamation, then circulate
2 it for the board to approve. And then the board will
3 need to sign. The Alaska law allows electronic
4 signatures, so I understand members are -- some
5 members are remote, so it could be signed
6 electronically.

7 I think we need to be clear with the public
8 as to the date on which the proclamation is adopted,
9 whether that can be today or tomorrow. It should be
10 as soon as practicable. But the date of the
11 proclamation is important for anyone who's interested
12 in a legal challenge, to start calendaring that. And
13 then I want to be able to report to the Court as to
14 what we've done.

15 So I would encourage, Peter, if we could,
16 maybe we could stand at recess. We could finalize
17 the document and put it up on the screen and/or
18 e-mail it around. And the board, if interested,
19 could vote to adopt the proclamation.

20 And, Peter, maybe if you're prepared to
21 discuss the truncation issue, we could do that before
22 we finalize the document.

23 MR. TORKELSON: Yes. Through the Chair --

24 CHAIR BINKLEY: Okay. I think that's -- go
25 ahead, Peter.

1 MR. TORKELSON: I was going to say, through
2 the Chair, I do have -- because we were limited to
3 two options, I was able to work with Eric at the
4 Department of Labor to run the Senate truncation
5 report for both options, to have that available. And
6 I am prepared to discuss that today in detail,
7 whatever detail the board would like.

8 The net result is that in either option
9 there were no changes to the truncation, in terms
10 of -- you know, the population differences were such
11 that there were no seats that didn't have to run that
12 had to run before, and vice versa. So it's the same
13 outcome, but we do have some different percentages
14 that I can go into, at the board's pleasure, or a
15 recess may be in order to prepare the proclamation.

16 CHAIR BINKLEY: All right. I would suggest
17 that we do take a recess. And I think we have a
18 couple of members with hands up, and we'll go to
19 them. But I think that's sound advice, to take a
20 brief recess and to have that drawn up.

21 Melanie, and then Nicole.

22 MEMBER BAHNKE: Yeah. My -- I'd prefer to
23 say what I have to say before we go to recess,
24 because it will affect the signature page.

25 I'd like to request that we have a signature

1 page that notes those signing in opposition. It's
2 important for me to sign this in person. I don't
3 want to sign it electronically. I was nearly erased
4 from the process of the proclamation in November.

5 I'm hoping that that initial signature
6 page that I signed in opposition has been retained,
7 that the second one is retained, and then I'd like my
8 actual signature noted in opposition on this one. So
9 it would be great if we could move that forward
10 today, if possible.

11 I also, in terms of record retention, again,
12 I'm going to ask that we keep the portal open for
13 people to provide public testimony. I think that was
14 a mistake the first time around, after we thought
15 that we were done with this proclamation. I think we
16 would have received a lot of public comment after the
17 first go around had we kept that portal open.

18 So those are a couple of my requests. I
19 don't want to have to be filing some kind of a
20 minority report or anything like that, so I'd like a
21 signature page noting my opposition.

22 CHAIR BINKLEY: I think that's very
23 appropriate, Melanie. And we can instruct Peter to
24 make certain that on the signature page, any
25 opposition can be noted by members who did not

1 support the proclamation.

2 And I think if we can get it prepared, then,
3 Melanie, you can sign it in ink there and put
4 whatever notations you would like on there and you
5 feel appropriate, and it will be retained. That will
6 be the permanent record.

7 Nicole?

8 MEMBER BORROMEO: Thanks. I was going to
9 make the same two requests Melanie did, for the
10 signature block, and also for the opening -- or the
11 public testimony portal on our Web page to remain
12 open.

13 But I want to make an observation there,
14 because we've had a lot of conversations about "as
15 practicable" for contiguity sake of the Senate. And
16 our counsel here says we should hurry up and get this
17 signed as quickly as practicable, and we can use
18 electronic signatures to do that. Efficiency.

19 So, again, traveling between the two
20 districts that are now paired, District 29 and 22,
21 just because you can walk a signature over doesn't
22 mean that you shouldn't drive a signature over if you
23 had to. But that would, of course, require going
24 through five or six House districts, and that would
25 run afoul to Kenai.

1 So thank you.

2 CHAIR BINKLEY: Okay. Thank you.

3 Bethany?

4 MEMBER MARCUM: Hi. Thank you,

5 Mr. Chairman.

6 I just wanted to go on record saying that,
7 as a person who is carefully like a steward of
8 government funds, and we are being paid by government
9 funds, in terms of all of our transportation costs,
10 in terms of staff and personnel costs, that I
11 appreciate the consideration of the board as far as
12 doing the proclamation signatures electronically
13 rather than requiring the high price of gas to be
14 paid right now to drive.

15 Certainly if folks prefer doing it that way,
16 that's fine, but I will be more than happy to sign
17 electronically to save money. Thank you.

18 CHAIR BINKLEY: Melanie?

19 MEMBER BAHNKE: Mr. Chair, I wasn't trying
20 to suggest that everybody has to sign it in person.
21 I would prefer to sign it in person, but I'm not
22 imposing that -- I'm not suggesting that we impose
23 that on all members.

24 CHAIR BINKLEY: Thank you.

25 Why don't we take a brief at ease, come back

1 at 3:00.

2 Is that enough time, Peter, to get that
3 finalized?

4 MR. TORKELSON: Yes, Mr. Chair.

5 CHAIR BINKLEY: Okay. We'll stand at recess
6 until 3:00. We are in recess.

7 (Off record.)

8 CHAIR BINKLEY: Peter and Matt, are you
9 done? If so, we'll come back to order.

10 MR. TORKELSON: Yes, Mr. Chairman. We have
11 a printed version of the proclamation that's been
12 reviewed by our legal team, and the members have had
13 it on their desk.

14 This is -- with the exception of two
15 grammatical errors, this is the same document that I
16 e-mailed out in draft form earlier today, so members
17 who are virtual can reference that, and you'll have
18 the substance of all of the changes, which primarily
19 occurs in the final "whereas" clause. That's the new
20 material. Everything else is essentially the same.
21 Then there's a new signature page, of course, on the
22 back.

23 CHAIR BINKLEY: Okay. I've got a hard copy
24 of that here. I just -- I would propose if we're all
25 going to sign it today, we use today's date. I know

1 the members locally there are expressing an interest
2 in signing it there. I can certainly sign it
3 electronically today.

4 I don't know about -- Bethany or Budd, are
5 you okay with signing this today?

6 MEMBER SIMPSON: I am. Thank you.

7 MEMBER MARCUM: Yes, Mr. Chairman, I
8 certainly am.

9 CHAIR BINKLEY: Okay. So why don't we use
10 today's date then as the date, and then we can --
11 those of us not in the office can do it
12 electronically, and those members in the room can
13 sign it in person.

14 Peter?

15 MR. TORKELSON: Yes, Mr. Chairman, at the
16 will of the board. It would be appropriate for us to
17 present the revised map with the Senate -- the House
18 numberings to match the pairings, then to talk about
19 the truncation, and then to talk about the Senate
20 terms table, to be sure that members are all up to
21 speed and in agreement with that process. So I'm
22 prepared to do that, at the board's pleasure.

23 CHAIR BINKLEY: Okay. That makes sense.

24 Melanie?

25 MEMBER BAHNKE: Thank you, Mr. Chair.

1 There's, I think, an amendment that needs to
2 be made on the eighth "whereas." It says, "Whereas
3 the Alaska Redistricting Board adopted this -- this
4 final plan and proclamation of redistricting today,
5 November 10, 2021, in conformity with the
6 constitutional requirement that it do so within 90
7 days."

8 So it's confusing to me. It should say that
9 we had adopted a plan --

10 MR. SINGER: Peter, let's write "adopted the
11 2021 final plan and proclamation."

12 MR. TORKELSON: Yes, that's correct. It
13 should be --

14 MR. SINGER: Then we should delete --
15 instead of today, it should say "on November 10th,
16 2021."

17 MEMBER BAHNKE: And since it wasn't final,
18 what do we refer to it as?

19 MR. SINGER: Again, we're going to call it,
20 "the board adopted its 2021 plan and proclamation of
21 redistricting on November 10th."

22 MR. TORKELSON: Let me bring that up so
23 people can see what we're talking about.

24 MR. SINGER: Then, Mr. Chair, I would
25 encourage, after the discussion of the items that

1 Mr. Torkelson suggested, that it would be appropriate
2 for -- for there to be a motion to adopt the amended
3 proclamation of redistricting as of today's date, and
4 that -- I would encourage that that be done by
5 motion.

6 CHAIR BINKLEY: Matt, you're cutting out.
7 At least for me, I can't -- I missed a lot of that.

8 MR. SINGER: Oh, sorry. I was suggesting
9 that after Mr. Torkelson presents the items he is
10 intending to present, that it would be appropriate to
11 entertain a motion to adopt the amended proclamation
12 of redistricting as of today's date.

13 CHAIR BINKLEY: Okay. That's logical.
14 Peter, you've got your hand up to that
15 issue.

16 MR. TORKELSON: No. I'm sorry. I neglected
17 to lower my hand. Thanks.

18 CHAIR BINKLEY: Okay. Melanie?

19 MEMBER BAHNKE: Oh, I'm sorry. Same thing.

20 CHAIR BINKLEY: Okay. And by the way, good
21 catch on that, Melanie.

22 MEMBER BAHNKE: I try to be vigilant.

23 CHAIR BINKLEY: So maybe, Peter, you could
24 walk -- walk us through that, in terms of the
25 truncation and pairings.

1 But before that, I see Nicole has got her
2 hand up. Nicole?

3 MEMBER BORROMEIO: Thank you.

4 I want to draw the board's attention to yet
5 more caution from Judge Matthews, which is that last
6 November we had no debate on Senate pairings, and
7 then came out and adopted Senate pairings without
8 having the opportunity for the public to respond to
9 what the board was going to do.

10 I don't see how we've changed course,
11 unfortunately, in the new year. I thought we would
12 turn a new page but here we are yet again, this time,
13 though, taking public testimony but adopting a plan
14 without giving the public a chance to respond to it.

15 I understand that we had two options, but we
16 did not signal to the public which option we were
17 going to go with as a majority, and I don't think
18 that we should sign this today. I think we should
19 leave it out for public comment tomorrow. Maybe --
20 maybe someone will change their mind and we can vote
21 on a plan tomorrow.

22 CHAIR BINKLEY: Bethany?

23 MEMBER MARCUM: Mr. Chairman, I'd like to
24 hear from legal counsel regarding the concept that
25 was just presented, if we could.

1 MR. SINGER: Mr. Chair, I don't believe
2 that -- Mr. Chair, would you like me to answer that
3 question?

4 CHAIR BINKLEY: Yeah, please. Go ahead.

5 MR. SINGER: I don't believe the
6 constitution requires the board to do more public
7 hearings after it takes a final -- makes a final
8 decision.

9 I think the Court was concerned that the
10 Senate discussion in November was rushed. And so to
11 remedy that the board met on April 2nd, heard public
12 testimony. In the next meeting it adopted a process
13 for hearing from the public and accepting public
14 plans.

15 It's had seven hearings on the options that
16 were presented by the public, and at some point the
17 board has to make a decision. I think we have to
18 balance the public process that's contemplated under
19 the constitution with the limited time that's
20 available, in light of statutory deadlines.

21 So certainly if the board wants to entertain
22 more testimony, but it's -- it's -- I don't believe
23 it's constitutionally required. I don't think that
24 the judge was saying after you issue a final decision
25 in every instance you need to have another round of

1 testimony.

2 I think the concern was that in November the
3 plan adopted by the board had really never been
4 fully, you know, articulated and presented in the way
5 that the Court would have liked to see. So the
6 difference here is that there are hundreds of public
7 comments on option 2 and option 3B that helped to
8 inform the board today.

9 MEMBER BAHNKE: Mr. Chair, you're muted. I
10 saw you just try to say something, but you were
11 muted.

12 CHAIR BINKLEY: I apologize.

13 Budd, and then Nicole.

14 MEMBER SIMPSON: Yeah. Mr. Chair, I agree
15 with Matt, as far as taking more public testimony on
16 this. We are leaving the portal open for people to
17 comment. If they want to, they're free to do that,
18 and I'm sure they will.

19 But my further question for Matt has to do
20 with the truncation, and the -- then the -- the
21 election, re-election timing, whatever that's called.
22 Do we need to take testimony on those issues? And
23 if -- if so, we can roll that over to tomorrow. But
24 I'm not sure we do. It may just be administerial.
25 So just looking for advice on that one.

1 MR. SINGER: I really think it's --

2 CHAIR BINKLEY: Matt, if you could just
3 speak right into the microphone instead of turning
4 your head, that would be helpful.

5 MR. SINGER: The board previously adopted a
6 cut-off point, that is, to determine whether changes
7 in district populations were sufficiently great as to
8 require a candidate to -- or the incumbent to re-run.

9 And I don't think that that decision needs
10 to be revisited. It's been made. It was a -- Peter
11 can remind me the exact number. It was 16 percent
12 then, and --

13 MR. TORKELSON: 16.3.

14 MR. SINGER: 16.3 percent was the number
15 that the board used as a cutoff, so I don't think
16 there is a need to revisit that decision. It was
17 made. It was part of the proclamation plan. It was
18 not challenged.

19 And so I don't see -- I don't see this as
20 the board making any additional, really, changes to
21 the proclamation that would require further
22 testimony. If the board wanted to invite it, it
23 certainly could, and -- but it's -- what I would
24 encourage is maybe have Peter present it to you, see
25 what it looks like, and then the board can decide how

1 it wishes to proceed.

2 CHAIR BINKLEY: Okay. Nicole, did you have
3 your hand up, or is it --

4 MEMBER BORROMEO: Yeah. I just want to
5 reiterate that my batting average for the Courts are
6 a little bit better than you guys, and I think that
7 we should let this soak, let it set, let the public
8 comment on what we're about to do.

9 Thank you.

10 CHAIR BINKLEY: Okay. Bethany?

11 MEMBER MARCUM: Thank you, Mr. Chairman. I
12 just have a question.

13 I guess I'm a little confused. Are we --
14 what we're talking about is whether or not we're
15 entertaining the idea of changing our cut-off
16 percentage? Is that part of what we're discussing
17 here, is whether or not we would consider doing that?
18 I guess I just assumed we would go with the same
19 cut-off percentage and everything kind of the same as
20 the previous proclamation, but is that part of what
21 we're -- is being discussed here?

22 CHAIR BINKLEY: I think that's part of the
23 truncation process, is that number. We could choose
24 a different number if there was some rationale for
25 it. I don't think it was controversial. I think it

1 was -- I can't remember how we came up with the
2 number, but I don't know that anybody's -- is anybody
3 proposing to change that truncation number, the
4 16.3 percent? I don't think so.

5 Maybe what we could do -- Nicole, did you
6 have a question on that?

7 MEMBER BORROMEO: Yeah. I don't understand
8 if you guys have data that I don't, but I don't even
9 have printouts of what the makeup of the new
10 districts are, so I would like to at least see some
11 data before we act on it. I think that would be
12 prudent of the board.

13 MEMBER BAHNKE: I have it. It was put in
14 front of my desk.

15 CHAIR BINKLEY: I think we were just about
16 to get to that. Peter was going to present that to
17 us. So maybe let's just have Peter make that
18 presentation to us, and then we can decide how to
19 proceed.

20 Melanie, do you have a question on that
21 before Peter makes that presentation?

22 MEMBER BAHNKE: No, not a question, but I
23 think Bethany was confused about what we're talking
24 about taking public testimony on.

25 My understanding from Nicole was the Senate

1 pairings, not the truncation. But can you please
2 clarify that, Member Borrromeo?

3 MEMBER BORROMEEO: Yeah. I would like to not
4 necessarily hold public hearings again, but leave the
5 portal open for the opportunity for Alaskans to weigh
6 in. And if the board is amenable to hearing some
7 public testimony before we adopt tomorrow's plan, I
8 am always down for more public testimony after the
9 board takes final action.

10 CHAIR BINKLEY: Okay. Let's go --

11 MEMBER BORROMEEO: I need -- I need a new
12 map, Peter, of the -- of the numbers. That's what
13 I'm talking about, like the letter numbers.

14 CHAIR BINKLEY: Let's go ahead and let Peter
15 make his presentation, and then we can debate it and
16 talk about how to proceed after that.

17 Peter?

18 MR. TORKELSON: Okay. So, Mr. Chairman, so
19 in order to affect a new set of Senate pairings and
20 stay with the tradition of having sequential --
21 sequentially numeric districts to reflect the letters
22 that are associated with the Senate pairings, some
23 numbers would have to change in Anchorage in order to
24 accomplish that.

25 So this is obviously at the board's

1 discretion how they want to do that, but to model it,
2 to see what would happen, this is the numbering
3 scheme where 9 stays the same and then to be paired
4 with the old 22 becomes 10, so it's 9 and 10.

5 Following the -- what I heard the board
6 articulate, which is keep as much the same as you
7 could, 11 and 12 stay the same.

8 The old 10 becomes 13, to pair with 14. 15
9 and 16 stay the same. 17 and 18 are together. 19
10 and 20 are together. Same pairing as before but with
11 the numbers shifted. And then 21 and 22 together in
12 Muldoon. 23 and 24, not shown here -- 24 is
13 Chugiak -- stay together as they are now.

14 So this changes not even eight districts.
15 Seven districts are renumbered -- well, more than
16 that, but there were seven that had to change because
17 of the new pairings, and then the others adjusted for
18 it.

19 So these numbers then lead to the table,
20 which I'll bring up next, the Senate terms table that
21 I had Eric run. If you want different numbers, we
22 can number it differently and run it again. The
23 overall statistics won't change, because we're not
24 changing the underlying House geography. Because the
25 House shapes didn't change, the numbers on the terms

1 table, which I'll bring up next, just shuffled
2 around. They don't actually move very much.

3 And the net result is that no -- there's no
4 new truncation decisions. Nobody would have to run
5 who didn't have to run before, and vice versa.

6 Let me switch screens now. It's going to
7 take me just a second to pull up the new table that
8 those numbers would then feed into.

9 So I'll share the screen. So this is the
10 report. Make sure everybody can see it. This is the
11 report that Mr. Sandberg ran.

12 MEMBER BAHNKE: Can you enlarge that?

13 MR. TORKELSON: Yeah. It is very detailed.
14 I'll zoom in in a sec. That is a very similar table
15 to what -- the same calculus was run as we did in
16 November. And what you're looking at is option 3
17 across the top, and the 2013 districts running
18 vertically on the left-hand side.

19 And then these numbers are populations of
20 voters who are retained in the various districts. So
21 this cell I clicked on -- I'll zoom in so you can see
22 it better. So to demonstrate so that everyone
23 understands, this is for map option 3B.

24 The new Senate District I, for example,
25 takes 23,000 people and change from the old Senate

1 District I. And then just to make a point, it takes
2 206 people from the old Senate District J.

3 So that's how the math is done. It's called
4 a cross-tab report. And Mr. Sandberg took those
5 numbers and converted those into percentages. This
6 is the percentage of the old District I that's
7 retained by the new District I, 64 percent.

8 What that means is if you subtract that
9 number from a hundred, that's the percentage of
10 overall voter change. So it's 25 plus all of these
11 numbers. In that case it would be 35.8 percent total
12 voter change in Senate District I. Because the board
13 chose 16.3 percent as a cutoff in November, the new
14 Senate District I must stand for election in 2022.

15 To take all these numbers and summarize them
16 into a more human compatible table, we have this
17 table, which is very similar to the one -- just make
18 sure it's showing here -- very similar to the one
19 that we did in November, and it highlights all of the
20 different Senate seats from A to B -- to A through T,
21 in this column.

22 Using the numbering sequence we have from
23 November and slightly modified to reflect the changes
24 necessary for option 3B, anyplace there's been a
25 change I've highlighted the cell. So if you have the

1 table from the last cycle, which we can bring up,
2 you'll see that some of these percentages have
3 changed, some of them very little, some have shifted.
4 But the net result is that 19 senators had to run
5 again. The same 19 senators have to run again after
6 this action today as had to run again in November.
7 There's no net change in who runs again. There's a
8 shuffling.

9 And you'll notice right here, in Senate J,
10 there is our cutoff point, 16.3 percent. So because
11 we didn't change the House geography, that number
12 re-emerges, even though it might be in a slightly
13 different row this time because of numbering changes.
14 That's -- so this is the table.

15 And then the other thing that you'll notice
16 is Senate seat O changed, as well as Senate seat R.
17 Those are impacts from the Cantwell revision. Now,
18 the percentage is -- the old percentage here, for
19 example, is 60.9, from memory, so it's like a
20 2 percent change. But I highlighted those because
21 those did actually change, in terms of their retained
22 voter core percentage. But there's no actual
23 functional change. They both have to run again
24 because they are well over the 16.3 cutoff.

25 So I'd be happy to answer questions. I know

1 this is a technical topic.

2 CHAIR BINKLEY: Yeah. Melanie, go ahead.

3 MEMBER BAHNKE: I don't have any recommended
4 changes to the 16.3 percent.

5 But I did just realize that our agenda for
6 today and tomorrow noticed public comment, and we did
7 earlier state on the record that we would take public
8 comment after we made a decision. So I thought I'd
9 point that out to you as our chairman, what we had
10 noticed the public of.

11 CHAIR BINKLEY: Yeah. I noticed the agenda
12 that we adopted does not have public -- public
13 testimony on it.

14 My understanding was that we were going to
15 make a final decision. At some point we make a final
16 decision, and that is the final decision. So I -- if
17 we want to drag this out -- I wouldn't say drag it
18 out, but if we want to extend this and extend public
19 comment on what members have indicated that they
20 might be supporting -- and I guess we have already
21 made a decision on supporting option 3B. I'm not
22 certain that public testimony is going to change
23 that, so I'm not sure of the purpose of it.

24 MEMBER BAHNKE: Mr. Chair --

25 CHAIR BINKLEY: It would just, in my

1 opinion, serve to slow down the process.

2 MEMBER BAHNKE: May I respond?

3 CHAIR BINKLEY: Go ahead. Then we'll go to
4 Bethany.

5 MEMBER BAHNKE: The top of the agenda said
6 "public testimony at the LIO." It wasn't in the
7 agenda in terms of an agenda item, but it does say
8 public testimony and a number. And I do recall that
9 we said we would make -- take a vote on Senate
10 pairings, then take public testimony, and then adopt
11 a proclamation. I thought that was the plan.

12 CHAIR BINKLEY: Yeah. I -- that wasn't my
13 understanding. I think this is a standard form, the
14 part at the top -- Peter, you can correct me if I'm
15 wrong -- that the LIO puts out.

16 MEMBER BAHNKE: Okay. Well, somebody had
17 put in the chat: The board went on record earlier
18 that they would allow public comments once a decision
19 was made. So I don't have the minutes in front of
20 me, but apparently we did supposedly.

21 CHAIR BINKLEY: Thank you.

22 Peter, are you available?

23 MR. TORKELSON: Yes. I just -- yeah. I
24 just checked. There is -- it does say "public
25 testimony" at the top of our agenda. It was a

1 standard form that I neglected to remove the notice.

2 CHAIR BINKLEY: Okay. I think that was --
3 may indicate that that's prior to the agenda or would
4 be someplace on the agenda, so it really is in
5 conflict with the agenda.

6 But I think there is the opportunity, if
7 we're going to leave the portal open, for the public
8 to comment, not just today or tomorrow, but ongoing.

9 Nicole?

10 MEMBER BORROMEO: Where are we with my
11 suggestion that we put off adopting a plan until
12 tomorrow and allow for the public to react to the
13 final decision of the board today?

14 CHAIR BINKLEY: Well, the public would -- if
15 this is the final decision of the board, the public
16 has not only tomorrow but, you know, for quite a
17 number of days to react to what the final decision
18 is. The final decision is the final decision.
19 That's the way I read it.

20 MEMBER BORROMEO: I don't understand your
21 math here, because a status report is due in two
22 days, so they don't have a great number of days. And
23 we have to tell the Court what we've done.

24 What is the harm in not signing the final
25 plan today and signaling to the public that the

1 three-member majority has approved map 3B and that
2 we're going to hold public testimony, as we said we
3 would at the beginning, and print it in the agenda?

4 CHAIR BINKLEY: Bethany?

5 MEMBER MARCUM: Thank you, Mr. Chairman.

6 It sounds like maybe what some members are
7 asking for is a motion to reconsider, and I would be
8 happy to entertain that. I mean, I'm sure that we'd
9 be willing to vote on that. If they would like to
10 make a motion to reconsider, we can certainly do
11 that. There is nothing stopping us from doing that
12 at this time.

13 Thank you.

14 CHAIR BINKLEY: Is that -- Nicole, is that
15 what you're suggesting?

16 Melanie, I think you've got your hand up.
17 Go ahead.

18 MEMBER BAHNKE: I am not suggesting a motion
19 to reconsider. At this point I think that would be
20 an exercise in futility.

21 I am suggesting that we follow what we told
22 the public that we would do. We would make the
23 Senate pairing decision, take public testimony, and
24 then adopt a proclamation. I might be mistaken. My
25 memory is not always a hundred percent, but I thought

1 that was what we -- when we adopted a process and
2 dates, I thought that's why we had set aside two days
3 for this. And I thought that we had said that we
4 would take public testimony after adopting Senate
5 pairings.

6 Do other members have a different
7 recollection?

8 And, Peter, are the minutes done from that
9 day when we adopted a process?

10 MR. TORKELSON: Mr. Chair, would you like me
11 to answer that?

12 CHAIR BINKLEY: Yeah, if you could respond,
13 Peter.

14 MR. TORKELSON: The minutes are in process,
15 but the audio recording and video recordings are on
16 the website. I don't have a summary of the minutes.
17 The contractor is working on those.

18 CHAIR BINKLEY: Okay. Thanks.

19 Budd?

20 MEMBER SIMPSON: Mr. Chair, I don't have a
21 recollection one way or the other whether we said we
22 would take additional public testimony or not.

23 It concerns me that it is printed on the top
24 of our agenda that we would do that. But, again,
25 it's in conflict, because it's not an actual agenda

1 item that we voted on.

2 So, you know, I don't want to give the
3 appearance that we're not interested in what the
4 public has to say. I thought maybe it was a good
5 compromise to simply leave the portal open so that
6 anybody with further comments is free to make
7 those -- those -- you know, the way it's been
8 available all along. We keep that open until
9 tomorrow and, you know, have that opportunity
10 available.

11 CHAIR BINKLEY: Nicole, then Bethany.

12 MEMBER BORROMEO: Thanks. We did say that
13 we were going to allow the public to react to our
14 final decision. And for us to be disingenuous and
15 fall back on Peter, who is our only staff member at
16 this point and is doing the job of five people, it's
17 just a cop-out.

18 Let's give the public time to react to
19 what's been done today, to meaningfully respond. We
20 didn't have to wait this long to adopt a final plan.
21 The Supreme Court issued its decision March 25th.
22 That next Monday I was saying: Let's go. Let's
23 meet. Let's do this. We burned an entire week off
24 the clock, so it's not the public's fault that the
25 board refused to meet. That's on us. Let them react

1 to the plan.

2 CHAIR BINKLEY: Okay. Bethany?

3 MEMBER MARCUM: Yeah. Mr. Chairman, I would
4 like to hear from legal counsel regarding the
5 publication that was put out by the LIO that showed
6 public testimony versus the agenda that we adopted
7 that doesn't include public testimony. Thank you.

8 MR. SINGER: I think the key is that the
9 board follow the process contemplated by the
10 constitution. And generally that process, under
11 Section 10, is for the board to adopt a proposed
12 plan, then hold public hearings on the proposed plan,
13 and then adopt a final plan. And so that's the
14 process that the board has been undertaking.

15 There is no harm in additional -- hearing
16 additional testimony, but at some point the board has
17 to make a final decision. And it's also not -- it's
18 a waste of public -- if the board has made a final --
19 has made up its mind and has voted and has a final
20 decision, delaying the proclamation is also -- is
21 also potentially concerning to the Court.

22 I think we need to wrap it up and report
23 back to the Court that the board's work on remand has
24 been completed.

25 CHAIR BINKLEY: Okay. Thank you, Matt.

1 Nicole, further comment?

2 MEMBER BORROMEO: Yeah. Responding to Matt,
3 the word that you just used there was plan, and that
4 we should adopt a final plan and hold public hearing
5 on the final plan. Up until moments ago we haven't
6 had a final plan. We've had two options.

7 So I want to make litigation as swift as
8 possible, as inexpensive as possible, and to comply
9 with the spirit in which the last order was issued,
10 that we not just take lip service from the public,
11 but we give them an opportunity to react to our
12 actions. And perhaps one of us will change his mind
13 and adopt map 2.

14 CHAIR BINKLEY: Matt, is that what the Court
15 said, to give the public an opportunity to react to
16 our final plan?

17 MR. SINGER: I don't see that in -- in the
18 Superior Court's decision, and I don't see that in
19 the constitution.

20 So the -- I believe that by adopting
21 options 2 and 3B, publishing those to the website,
22 and having seven days of hearings on proposed -- on
23 alternative solutions to the Court's remand, that
24 the -- that the board complied with the process
25 anticipated or contemplated under Section 10 of

1 the -- of Article VI of the state constitution.

2 So the idea is to propose solutions, but
3 then make sure that the public gets an opportunity to
4 provide its input. Then the board gets to come back
5 and consider that public testimony and explain its
6 reasons -- that's what happened today -- and the
7 board needs to take action. So I believe the board
8 has complied with the constitution.

9 Again, if the board's preference is to
10 invite another day of written and/or spoken
11 testimony, the constitution doesn't preclude that,
12 but I -- I don't believe that the judge -- certainly
13 not -- if there's nothing in the remand order with
14 regard to process, again, going back to the judge's
15 criticism of what occurred in November, you know, I
16 think all of us realize in retrospect it would have
17 been -- we have maybe spent too much time on the
18 public road show and not enough time at the end of
19 the process to make all of the different decisions
20 that had to be made, and so that process was rushed.
21 And that was the judge's concern.

22 And so the issue here is, you know, did the
23 public know that the board was considering option 2
24 and option 3B, and did the public have an opportunity
25 to express its views to the board so that the board

1 could take that testimony, those views, into
2 consideration before making a decision? That would
3 be the -- that would be the concern of the Court.

4 So I'm comfortable that, again, the board
5 has complied with the constitution, and that's my
6 conclusion.

7 CHAIR BINKLEY: Okay. Thank you.

8 Bethany, and then Nicole.

9 MEMBER MARCUM: Thank you, Mr. Chairman.

10 I guess I would just like for us to consider
11 what the goal would be of further public testimony.
12 We have voted. We have a final vote. I've asked if
13 anyone wants to offer a motion for reconsideration
14 and no one does.

15 So if we're not reconsidering, you know, our
16 vote, then it is a final vote. And I feel like to
17 some degree we would be misleading the public by
18 letting them testify to us in person about a vote
19 that's final.

20 I think there's no harm in letting them
21 continue to provide online written testimony. Peter
22 can continue to compile that and send that to us. We
23 can continue to read that.

24 But I feel a little bit like we might be
25 misleading the public. If no one wants to offer a

1 motion for reconsideration and we're saying that this
2 is a final vote, then what is the goal of continuing
3 to let people testify on a vote that is 100 percent
4 final?

5 Thank you.

6 CHAIR BINKLEY: I have Nicole, and then
7 Budd.

8 MEMBER BORROMEO: So lots to unpack there,
9 Bethany.

10 Seeing as you and Budd made the motion to
11 pass B3, the motion would have to come from you or
12 Budd to reconsider. So there's nothing that Melanie
13 and I can do procedurally to get you to reconsider
14 map B3. Now, if you and Budd want to make a motion
15 to reconsider B3, then I'm here for it all day long.

16 The purpose of holding public testimony is
17 allow the public to react to the final plan. Again,
18 the final plan. Not one of two options that the
19 board could have adopted.

20 And it also squares with what we told them
21 we were going to do. I'm very concerned here with
22 legal counsel's interpretation of the constitution,
23 because last time around we were also told that
24 pairing South Muldoon with Eagle River was perfectly
25 permissible under the constitution, as well. So keep

1 that in mind.

2 CHAIR BINKLEY: Okay. Budd?

3 MEMBER SIMPSON: I think we need to bring
4 closure to all of this. I -- I think we should keep
5 the portal open to give people that want to comment
6 on the final plan an opportunity to make their
7 opinion known, but I am not inclined to seek
8 reconsideration or delay it further.

9 CHAIR BINKLEY: Okay. Short of a motion to
10 some extent or another, I don't see a consensus to
11 extend adopt- -- or reconsider our adopting the final
12 plan or of holding in-person public testimony on the
13 plan we just adopted.

14 I agree with Budd on the fact that there's
15 an opportunity for the public to react, I think,
16 Nicole, as you put it, to what the final plan is.
17 And I'm sure we'll hear that, you know, through the
18 portal and other methods that the public will seek to
19 inform us about and what their opinion is.

20 And there could be litigation, as well,
21 going forward, and that'll be an opportunity, of
22 course, to hear what those concerns are.

23 I think the quicker -- as you pointed out,
24 Nicole, the quicker we can get this to the Court so
25 that they can review it, the better. And being

1 consistent with that, I think we need to have the
2 final plan done today and move forward.

3 There still is the truncation before us.
4 Were there any other questions on that, the
5 16.3 percent, or how Peter had laid that out?

6 Bethany?

7 MEMBER MARCUM: Mr. Chairman, I just wanted
8 to say thank you to both Peter and Eric. It was
9 very -- they had a lot of foresight in going ahead
10 and running all of this for both of the proposals
11 that we had out there so we had everything ready and
12 were able to see this information thoroughly during
13 today's meeting, so I appreciate that.

14 I approve of what they've done. I think it
15 was, like I said, very good that they did this for
16 both plans so that we have this out there. And I am
17 definitely in support of the work that they've done
18 in this effort. Thank you.

19 CHAIR BINKLEY: Matt, would we need a motion
20 to adopt that -- that matrix that Peter had
21 presented?

22 MR. SINGER: It's incorporated in the
23 proclamation in the revised -- or amended
24 proclamation of redistricting. So I think the -- if
25 the board is satisfied with all of the information

1 contained therein that the motion would be to adopt
2 and execute the amended proclamation of redistricting
3 as of April 13th, 2022.

4 Bethany, and then Nicole.

5 MEMBER MARCUM: Mr. Chairman, I move that
6 the board adopt the amended proclamation of
7 redistricting as of April 13th, 2022.

8 CHAIR BINKLEY: Okay. There's a motion
9 before us. Is there a second?

10 MEMBER SIMPSON: I'll second.

11 CHAIR BINKLEY: Okay. A motion before us
12 and seconded to adopt the amended proclamation.

13 Nicole?

14 MEMBER BORROMEO: I don't understand what
15 we're doing here. The only map I have in front of me
16 is renumbering -- a renumbered map of Anchorage.
17 Where is the map that has the new Senate district
18 letters on it?

19 MR. TORKELSON: Mr. Chair?

20 CHAIR BINKLEY: Yeah, Peter, go ahead.

21 MR. TORKELSON: So the one -- the one you're
22 thinking about, the PDF maps, Eric will produce those
23 tomorrow, and they'll be attached to the proclamation
24 as an expression of the board's new plan.

25 So autoBound doesn't let me put letters next

1 to the numbers, so I don't have a way to do that.
2 But they're sequential and in order, so page 2 of the
3 proclamation --

4 MEMBER BORROMEO: Can I have five minutes
5 then to bust out a Sharpie to draw all over the
6 November proclamation and try to figure out what
7 letters match up with the numbers?

8 CHAIR BINKLEY: That's fine with me. Is
9 there any objection to taking a five-minute break?

10 Okay. Let's come back -- it's 3:44. Let's
11 come back at 3:50. We'll stand in recess.

12 (Off record.)

13 CHAIR BINKLEY: Okay. Let's go ahead and
14 call the meeting back to order.

15 Nicole, have you had a chance to look over
16 that and draw the connections between those House
17 districts?

18 MEMBER BORROMEO: I have. Thank you very
19 much. I think it's important that we review
20 information before voting on it, so I appreciate the
21 at ease to allow me to do that.

22 CHAIR BINKLEY: Okay. We still have a
23 motion before us to adopt the revised plan. Further
24 discussion on the motion?

25 (Member Bahnke re-enters proceedings.)

1 MEMBER BAHNKE: I'm here.

2 CHAIR BINKLEY: Why don't we have a roll
3 call vote if we could, please, Peter.

4 MR. TORKELSON: Yes, Mr. Chairman. Stand
5 by.

6 The motion before the board is to adopt the
7 2022 proclamation as proposed.

8 Member Bahnke?

9 MEMBER BAHNKE: Yes. I thought we had five
10 minutes. I'm sorry. I didn't mean to be absent for
11 this part of the conversation.

12 Peter, I see we've got new numbered maps,
13 but no numbers on letters on them?

14 MEMBER BORROMEO: We just --

15 MEMBER BAHNKE: And did you compare them
16 against what's in the proclamation to make sure it's
17 correct?

18 MR. TORKELSON: Yes. We just looked at
19 them.

20 MEMBER BAHNKE: My vote is no, Mr. Chairman.

21 MR. TORKELSON: Member Borromeo?

22 MEMBER BORROMEO: My vote is also no. I'm
23 concerned about the splitting of Eagle River. It
24 still seems like a naked partisan gerrymander to me.
25 I'm sorry, but I can't vote in favor of this.

1 MR. TORKELSON: Member Marcum?

2 MEMBER MARCUM: Yes.

3 MR. TORKELSON: Member Binkley?

4 CHAIR BINKLEY: I think you forgot Member
5 Simpson.

6 MR. TORKELSON: I did. I'm going to come
7 back to him.

8 Member Simpson?

9 MEMBER BORROMEO: He's going to sleep on it
10 tonight. Just kidding.

11 MEMBER SIMPSON: I vote yes.

12 MR. TORKELSON: And Member Binkley?

13 CHAIR BINKLEY: Yes.

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

16 CHAIR BINKLEY: Okay. It looks like we've
17 adopted our final plan, the revised proclamation of
18 2022.

19 Is there any further business to come before
20 the board?

21 Melanie?

22 MEMBER BAHNKE: I don't have further
23 business, but I'd like to offer some closing remarks
24 when it's the appropriate time, please.

25 CHAIR BINKLEY: Certainly. And this would

1 be the time to do that.

2 MEMBER BAHNKE: All right. Well, I just
3 want to apologize to Alaskans again, because I don't
4 think that we passed Senate pairings that comply with
5 what the Court directed us to do. We still split
6 Eagle River to give it more representation.

7 And I hope that the Courts move swiftly so
8 that Alaskans can have an election under fair maps.

9 And I just want to thank everyone again who
10 provided us with input and public testimony. Thank
11 you very much.

12 CHAIR BINKLEY: Thank you, Melanie.

13 Any further closing comments from board
14 members?

15 Nicole?

16 MEMBER BORROMEO: A question. So is
17 tomorrow's agenda no more? We don't need to meet
18 anymore? I'm a little bit confused about the public
19 notices that have gone out.

20 CHAIR BINKLEY: That's correct. We've
21 concluded our business and we will not be meeting
22 tomorrow.

23 MEMBER BORROMEO: Okay. In that case I do
24 have some closing remarks.

25 And I'm going --

1 CHAIR BINKLEY: Okay.

2 MEMBER BORROMEO: -- to begin by once again
3 thanking Alaskans for engaging in the process. It
4 has been extremely rewarding to be in your
5 communities. I was in 23 of the 26 public hearings
6 that were held across the state.

7 And my experience there and the board's
8 collective experience led to us adopting a very fair
9 House map that I'm proud of, that I believe is going
10 to serve as a benchmark for future redistricting
11 boards to achieve as they move forward.

12 The next message is -- excuse me one second.
13 The next message, I'm sorry, is for my son Kellan,
14 because the first time that he votes is going to be
15 under maps that his mom drew.

16 So, Kellan, when you watch this later and
17 you listen to it, I want you to know that in your own
18 time you're going to be called to do things that are
19 hard. But you have privilege, and with privilege
20 comes great responsibility. So when you're asked to
21 do something that requires you to step out of your
22 comfort zone, to work hard, to make sacrifices that
23 you don't think that you can make on a personal
24 level, I want you to know that, just like Anna's been
25 there to support me, I'm going to be there to support

1 you.

2 And in the process you're going to be
3 tempted to sacrifice integrity. Don't do it. You
4 will never, ever be able to get that back.

5 To Alaskans who are watching today and
6 feeling discouraged by the process, don't be
7 discouraged. This is why we have an independent
8 judiciary. This is why a minority can come before
9 you, as Melanie and I have, confident that our
10 constitution is strong enough and flexible enough to
11 give the Court the power to do what the five of us
12 today couldn't.

13 Democracy isn't always easy, and it isn't
14 always clean, but it must be fair. And
15 reapportionment is nothing if it's not fair.

16 I can't sign on to a map today when one
17 member said that she was splitting Eagle River to
18 give Eagle River more representation, and two other
19 members refuse to acknowledge her words time and time
20 and time again. It's unfortunate that we've arrived
21 at this place. It's not entirely surprising.

22 And I want to thank Alaskans again for
23 having us in your communities. When the board comes
24 back in another ten years, please invite them into
25 your communities.

1 And if we've got nothing out of this
2 process, we have a new State law that says the next
3 time this board tries to engage in an
4 unconstitutional partisan gerrymander, it will be
5 struck down every time under Alaska's equal
6 protection clause. And I'm happy and proud that
7 that's something Melanie and I helped achieve.

8 Thank you. I appreciate the former speaker
9 of the House reaching out to me and asking me to
10 serve in this role. It has been the honor of a
11 lifetime.

12 CHAIR BINKLEY: Thank you, Nicole.

13 If there's no further comments, the chair
14 would entertain a motion to adjourn.

15 MEMBER BORROMEO: So moved.

16 CHAIR BINKLEY: Is there a second to the
17 motion?

18 MEMBER SIMPSON: Second.

19 MR. SINGER: Motion before us and seconded
20 to adjourn. Discussion on the motion?

21 MEMBER BAHNKE: Mr. Chair, just under
22 discussion, I don't know if you can see in the chat
23 box, and it's probably a moot issue at this point,
24 but we have a member of the public who said that the
25 video record shows that Mr. Simpson said on

1 April 6th, at two hours and 58 minutes, that the
2 public should weigh in after the board makes a choice
3 but before they take final action, and the person
4 attached the video. So I wanted to bring that to
5 your attention.

6 CHAIR BINKLEY: Okay. And thank you.

7 And just to further comment on that, I think
8 that's what we did actually. We put the proposals
9 out there to comment on it, and then took final
10 action.

11 But we can, you know, all maybe remember it
12 differently or have our difference of opinion. But
13 with that --

14 MEMBER SIMPSON: Well, that's what we did
15 do.

16 CHAIR BINKLEY: Okay. Any further
17 discussion? Is there objection to the motion?

18 Hearing none, the motion is adopted and we
19 are adjourned. Thank you.

20 (Proceedings adjourned at 3:59 p.m.)

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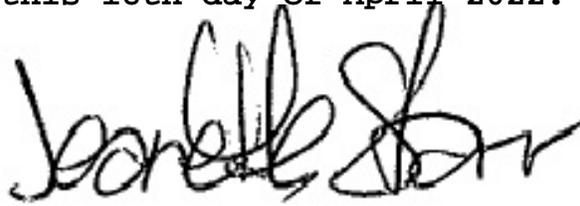
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CERTIFICATE

I, JEANETTE STARR, Certified Shorthand Reporter and Notary Public in and for the State of Alaska, do hereby certify that the proceedings were taken before me at the time and place herein set forth; that the proceedings were reported stenographically by me and later transcribed by computer transcription; and that the foregoing is a true record of the proceedings taken at that time.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 18th day of April 2022.



JEANETTE STARR
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1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
2 THIRD JUDICIAL DISTRICT AT ANCHORAGE
3

4)
5 In the Matter of the)
6 2021 Redistricting Plan.)
7)

8) Case No. 3AN-21-08869CI

9 **[PROPOSED] ORDER DENYING EAST ANCHORAGE PLAINTIFFS’**
10 **MOTION TO REJECT AMENDED PROCLAMATION PLAN AND FOR**
11 **MODIFICATION OF ORDER ON REMAND**

12 The Court, upon consideration of East Anchorage Plaintiffs’ Motion to Reject
13 Amended Proclamation Plan and For Modification of Order on Remand dated April 18,
14 2022 (“East Anchorage Plaintiffs’ Motion”), the Alaska Redistricting Board’s
15 (“Board”) Opposition to the East Anchorage Plaintiff’s Motion dated April 19, 2022,
16 and any reply thereto, hereby **DENIES** the East Anchorage Plaintiffs’ Motion.

17 **IT IS ORDERED** that the East Anchorage Plaintiffs’ challenge to Senate
18 District L is barred by the doctrines of *res judicata* and collateral estoppel, and time-
19 barred by Article IV, Section 11’s 30-day statute of limitations. Senate District L in
20 the Board’s new 2022 Amended Redistricting Plan remains unchanged from Senate
21 District L in the 2021 Redistricting Plan. East Anchorage Plaintiffs challenged the
22 legality of Senate District L during the litigation on the Board’s 2021 Redistricting Plan,
23 and it was not invalidated. No party, including the East Anchorage Plaintiffs, can
24 challenge Senate District L again.
25
26

1 CERTIFICATE OF SERVICE

2 I hereby certify that on the 19th day of April, 2022,
3 a true and correct copy of [PROPOSED] ORDER DENYING
4 EAST ANCHORAGE PLAINTIFFS' MOTION TO REJECT
5 AMENDED PROCLAMATION PLAN AND FOR MODIFICATION
6 OF ORDER ON REMAND (3 pages) was served upon the
7 following by:

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