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

In the Matter of the	)	
	)	
2021 Redistricting Plan.	)	Case No. 3AN-21-08869 CI
_____	)	(Consolidated Cases)
Case No. 3VA-21-00080 CI		
Case No. 1JU-21-00944 CI		

**JOINDER IN MOTION FOR RULE OF LAW**  
**REGARDING SCOPE OF ATTORNEY-CLIENT PRIVILEGE**

Plaintiffs, City of Valdez and Mark Detter and the Municipality of Skagway Borough and Brad Ryan (together “Valdez-Skagway Plaintiffs”), through their attorneys, Brena, Bell & Walker, P.C., hereby joins East Anchorage Plaintiffs’ Motion for Rule of Law Regarding Scope of Attorney-Client Privileged Communication with Governmental Entities.

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## **I. INTRODUCTION**

Valdez-Skagway Plaintiffs join with East Anchorage and Matanuska Susitna Borough's ("MSB") Plaintiffs' request for a ruling regarding the scope of the attorney-client privilege in the instant matter.

### **A. Overbroad Assertion of Privilege for Public Communications.**

The parties anticipated issues with the scope of attorney-client privilege asserted by the Board during the initial pretrial conference for this matter. The Second Pretrial Order issued after that conference states that "the party asserting the privilege must assume the Court will be asked to review the assertion and prepare copies of the material subject to the assertion for a rapid *in camera* review."<sup>1</sup> The Board has identified 2,425 communications as confidential including numerous communications where no attorney sent or received the communication. Generally, the Board appears to have designated all communications to which counsel was copied as attorney-client privileged regardless of the content of the communication. The Board's broad application of attorney-client privilege to communications is contrary to the Alaska Supreme Court's holding that "as with all exceptions to the public records act, the attorney-client and work product privileges should be construed narrowly to further the legislature's goal of broad public access."<sup>2</sup>

### **B. Open Meetings Act Violations.**

The Board has also applied an overly broad interpretation of the attorney-client privilege exception to the Open Meetings Act ("OMA") and otherwise failed to comply

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<sup>1</sup> Second Pretrial Order at 7 (December 21, 2021).

<sup>2</sup> *Griswold v. Homer City Council*, 428 P.3d 180, 188 (Alaska 2018).

with OMA requirements. The OMA provides, in relevant part:

The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.<sup>3</sup>

The attorney-client privilege exception to the OMA is not appropriate for “the mere request for general legal advice or opinion by a public body in its capacity as a public agency.”<sup>4</sup>

Counsel for the Board acknowledges this during the November 3, 2021 meeting when he stated: “If the [Board at any point] wants to talk about specific, you know, Here’s our idea for this district, Counsel, what do you think, I think it. would be appropriate to have an executive session to talk about a specific -- to give you specific advice about a plan. But I thought general advice about what the law says is [appropriate for open session].”<sup>5</sup>

The attorney-client privilege exception to the OMA is limited to “consideration of pending litigation.”<sup>6</sup> As the Supreme Court has stated:

The privilege should not be applied blindly. It is not enough that the public body be involved in litigation. Rather, the rationale for the confidentiality of the specific communication at issue must be one which the confidentiality doctrine seeks to protect: candid discussion of the facts and litigation strategies.<sup>7</sup>

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<sup>3</sup> AS 44.62.310(b).

<sup>4</sup> *Cool Homes, Inc. v. Fairbanks N. Star Borough*, 860 P.2d 1248, 1261-62 (Alaska 1993) (quoting *Minneapolis Star & Tribune Co. v. The Hous. & Redevelopment Auth. Minneapolis*, 246 N.W.2d 448, 454 (Minn. 1976)).

<sup>5</sup> Exhibit A at 40-41 (Board Meeting Transcript Excerpts).

<sup>6</sup> *Cool Homes*, 860 P.2d at 1261.

<sup>7</sup> *Id.* at 1262.

Despite the well settled case law regarding the narrow attorney-client privilege exception to the OMA and counsel’s apparent acknowledgment that general legal advice is not properly subject to executive session, the Board repeatedly entered into executive session to receive general legal advice. On September 7, 2021, before the Board shared any maps with the public, the Board entered executive session “for the purposes of receiving legal advice under Alaska Statute 44.62.310(c)(4) for matters involving consideration of government records set by a law are not subject to public disclosure.”<sup>8</sup>

The Board routinely violated the OMA by (1) failing to identify specifically the topic of discussion in executive session; (2) entering executive session for the purpose of seeking general legal advice, which is not attorney-client privileged;<sup>9</sup> and (3) making substantive redistricting decisions in executive session when such decisions must be made in an open meeting. After the executive session Chair Binkley stated: “We had an opportunity in Executive Session to hear from legal counsel regarding a discussion on some of the previous opinions when it comes to the different criteria for the Board to consider in drawing the district boundaries.”<sup>10</sup> Thus, the discussion that was held in executive session was clearly related to general legal advice not protected by the attorney-client privilege. Further, counsel for the Board provided a lengthy summary of what was discussed during the executive session in open session, which constitutes a waiver of any attorney-client

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<sup>8</sup> Exhibit A at 7.

<sup>9</sup> *Cool Homes*, 860 P.2d at 1261-62 (quoting *Minneapolis Star & Tribune Co. v. The Hous. & Redevelopment Auth. Minneapolis*, 246 N.W.2d 448, 454 (Minn. 1976) (“The exception is not appropriate for “the mere request for general legal advice or opinion by a public body in its capacity as a public agency.”)).

<sup>10</sup> Exhibit A at 9.

privilege that could have been properly asserted.<sup>11</sup>

The Board’s practice was to enter executive session by merely reciting the statutory language of the OMA,<sup>12</sup> which it did on September 7, November 2, November 3, November 4, and twice on November 5. Reciting the statutory language of AS 44.62.310(c) does not satisfy the statutory requirement that the Board “clearly and with specificity describe the subject of the proposed executive session.”<sup>13</sup> On other occasions the Board entered executive session for the broad purpose of obtaining “legal advice” without providing any description of the subject matter to be discussed in executive session.<sup>14</sup>

The Board also scheduled executive sessions in regular intervals rather than wait for some specific need for executive session to arise and then entering executive session. This practice appears to have resulted in substantive redistricting discussions in executive session when they should have occurred in public. For example, on November 4, 2021, the Board scheduled an executive session at a set time despite counsel’s statement that it was “premature” and that “[i]f I see a decision on which I would like to share legal advice with you, I’ll suggest that we have an executive session.”<sup>15</sup> On November 4, 2021, shortly before entering executive session the Board was engaged in substantive discussions regarding what district Valdez should be placed and had yet to reach consensus.<sup>16</sup> The

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<sup>11</sup> Exhibit A at 9-13.

<sup>12</sup> Exhibit A at 7, 17-27, 43, 54, 66, 74.

<sup>13</sup> AS 44.62.310(b).

<sup>14</sup> Exhibit A at 80, 89.

<sup>15</sup> *Id.* at 46.

<sup>16</sup> *Id.* at 50-51.

Board entered executive session around 11:00 a.m. as scheduled. After reconvening in open session at approximately 1:00 p.m. the Board immediately began discussing areas of consensus. Specifically, the transcript for that meeting reflects the following colloquy:

CHAIR BINKLEY: we're back on the record and out of executive session. It's just a little after 1:00. I think we've been working on Anchorage. Did we wrap up (indiscernible)? Did we wrap up? Kenai? I think we got consensus on that?

MEMBER BORROMEO: We did, Mr. Chairman. Yes, we did.

CHAIR BINKLEY: So really, the only area left is -- and we got the VRA districts. I think we're in consensus there.

MEMBER BORROMEO: I think we just have to do formal action on that, but we're in consensus on that, too.

MEMBER BAHNKE: Valdez?

CHAIR BINKLEY: Well, yeah. I mean, all those pieces fit together, really. But maybe the area we really haven't gone into much detail on this morning is Anchorage. So shall we go into Anchorage?

MEMBER BORROMEO: Sure.

CHAIR BINKLEY: (Indiscernible) consensus

MEMBER MARCUM: Yeah.

Under the OMA, the Board is not permitted to conduct substantive deliberations regarding how to draw district boundaries in executive session,<sup>17</sup> yet this is precisely what appears to have occurred.

### **C. Obfuscation of VRA Analysis.**

Importantly, the attorney-client privilege has been asserted to shield information

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<sup>17</sup> *Cool Homes*, 860 P.2d at 1260.

regarding Voting Rights Act (“VRA”) analysis including when such analysis was conducted or made available to the Board. Communications regarding VRA data and analysis have been withheld as privileged and the Board “had extensive discussion and presentation by our Voting Rights Act experts” in executive session.<sup>18</sup> The Board’s assertion of attorney-client privilege regarding VRA analysis and information improperly obfuscates VRA information that should be made publicly available. This information is critical to determine whether the Board complied with the *Hickel* process and is not within the scope of any OMA exception.<sup>19</sup> Moreover, any attorney-client privilege that may have been properly asserted is waived by virtue of counsel’s subsequent public summary of what was purportedly an attorney-client privileged discussion.

## II. CONCLUSION

For the foregoing reasons and the reasons set forth in the East Anchorage Plaintiffs’ Motion for Rule of Law Regarding Scope of Attorney-Client Privileged Communications with Government Entities and the MSB Plaintiffs’ joinder thereto, Valdez-Skagway Plaintiffs request that the Court issue an order requiring that all privileged materials

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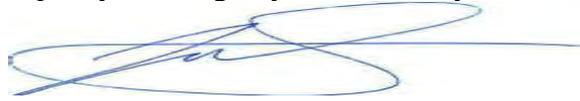
<sup>18</sup> Exhibit A at 18.

<sup>19</sup> *In re 2011 Redistricting Cases*, 274 P.3d 466, 467-68 (Alaska 2012) (“The *Hickel* process provides the Board with defined procedural steps that, when followed, ensure redistricting satisfies federal law without doing unnecessary violence to the Alaska Constitution. The Board must first design a plan focusing on compliance with the article VI, section 6 requirements of contiguity, compactness, and relative socioeconomic integration; it may consider local government boundaries and should use drainage and other geographic features in describing boundaries wherever possible. Once such a plan is drawn, the Board must determine whether it complies with the Voting Rights Act and, to the extent it is noncompliant, make revisions that deviate from the Alaska Constitution when deviation is “the only means available to satisfy Voting Rights Act requirements.”) (citing *Hickel v. Southeast Conference*, 846 P.2d 38, 51 n.22 (Alaska 1992)).

identified by the Board be immediately provided to this Court for *in camera* review. In addition, Valdez-Skagway Plaintiffs request an order permitting examination of witnesses regarding subject matter discussed in executive session to the extent the subject matter is not properly subject to the narrow exceptions of the OMA.

DATED this 11<sup>th</sup> day of January, 2021.

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**Certificate of Service**

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

**CERTIFIED  
TRANSCRIPT**

VIDEOCONFERENCE

MEETING OF THE ALASKA REDISTRICTING BOARD

Tuesday, September 7, 2021

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

1 EXECUTIVE DIRECTOR PETER TORKELSON: All five  
2 members accounted for.

3 CHAIRMAN JOHN BINKLEY: Thank you. We have a  
4 full quorum.

5 The first item on the agenda is to adopt the  
6 agenda. We had a draft agenda, and I believe there's  
7 a proposed amendment out there.

8 Does anybody wish to make an amendment?

9 BOARD MEMBER MELANIE BAHNKE: Mr. Chairman, I  
10 move to amend the agenda to add an Executive Session for  
11 the purpose of receiving legal advice after Item 4,  
12 "Staff Report: Mapping Processes, Identified  
13 Challenges."

14 BOARD MEMBER BETHANY MARCUM: I second.

15 CHAIRMAN JOHN BINKLEY: Motion made by Melanie  
16 and seconded by Bethany to amend the proposed agenda.

17 Is there a discussion on the proposed  
18 amendment? Is there any objection to the proposed  
19 amendment? Hearing none. That amendment is adopted.  
20 Now we have the full agenda as amended before us.

21 Is there a motion to adopt the amended agenda?

22 BOARD MEMBER MELANIE BAHNKE: Mr. Chairman, I  
23 move to adopt the agenda as amended.

24 CHAIRMAN JOHN BINKLEY: Motion made by --

25 BOARD MEMBER BETHANY MARCUM: Seconded.

1           CHAIRMAN JOHN BINKLEY: -- Melanie. Seconded by  
2 Bethany.

3           Discussion on the motion? Any objection to  
4 the motion? Hearing none. The amended agenda is  
5 adopted.

6           The first item of business is public  
7 testimony. Peter, do we have a list?

8           Just a reminder, we have set -- excuse me,  
9 thanks -- a policy to have public testimony at the  
10 beginning of our meetings and at the end of our  
11 meetings, if at all possible, and we would like to  
12 request public members to keep it specific to what  
13 we're doing and also to limit it to two minutes, if  
14 you can.

15           The first person we have is Paul Kendall.  
16 Mr. Kendall, would you join us. Good morning.

17           MR. KENDALL: Good morning. Paul, middle  
18 initial D, Kendall, if I might. There are other  
19 Paul Kendalls we have board arguments about. It's my  
20 obligation to identify myself due to my public  
21 involvement.

22           CHAIRMAN JOHN BINKLEY: I appreciate it.

23           MR. KENDALL: You bet.

24           May I -- may I take this off to speak clearly?

25           CHAIRMAN JOHN BINKLEY: Yeah. Go ahead. Yeah,

1 discussion, as it really is important that we answer  
2 these questions properly and we consider all aspects of  
3 this.

4 And so maybe you might have some discussions,  
5 Matt, on how we proceed to discuss this aspect.

6 ATTORNEY MATT SINGER: I think our -- our  
7 intention was to have an Executive Session where I  
8 provide confidential legal advice -- confidential --  
9 we'll have an Executive Session where I'll provide  
10 confidential legal advice to the Board. The Board may,  
11 then, direct me to -- to make a public statement after  
12 that session as sort of a summary of how the Board would  
13 like to proceed in light of the constitutional mandates.

14 I think that as part of my Executive Session, we  
15 can review some of the specific mapping challenges, and  
16 then the Board after that, in public session, could  
17 discuss those specific challenges.

18 And it's clear that -- my understanding is  
19 that each of the board members have spent a  
20 significant amount of time in map-drawing exercise,  
21 and it would be -- I think it would be helpful for the  
22 Board to present their work product to the others so  
23 that you all get the benefit of that.

24 But it sounds like many of you, if not all of  
25 you, ran into the same problems with the same choices.

1 And I think Peter's right, that having a discussion  
2 about the big choices is important, and you need to --  
3 you need -- you probably need to do that before you  
4 start moving, you know, census blocks and moving  
5 lines.

6 And then I think the Board needs to have a  
7 discussion about its process; that is, is -- is TJ  
8 going to, you know, draw, and are you all going to  
9 direct him? Are you going to provide direction?  
10 Break up into small groups? Are you going to provide  
11 direction and have the staff bring back a composite  
12 of -- of maps that -- let's say, for example, that --  
13 that one board member presents her drawing of  
14 Southeast Alaska and the other board members give an  
15 initial favorable reaction but they're not wild about  
16 that map's drawing of Anchorage, they like another  
17 member's first draft of Anchorage, it might be  
18 appropriate to instruct staff to harmonize those two  
19 as best as possible. It strikes me that's likely just  
20 going to be a couple of hours of just clean-up and  
21 working to get the lines and the numbers to match up.

22 So I think at some point today the Board is  
23 going to need to have a discussion about the process.  
24 There's no one right way to do -- to do the process.  
25 That's really a decision for the Board.

1           So it might be appropriate to move our  
2   Executive Session up here, do that soon.  Another  
3   approach right now might be for board members to share  
4   there -- to do kind of an initial run through of their  
5   draft maps, and that might -- that might even be  
6   preferable just so you all are kind of getting the  
7   benefit of each of your work product, and the public  
8   might find that interesting as well.

9           CHAIRMAN JOHN BINKLEY:  Thoughts from members on  
10   whether we go into Executive Session first, or make  
11   individual presentations of our own mapping experiences  
12   first?

13           I think I agree with you, Matt.  In terms of  
14   legal advice, that will help our -- help inform our  
15   decisions on process and direction as we go forward.

16           I know we've all, as you've pointed out, Peter,  
17   spent considerable amount of time, some tremendous  
18   amount of time in drawing maps and working individually  
19   on this process, some in groups of two.  I think it  
20   might take quite a bit of time for us to individually  
21   make presentations of where we've all come up in that  
22   process.

23           So maybe it would be a good idea to get some of  
24   the legal advice upfront before we proceed, and that may  
25   inform our process as we go forward.  That's just my

1 initial thoughts.

2 Other board members? Budd.

3 BOARD MEMBER BUDD SIMPSON: Mr. Chair, I was  
4 going to say the same thing. If we start down the road  
5 of individually explaining our separate draft maps, we  
6 could be here for a couple of days. So I think we  
7 should get the advice, and then maybe that would help us  
8 narrow that process down to a reasonable amount of time.

9 CHAIRMAN JOHN BINKLEY: Other thoughts?

10 Melanie.

11 BOARD MEMBER MELANIE BAHNKE: Bethany? Bethany,  
12 are you okay with that?

13 BOARD MEMBER BETHANY MARCUM: Absolutely. Yeah.  
14 That's perfectly fine. So, yeah, most of my comments  
15 for the record will be once we start addressing the  
16 policy questions, so...

17 BOARD MEMBER MELANIE BAHNKE: So, Mr. Chairman,  
18 I move the Board enter Executive Session for the  
19 purposes of receiving legal advice under Alaska Statute  
20 44.62.310(c)(4) for matters involving consideration of  
21 government records set by a law are not subject to  
22 public disclosure.

23 CHAIRMAN JOHN BINKLEY: Okay. Motion -- motion  
24 made by Melanie. Is there a second?

25 BOARD MEMBER BETHANY MARCUM: Second.

1 CHAIRMAN JOHN BINKLEY: By Bethany.

2 Is there a discussion on the motion?

3 Everybody understands the motion? Is there any  
4 objection to the motion? Hearing none. We're going  
5 to recess to Executive Session.

6 I'd like to give the public some kind of an  
7 indication of how long we'll take, but I don't have a  
8 good sense of it.

9 Matt, any thoughts?

10 ATTORNEY MATT SINGER: Would -- would it be  
11 appropriate to plan to finish our Executive Session by  
12 the end of the lunch period? So we'll meet now until  
13 noon. We might break for lunch or -- or work through  
14 lunch, and then aim, as best we can, to be back with the  
15 public at 1:00?

16 CHAIRMAN JOHN BINKLEY: That works for me. Any  
17 objection to that?

18 Okay. Just for information to the public, we're  
19 going to try and come back into public session at 1:00.

20 And with that, if there's no objection to the  
21 motion, we're in Executive Session.

22 (Executive Session in progress.)

23 CHAIRMAN JOHN BINKLEY: We're back online and  
24 coming back into public session from Executive Session.  
25 It's about 1:08 p.m., and we welcome the public back.

1           We had an opportunity in Executive Session to  
2   hear from legal counsel regarding a discussion on some  
3   of the previous opinions when it comes to the  
4   different criteria for the Board to consider in  
5   drawing the district boundaries.

6           And maybe we could have -- Matt, if you could  
7   give a synopsis of that so the public has the benefit  
8   of the same information that we had that will help  
9   inform us as we go forward.

10           ATTORNEY MATT SINGER: Yes, Mr. Chair. So the  
11   Board has asked -- has asked me to make a public  
12   presentation to explain the Board's thinking with regard  
13   to its constitutional mandate.

14           We are directed by -- by the Alaska  
15   constitution in the redistricting process, and then  
16   the Alaska Supreme Court has provided guidance in  
17   several court decisions, and we -- drawing from those  
18   decisions, we can -- we can form some critical  
19   conclusions.

20           So in the Hickel case, the governor's  
21   commission sought at that time to have a deviation no  
22   more than 2 percent from a perfect population division  
23   among the state, and the court found that several of  
24   the House districts drawn by that -- in that plan  
25   failed to meet the constitutional requirement of

1 compact, contiguous, and socioeconomically integrated.

2           The lesson was that we -- we -- we have -- we  
3 have to first emphasize the constitutional  
4 requirements of Article VI, to draw compact,  
5 contiguous, socioeconomically integrated districts,  
6 but the numbers can't -- that they don't trump those  
7 three requirements. I've suggested to the Board that  
8 we call those "the big three," that we -- that we  
9 focus on drawing compact, contiguous, and  
10 socioeconomically integrated districts.

11           In a later round, the Board adopted a rule  
12 that it would keep within a 10 percent deviation and  
13 really made no findings or attempt to get any better  
14 than a 10 percent deviation, and in that time the  
15 court said, "Well, the Board needs to try to get  
16 closer to zero, unless the other constitutional  
17 considerations prevent you from doing so." And what I  
18 described to the Board is I see those two cases as  
19 guardrails on each side of the highway and we need to  
20 keep on the road in between. What that means is the  
21 first priority, again, is to focus on the big three:  
22 compact, contiguous, socioeconomically integrated  
23 districts.

24           After you have drawn a district that you think  
25 meets those three requirements, you, then, need to

1 look at the population deviation and ask: Can we --  
2 can we get any closer to zero? Or does doing so do  
3 violence to the other three obligations? Does it --  
4 does it require putting communities together that are  
5 not socioeconomically integrated, for example?

6 And if it would, if -- if you could get to a  
7 zero population deviation but -- but only by adding  
8 communities that have no interaction with each other,  
9 that would be a mistake of -- the first priority has  
10 to -- has to be to honor the constitutional  
11 requirements, and that's to -- the purpose, again, is  
12 to make sure we will full and fair representation in  
13 each of the 40 House districts.

14 So -- so part -- you know, while part of full  
15 and fair representation is numeric, having close to  
16 "one person, one vote," more important in Alaska, is  
17 that we have districts where -- where people are  
18 integrated socioeconomically in -- in a compact and  
19 contiguous district.

20 So that's the -- that's the public  
21 presentation that you asked me to make to help provide  
22 the public some understanding of our thinking and as  
23 we begin evaluating draft plans and -- and the Board  
24 coalesces around one or more proposed plans to publish  
25 later this week.

1           CHAIRMAN JOHN BINKLEY: Matt, you also -- if you  
2 could go into the other decision that you mentioned  
3 about borough and municipal boundaries. Okay. Thanks.

4           ATTORNEY MATT SINGER: Yes. The Alaska Supreme  
5 Court has -- has also indicated that following political  
6 subdivision boundaries is appropriate, that communities  
7 within an established borough boundary are, by  
8 definition, socioeconomically integrated. And so -- so  
9 it is appropriate to use borough boundaries, municipal  
10 boundaries as we draw district lines.

11           Within an urban area, the court -- the court has  
12 said, essentially, any- -- anyone who lives within an  
13 urban area is socioeconomically integrated with anyone  
14 else who lives in an urban area. And so within  
15 communities, the focus will shift to draw compact  
16 districts with as close to equal population as possible  
17 within that urban community.

18           The court has also instructed the Board to use  
19 geographic boundaries to describe districts when  
20 possible, and I think in reading the case law, the --  
21 the inference to draw from that instruction is that --  
22 is the geographic boundaries, mountain ranges, rivers,  
23 coast lines can be one tool to use to identify  
24 district boundaries. It does not have to be, but  
25 can -- can be a guide in -- in determining where to

1 draw a line to divide a population from one district  
2 to another.

3 CHAIRMAN JOHN BINKLEY: Okay. Questions from  
4 board members of Matt or further comment on those?

5 So just for the benefit of the public as well,  
6 we've each had the opportunity to work individually  
7 and in some cases a couple of members together on  
8 drafting some initial boundaries, and we wanted to  
9 make certain, as we went through this process too,  
10 that we were within the bounds of legal advice in  
11 terms of how we put these together. So that was part  
12 of the discussion that we had as well.

13 But we would like to start to kind of present  
14 some of the individual plans that members have come up  
15 with, and if -- I know Budd and Melanie, the two of  
16 you worked together, if you would like to kind of walk  
17 through the plan that you've come up with.

18 And please realize that these aren't complete,  
19 that there will be an opportunity for us to work  
20 together throughout this week to coalesce these plans  
21 into one or multiple plans that we will then adopt as  
22 our preliminary plan by Friday of this week.

23 BOARD MEMBER BUDD SIMPSON: Do you want to just  
24 start with Southeast, or...

25 CHAIRMAN JOHN BINKLEY: If you could, Budd,

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

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VIDEOCONFERENCE

MEETING OF THE ALASKA REDISTRICTING BOARD

Tuesday, November 2, 2021

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

1 know, both of those cases are significant.

2 Now, folks have offered opinions today that --  
3 that -- that municipality or borough districts should  
4 be within 1 percent total of -- of the ideal  
5 population of 18,335. The Supreme Court has never  
6 said that. It's an interesting theory. It strikes  
7 me, though, as a theory that really -- it raises an  
8 equal protection issue, which is: Are urban voters  
9 more entitled to equal protection than rural voters?  
10 Is the one person, one standard -- vote standard more  
11 important in an urban community than in a rural  
12 district?

13 Because if you're going -- if you're going  
14 to -- if you're going to reduce to almost zero the  
15 population deviation in the urban portions of Alaska,  
16 doesn't that necessarily trigger -- there's a  
17 consequence. There's a consequence to every decision  
18 you make. There's a ripple effect which we see  
19 through this -- but it strikes me that you would  
20 necessarily be creating exaggerated deviations in  
21 rural areas.

22 And so that's -- that's an interesting -- it's  
23 an interesting issue. It's not one that's been  
24 litigated. We will have the opportunity to talk more  
25 in Executive Session, but I think this -- this is an

1 area that people have differing opinions about, and  
2 we're hearing some of those today. They're all  
3 well-articulated and, you know, are helpful for the  
4 Board to consider.

5 Those are the two cases that we've seen from  
6 the Alaska Supreme Court that are important.

7 Sorry for the long-winded answer.

8 CHAIRMAN JOHN BINKLEY: No. That's appreciated.  
9 Good reminder.

10 BOARD MEMBER MELANIE BAHNKE: Mr. Chair?

11 CHAIRMAN JOHN BINKLEY: Yes, Melanie.

12 BOARD MEMBER MELANIE BAHNKE: Just going back  
13 to, Representative Claman, are you advocating for the  
14 minimum deviation, keep the borough intact, or are you  
15 suggesting "one person, one vote," we should push some  
16 of the Fairbanks out?

17 REPRESENTATIVE CLAMAN: I -- to the extent my  
18 testimony isn't clear to all, I'm -- I'll give you two  
19 specific examples: The Mat-Su, which is, I want to say,  
20 5.84, it's slightly below -- if you take the -- if you  
21 take the 18,000 number and divide that into the borough  
22 population, that gives you a number. And my -- my  
23 perspective on it is Fairbanks, because that number  
24 gives you .22 over the five and because that's much  
25 closer to five than six, that you should have five

1 and so I just want to plug in for, I believe the AFFER  
2 has paired (indiscernible) for West Anchorage. I  
3 support that. I would support on Board Version 4, 11  
4 and 12 being paired.

5 That's all I have. Thank you.

6 CHAIRMAN JOHN BINKLEY: Okay. Great. Thank  
7 you, Brian.

8 Questions for Brian?

9 With that, then, we will conclude the public  
10 testimony, and the Chair will be looking for a motion  
11 to go into Executive Session.

12 BOARD MEMBER MELANIE BAHNKE: (Indiscernible).

13 CHAIRMAN JOHN BINKLEY: Why don't we do that  
14 simultaneously as we're getting -- we can take a little  
15 break as we get into Executive Session. How does that  
16 sound? Okay.

17 BOARD MEMBER BETHANY MARCUM: (Indiscernible)  
18 giving you the look.

19 CHAIRMAN JOHN BINKLEY: Yeah, I know. I can see  
20 that. We're getting -- it'll take us a little bit of  
21 time to clear the room and to get into Executive Session  
22 and we can take the break at that time.

23 BOARD MEMBER MELANIE BAHNKE: Mr. Chair, I move  
24 the Redistricting Board go into Executive Session under  
25 Alaska Statute 44.62.310(c)(3) and (4) respectively

1 involving matters by -- which by law, municipal charter  
2 or ordinance are required to be confidential and matters  
3 involving consideration of government records that by  
4 law are not subject to public disclosure.

5 CHAIRMAN JOHN BINKLEY: Is there a second to  
6 that motion?

7 BOARD MEMBER BETHANY MARCUM: Second.

8 CHAIRMAN JOHN BINKLEY: Discussion on the  
9 motion? Any objection to the motion? Hearing none.

10 We're into Executive Session. And it'll take us  
11 a few minutes to get set. And Melanie, that's the time,  
12 and all others, for us to take a quick break.

13 (Executive Session in progress.)

14 CHAIRMAN JOHN BINKLEY: -- Executive Session  
15 where we had extensive discussion and presentation by  
16 our Voting Rights Act experts.

17 And I'll turn the meeting, maybe over to Peter,  
18 and then you can give a little explanation and then turn  
19 it over to Matt.

20 EXECUTIVE DIRECTOR PETER TORKELSON: Yeah.  
21 Thank you, Mr. Chairman. We did hear from Bruce Adelson  
22 and Dr. Jonathan Katz, reviewing their extensive  
23 research and work to ensure the Board's compliance with  
24 the Voting Rights Act, and we're going to hear now from  
25 our legal counsel, Mr. Singer, with Schwabe, who will

1 summarize their findings, and then staff will be handing  
2 out some of the backup materials to members of the  
3 audience, and we will be posting them to our website for  
4 download as well to back up what the findings of our  
5 Voting Rights Act...

6 Mr. Singer.

7 ATTORNEY MATT SINGER: Thank you. Good  
8 afternoon.

9 Mr. Chair, Members of the Board, you have asked  
10 me to -- to make a public presentation with regard to  
11 the Board's Voting Rights Act analysis. The staff and  
12 counsel are preparing a Voting Rights Act report, which  
13 will detail our analysis. Once -- once the Board adopts  
14 a proposed -- a plan, we will -- we will finalize that  
15 report and issue it.

16 Today, we'll be -- we'll be making public  
17 for -- for folks who are here in the room, and then  
18 we'll also circulate via e-mail several documents that  
19 are -- that are part of our Voting Rights Act  
20 analysis --

21 CHAIRMAN JOHN BINKLEY: Okay. Sounds good. See  
22 you in a bit.

23 ATTORNEY MATT SINGER: -- the -- the Voting  
24 Rights Act has been a part of Alaska's redistricting  
25 since its passage in 1965. Up until this round, the

1 redistricting plan has been subject to preclearance  
2 review by the Department of Justice. The United States  
3 Supreme Court struck down that preclearance process with  
4 its decision in 2013, but the Voting Rights Act, the  
5 substantive requirements of Section 2 of the Voting  
6 Rights Act continue to apply to the work that the Board  
7 does.

8           That -- to summarize what the act requires, is  
9 that if -- if there's a geographic area in which a  
10 minority population can theoretically hold 50 percent  
11 or greater population, and that group is politically  
12 cohesive, and if there's racial-block voting, then the  
13 Board has an obligation to make sure its districts do  
14 not minimize or -- or harm the minority groups'  
15 ability to elect candidates of its choice.

16           Traditionally, Alaska -- the districts that  
17 we've labeled in ours is Districts 37, 38, 39, and 40,  
18 have -- have been recognized as Alaska  
19 Native-controlled districts. In the last ten years,  
20 for example, those four districts have consistently  
21 elected Alaska Native candidates.

22           We engaged -- after the Board interviewed  
23 experts, we engaged the Voting Rights Act experts,  
24 Bruce Adelson and Dr. Jonathan Katz. Mr. Adelson is  
25 a -- is a law professor and lawyer and expert in all

1 things Voting Rights Act. Dr. Katz is a statistician  
2 who conducts analysis of population and election data.

3 We -- after the Board adopted proposed plans,  
4 we worked closely with Mr. Adelson and Mr. Katz -- or  
5 Dr. Katz. Dr. Katz conducted a racially-polarized  
6 voting analysis of Alaska districts between 2014 and  
7 2020 to determine if there's statistical evidence that  
8 Alaska Elections may be racially-polarized in some  
9 circumstances; that is, when a Alaska Native preferred  
10 candidate receives most of the votes from Alaska  
11 Native voters, and the opposing candidate receives a  
12 majority of votes from non-Alaska Native voters.

13 After extensive statistical work, Dr. Katz  
14 concluded that racially-polarized voting does occur in  
15 some Alaska districts, and he prepared a detailed  
16 racially-polarized voting report. It's a statistical  
17 analysis. It doesn't make -- doesn't make for the  
18 easiest reading for all, but we are making that  
19 available to the public today.

20 The conclusion of that work is -- is the  
21 following: Districts 37, 38, 39, and 40 are protected  
22 by the Voting Rights Act. Those districts, it's  
23 important that the final versions, that we -- that we  
24 continue to protect the ability of Alaska Native  
25 voters to elect candidates of their choice. We also

1 analyzed -- because we don't yet know what the Board's  
2 final plan will be, we analyzed Version 3 as -- as a  
3 test to determine if -- if the VRA is likely to  
4 require any modifications to plans that you're  
5 considering, and we concluded that it does not. The  
6 reason is that each of the Districts 37, 38, 39, and  
7 40 have sufficient Alaska Native voting age population  
8 to protect the ability of the minority group to select  
9 candidates of their choice.

10 We will -- again, we'll prepare a written  
11 report to accompany the final plan, which will detail  
12 the voting age population of Alaska Native voters in  
13 each of those districts, and our evaluation that --  
14 that the plan is protective of VRA rights in those  
15 districts.

16 We did -- we did note that some of those  
17 districts have a very high population of Alaska Native  
18 voting population, and under the VRA there can be two  
19 concerns: One is cracking, and the other is packing.  
20 Cracking would be diluting the vote of a minority  
21 group by spreading it across multiple districts,  
22 thereby minimizing the ability of the minority to  
23 elect candidates of choice. Packing occurs when  
24 minorities are packed into one district so that  
25 they're not able to influence the outcome of other

1 districts.

2           So we considered, is it -- would it be  
3 possible to draw a fifth Alaska Native-controlled  
4 district? In other words, are -- are Districts 38,  
5 39, 40, are they packed? And our conclusion is that  
6 it's not possible, that the way Alaska's population is  
7 distributed, there are very high densities of Alaska  
8 Native populations in -- in a ribbon along the coast,  
9 and then very large areas with no population or sparse  
10 population, and that to even attempt to get to a fifth  
11 Alaska Native district, you would have to do things  
12 like divide Utqiagvik in -- in half, or the North  
13 Slope Borough, you have to reach down in Fairbanks and  
14 draw, you know, 500-mile long districts, and even  
15 then, probably -- probably the numbers just don't --  
16 probably do not allow the creation of a fifth Alaska  
17 Native-controlled district.

18           So that's a summary. Again, there will be a  
19 detailed report much -- much longer than this  
20 presentation to explain our VRA analysis for the  
21 traditional Alaska Native-controlled districts,  
22 barring some drastic change.

23           We also noted that all of the proposed plans,  
24 the two adopted by the Board and the four third-party  
25 plans, you know, some -- some -- there's some variety

1 but not a whole lot, that as -- as folks -- in some  
2 ways, those four districts drew themselves. There's  
3 some natural borough boundaries and other recognized  
4 boundaries, and just the way the population is divided  
5 this time, we think it's highly likely that any of the  
6 options the Board is considering will meet the  
7 requirements of the VRA for those four rural districts  
8 in -- in 37, 38, 39, and 40.

9 The other component of our VRA analysis this  
10 time around, we observed that there are neighborhoods  
11 in Anchorage that are -- that are increasingly  
12 diverse, that have diverse population of non-white  
13 voters, and this is an emerging trend. There's the  
14 Anchorage School District, for example, has published  
15 that it has 110 languages spoken in the school  
16 district, Spanish, Korean, Filipino, Hmong, and Samoan  
17 are among the top languages after English spoken in  
18 Anchorage schools.

19 And we -- we looked at the distribution of --  
20 of population in Anchorage. As an example, House  
21 District 19, there are 33.4 percent of voters identify  
22 as white; 9 percent identify as two or more races;  
23 14.2 percent identify as Asian alone; 12.5 percent is  
24 Hispanic; 12.4 percent is Alaska Native or American  
25 Indian; 9 percent is black or African American; and

1 9 percent is Hawaiian or Pacific Islander; and then  
2 .45 percent, some other race.

3 So you have a very diverse population of  
4 voters in -- in that community and in several  
5 neighborhoods, particularly in Northeast Anchorage.

6 So observing that, we -- we undertook a VRA  
7 analysis to determine if what are called the "Gingles  
8 factors" are met; that is, is there a minority  
9 coalition that has a 50 percent or greater population,  
10 voting age population. Second, are they politically  
11 cohesive. And, third, do they face racial-block  
12 voting, as do -- does the minority group vote one way,  
13 and do -- do white voters tend to vote another way in  
14 a manner that blocks the minorities' access to  
15 selecting candidates of their choice.

16 We -- we -- with the help of our VRA experts,  
17 we could not find any statistical evidence to support  
18 that there's political cohesion among the diverse  
19 group of people who live in Northeast Anchorage or  
20 that there's racial-block voting. And, again, we'll  
21 be providing a detailed written report once the Board  
22 draws its final Anchorage map. But it's our  
23 conclusion that while there's an emerging trend and  
24 there's changing populations in Anchorage, that  
25 there's not -- there's not a VRA population that draws

1 Anchorage districts a certain way.

2           We've also noted that -- that even if there's  
3 not a, you know, VRA district, that the Board has an  
4 obligation under the equal protection clause and under  
5 the VRA, not to intentionally discriminate against  
6 minority populations, and it's our view that the  
7 Board's focus on drawing compact, contiguous, and  
8 socioeconomically integrated districts is consistent  
9 with its obligations, and that by doing that, rather  
10 than emphasizing race, the Board is avoiding any equal  
11 protection concern in Anchorage. And so we -- we have  
12 encouraged the Board to continue its focus on the  
13 legitimate redistricting factors that are set forth in  
14 the Alaska constitution.

15           So that's all a long-winded way of saying that  
16 our considered advice to the Board, with the help of  
17 its retained VRA experts, is that the Voting Rights  
18 Act does not dictate any alteration to the -- to the  
19 plans that the -- at least as the Board is currently  
20 considering them. We will -- again, we will -- we  
21 will -- we will run any final plan that you consider  
22 through the VRA lens, and if we see a concern, we'll  
23 bring it to the Board's attention immediately.

24           Mr. Chair, I'll conclude my report, and we'll  
25 make -- again, we'll make several documents available

1 today, and then there will be a -- a VRA report from  
2 the Board as part of its package once the -- once a  
3 plan is adopted.

4 Any questions from the Board?

5 CHAIRMAN JOHN BINKLEY: Questions or comments?

6 Okay. Seeing none.

7 Thank you, Matt.

8 Peter.

9 EXECUTIVE DIRECTOR PETER TORKELSON: Thank you,  
10 Mr. Chair.

11 The next item on the agenda is, hopefully, a  
12 brief review of our receipt of the physical data  
13 package from the Census Bureau, and we did send out an  
14 e-mail a few days ago that details this in greater  
15 length. There we go.

16 But for the record and for the benefit of  
17 anybody who is here that didn't get the e-mail, and  
18 for members who might be interested, we'll take a  
19 little dive down the geek train and explain how we  
20 know that the data that you're mapping with are exact  
21 and only the data that the census intended to give us.

22 And the reason why we have to conduct this  
23 exercise is because the Census Bureau, in this cycle,  
24 chose to release its data first through a website.  
25 There was a link on their webpage that was published

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2 MEETING OF THE ALASKA REDISTRICTING BOARD

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November 2, 2021

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Anchorage, Alaska

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

2 1:00 PM

3 CHAIRMAN BINKLEY: -- executive session, where  
4 we had extensive discussion and presentation by our  
5 Voting Rights Act experts.

6 And I'll turn the meeting maybe over to  
7 Peter, and then you can give a little explanation  
8 and then turn it over to Matt.

9 DIRECTOR TORKELSON: Yeah, thank you,  
10 Mr. Chairman. We did hear from Bruce Adelson,  
11 Dr. Jonathan Katz, reviewing their extensive  
12 research and work to ensure the Board's compliance  
13 with the Voting Rights Act.

14 And we're going to hear now from our  
15 legal counsel, Mr. Singer, with Schwabe, who will  
16 summarize their findings, and then staff will be  
17 handing out some of the backup materials to members  
18 of the audience. And we will be posting them to our  
19 website for download as well to back up what -- the  
20 findings of our Voting Rights Act consultants.

21 So Mr. Singer.

22

23 VOTING RIGHTS ACTS COMPLIANCE IN 2020 PROPOSED PLANS

24

25 MATT SINGER: Thank you. Good afternoon,

1 Mr. Chair, members of the Board. You have asked me  
2 to make a public presentation with regard to the  
3 Board's Voting Rights Act analysis. The staff and  
4 counsel are preparing a Voting Rights Act report,  
5 which will detail our analysis. Once the Board  
6 adopts a proposed -- a plan, we will finalize that  
7 report and issue it.

8 Today we'll be making public for folks  
9 who are here in the room, and then we'll also  
10 circulate via e-mail, several documents that are --  
11 are part of our Voting Rights Act analysis.

12 The Voting Rights Act has been a part of  
13 Alaska's redistricting since its passage in 1965.  
14 Up until this round, the redistricting plan has been  
15 subject to preclearance review by the Department of  
16 Justice. The United States Supreme Court struck  
17 down that preclearance process with its decision in  
18 2013. But the Voting Rights Act, the substantive  
19 requirements of Section 2 of the Voting Rights Act  
20 continue to apply to the work that the Board does.

21 That -- to summarize what the act  
22 requires is that if there is a geographic area in  
23 which a minority population can theoretically hold a  
24 50 percent or greater population and that group is  
25 politically cohesive and if there's racial block

1 voting, then the Board has an obligation to make  
2 sure its districts do not minimize or harm the  
3 minority group's ability to elect candidates of its  
4 choice.

5 Traditionally, Alaska -- the districts  
6 that we've labeled in ours is -- Districts 37, 38,  
7 39, and 40 have been recognized as Alaska Native  
8 control districts. In the last ten years, for  
9 example, those four districts have consistently  
10 elected Alaska Native candidates.

11 We engaged at the -- after the Board  
12 interviewed experts, we engaged a Voting Rights Act  
13 expert, Bruce Adelson, and Dr. Jonathan Katz.  
14 Mr. Adelson is a law professor and lawyer and expert  
15 in all things Voting Rights Act.

16 Dr. Katz is a statistician, who conducts  
17 analysis of population and election data. We --  
18 after the Board adopted proposed plans, we worked  
19 closely with Mr. Adelson and Mr. Katz -- or  
20 Dr. Katz.

21 Dr. Katz conducted a racially polarized  
22 voting analysis of Alaska districts between 2014 and  
23 2020 to determine if there's statistical evidence  
24 that Alaska elections may be racially polarized in  
25 some circumstances, that is, when an Alaska Native

1 preferred candidate receives most of the votes from  
2 Alaska Natives voters and the opposing candidate  
3 receives a majority of votes from Alaska Native  
4 voters.

5 After extensive statistical work,  
6 Dr. Katz concluded that racially polarized voting  
7 does occur in some Alaska districts, and he's  
8 prepared a detailed racially polarized voting  
9 report. It's a statistical analysis and doesn't  
10 make for the easiest reading for all, but we are  
11 making that available to the public today.

12 The conclusion of that work is the  
13 following: Districts 37, 38, 39, and 40 are  
14 protected by the Voting Rights Act, those districts.  
15 It's important that the final versions -- that we  
16 continue to protect the ability of Alaska Native  
17 voters to elect candidates of their choice.

18 We also analyzed -- because we don't yet  
19 know what the Board's final plan will be, we  
20 analyzed Version 3 as a test to determine if the VRA  
21 is likely to require any modifications to plans that  
22 you are considering, and we concluded that it does  
23 not.

24 And the reason is that each of the  
25 districts, 37, 38, 39, and 40, have sufficient

1 Alaska Native voting age population to protect the  
2 ability of the minority group to select candidates  
3 of their choice.

4 We will -- again, we'll prepare a written  
5 report to accompany your final plan, which will  
6 detail the voting age population of Alaska Native  
7 voters in each of those districts and our evaluation  
8 that the plan is protective of VRA rights in those  
9 districts. We did note that some of those districts  
10 have very high population of Alaska Native voting  
11 population.

12 Now to the VRA. There can be two  
13 concerns: One is cracking and the other is packing.  
14 Cracking would be diluting the vote of a minority  
15 group by spreading it across multiple districts,  
16 thereby minimizing the ability of the minority to  
17 elect candidates of choice.

18 Packing occurs when minorities are packed  
19 into one district so that they're not able to  
20 influence the outcome of other districts.

21 So we considered are -- is it -- would it  
22 be possible to draw a fifth Alaska Native controlled  
23 district? In other words, are -- Districts 38, 39,  
24 or 40, are they packed?

25 And our conclusion is that it's not

1 possible, that the way Alaska's population is  
2 distributed, there are very high densities of Alaska  
3 Native populations in a ribbon along the coast and  
4 then very large areas with no population or a sparse  
5 population and that to even attempt to get to a  
6 fifth Alaska Native district, you would have to do  
7 things like divide Utqiagvik in half or the North  
8 Slope Borough, you have to reach down into Fairbanks  
9 and draw, you know, 500-mile-long districts, and  
10 then even then probably the numbers just don't --  
11 probably do not allow the creation of a fifth Alaska  
12 Native controlled district.

13           So that's a summary. Again, there will  
14 be a detailed report much longer than this  
15 presentation to explain our VRA analysis for the  
16 traditional Alaska Native controlled districts.

17           But barring some drastic change -- we  
18 also noted that all of the proposed plans, the two  
19 adopted by the Board and the four third-party plans,  
20 we know some -- there's some variety but not a whole  
21 lot, that is, folks -- in some ways those four  
22 districts drew themselves. There's some natural --  
23 they're borough boundaries and other recognized  
24 boundaries, and just the way the population is  
25 divided at this time, we think it's highly likely

1 that any of the options the Board is considering  
2 will meet the requirements of the VRA for those four  
3 rural districts in 37, 38, 39, and 40.

4 The other component of our VRA analysis  
5 this time around, we observed that there are  
6 neighborhoods in Anchorage that are increasingly  
7 diverse, that have diverse population of non-white  
8 voters. And this is an emerging trend. The  
9 Anchorage School District for example, has published  
10 that it has 110 languages spoken in the school  
11 district. Spanish, Korean, Filipino, and Samoan are  
12 among the top languages after English spoken in  
13 Anchorage schools.

14 And we looked at the distribution of  
15 population in Anchorage, as an example. In House  
16 District 19 there are 33.4 percent of the voters  
17 identify as white, 9 percent identify as two or more  
18 races, 14.2 percent identify as Asian alone,  
19 12.5 percent as Hispanic, 12.4 percent as Alaska  
20 Native or American Indian, 9 percent as black or  
21 African-American, and 9 percent as Hawaiian or  
22 Pacific Islander and then .45 percent some other  
23 race. So you have a very diverse population of  
24 voters in that community and in several  
25 neighborhoods in -- critically in Northeast

1 Anchorage.

2 So observing that we undertook a VRA  
3 analysis to determine if what are called the Gingles  
4 factors are met, that is, is there a minority  
5 coalition that has a 50 percent or greater  
6 population -- voting age population; second, are  
7 they politically cohesive; and, third, do they face  
8 racial block voting, that is, does the minority  
9 group vote one way and do white voters tend to vote  
10 another way in a manner that blocks the minorities'  
11 access to selecting candidates of their choice?

12 We -- with the help of our VRA experts,  
13 we could not find any statistical evidence to  
14 support that there is political cohesion among the  
15 diverse group of people who live in Northeast  
16 Anchorage or that there's racial block voting. And,  
17 again, we'll be providing a detailed written report  
18 once the Board draws its final Anchorage map. But  
19 it's our conclusion that while there's an emerging  
20 trend and there's changing population in Anchorage,  
21 that there's not a VRA obligation to draw Anchorage  
22 districts a certain way.

23 We've also noted that even if there's not  
24 a, you know, VRA district, that the Board has an  
25 obligation under the Equal Protection Clause and

1 under the VRA not to intentionally discriminate  
2 against minority populations.

3 And it's our view that the Board's focus  
4 on drawing compact, contiguous, and  
5 socioeconomically integrated districts is consistent  
6 with its obligations and that by doing that, rather  
7 than emphasizing race, the Board is avoiding any  
8 equal protection concern in Anchorage. And so we  
9 have encouraged the Board to continue its focus on  
10 the legitimate redistricting factors that are set  
11 forth in the Alaska Constitution.

12 So that's all a long-winded way of saying  
13 that our considered advice to the Board, with the  
14 help of its retained VRA experts, is that the Voting  
15 Rights Act does not dictate any alteration to the  
16 plans that -- at least as the Board is currently  
17 considering them. And, again, we will run any final  
18 plan that you consider through the VRA lens, and if  
19 we see a concern, we'll bring it to the Board's  
20 attention immediately.

21 Mr. Chair, I'll conclude my report, and I  
22 will make several documents available today, and  
23 then there will be a VRA report from the Board as  
24 part of its package once the -- once a plan is  
25 adopted.

1 Any questions from the Board?

2 CHAIRMAN BINKLEY: Questions or comments?

3 Okay. Seeing none, thank you, Matt.

4 Peter.

5

6 REVIEW OF SEPT 16 CENSUS PHYSICAL DELIVERY DATA

7

8 DIRECTOR TORKELSON: Thank you, Mr. Chair.

9 The next item on the agenda is a hopefully brief  
10 review of our receipt of the physical data package  
11 from the Census Bureau. And we did send out an  
12 e-mail a few days ago that details this in greater  
13 length. There we go.

14 But, for the record and for the benefit  
15 of anyone who is here that didn't get the e-mail and  
16 for members who might be interested, we'll take a  
17 little dive down the geek train and explain how we  
18 know that the data that you're mapping with are  
19 exactly and only the data that the Census intended  
20 to give us.

21 And the reason why we have to conduct  
22 this exercise is because the Census Bureau in this  
23 cycle chose to release its data first through a  
24 website. There was a link on their web page that  
25 was published at 9:00 Alaska time on the morning of

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**ALASKA REDISTRICTING BOARD**

10

**BOARD MEETING**

11

**NOVEMBER 3, 2021**

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14

15 **Members Present:**

16 **John Binkley, Chair of the Board**

17 **Melanie Bahnke, Board Member**

18 **Bethany Marcum, Board Member**

19 **Budd Simpson, Board Member**

20 **Nicole Borromeo, Board Member**

21 **Peter Torkelson, Executive Director**

22 **T.J. Presley, Deputy Director**

23 **Juli Lucky, Staff Member**

24 **Matt Singer, Legal Counsel**

25

1 MR. TORKELSON: Well, (indiscernible).

2 (Indiscernible background conversation.)

3 MEMBER MARCUM: And was it -- was it a whole  
4 new shape file or was it --

5 (Indiscernible background conversation.)

6 MEMBER MARCUM: And so, Randy, was that on  
7 the most current plan that you have? Okay. All  
8 right.

9 (Indiscernible background conversation.)

10 (Pause.)

11 5:18:27

12 (Recording contains no audio.)

13 5:27:44

14 MEMBER BAHNKE: -- from the horseshoe, which  
15 results in less socioeconomic integration, a ripple  
16 effect.

17 MR. SINGER: Uh-huh. Uh-huh.

18 MEMBER BAHNKE: Is that a valid concern,  
19 that we should balance against the goal of zero  
20 percent deviation?

21 MR. SINGER: Yeah. I think some -- two  
22 things that I need to say.

23 If (indiscernible) wants to talk about  
24 specific, you know, "Here's our idea for this  
25 district, Counsel, what do you think," I think it

1 would be appropriate to have an executive session to  
2 talk about a specific -- to give you specific advice  
3 about a plan.

4 But I thought general advice about what the  
5 law says is (indiscernible).

6 So I -- I would just -- as you look at  
7 alternatives, I would ask the question, is this --  
8 are we doing -- are we continuing on our  
9 constitutional obligation to draw compact districts  
10 that are socioeconomically integrated? When you  
11 start making weird combinations, that's when you need  
12 to stop, right? That's when it doesn't -- you're --  
13 you're potentially running afoul of the Supreme  
14 Court's objectives.

15 MEMBER BAHNKE: Thank you.

16 MR. SINGER: I hope that answered your  
17 question.

18 MR. TORKELSON: I'll get a clean v4 here.  
19 I've got (indiscernible).

20 MEMBER SIMPSON: Well, while we're waiting  
21 for that, that kind of ties into kind of what I had  
22 said before, though, that there may be a scenario  
23 where (indiscernible) pushing, let's just say, 2,000  
24 people out of the Fairbanks borough has less other  
25 negative impacts, even though it doesn't -- you know,

1 (indiscernible)?

2 MEMBER SIMPSON: Why don't we go to break  
3 and then try?

4 CHAIR BINKLEY: Yeah. Let's take a break,  
5 and then we'll come back and decide how we want to  
6 finish out the day. How's that sound?

7 (Indiscernible - multiple speakers.)

8 MR. SINGER: I think (indiscernible) was  
9 kind of discussing (indiscernible).

10 (Indiscernible - multiple speakers.)

11 MEMBER MARCUM: Do we want to do that before  
12 our drawing exercise or not?

13 MR. SINGER: If folks have those kinds of  
14 questions, that's one way we could finish the day.

15 MEMBER MARCUM: I think it would be  
16 (indiscernible).

17 CHAIR BINKLEY: (Indiscernible.)

18 MEMBER SIMPSON: (Indiscernible) with the  
19 amount of time we have left.

20 MR. PRESLEY: So it's basically  
21 (indiscernible).

22 MEMBER MARCUM: (Indiscernible) it may  
23 affect --

24 (Indiscernible - multiple speakers.)

25 CHAIR BINKLEY: So let's take a little

1 break, five-minute break, and then we'll come back  
2 in. And if it's desired, the board will go into  
3 executive session with some legal issues to address.

4 MR. PRESLEY: For those on the Zoom, we are  
5 taking a five-minute break. Five minutes.

6 6:38:21

7 (Recording contains no audio.)

8 6:47:55

9 CHAIR BINKLEY: We're going to come back to  
10 order. And the chair is looking for a motion to go  
11 into executive session.

12 Bud?

13 MEMBER SIMPSON: Mr. Chair, I would move  
14 that the redistricting board go into executive --  
15 executive session, pardon me, under AS 44.62.310(c),  
16 subsections (3) and (4) respectively, involving  
17 matters which, by law, municipal charter, or  
18 ordinance, are required to be confidential, and  
19 matters involving consideration of government report  
20 that, by law, are not subject to public disclosure.

21 CHAIR BINKLEY: Is there a second to the  
22 motion?

23 MEMBER BAHNKE: I second.

24 CHAIR BINKLEY: Seconded by Melanie. Is  
25 there discussion on the motion?

1           Hearing none, we are in executive session.

2           And just for members of the public, we  
3 anticipate -- we're not certain how long we're going  
4 to be in executive session, but we do not anticipate  
5 taking any action or even further discussing any of  
6 the mapping this afternoon. When we anticipated that  
7 we come out of executive session, we will adjourn for  
8 the evening and reconvene at 9:00 tomorrow morning.

9           So with that, we're in executive session.

10          MR. SINGER: Same place.

11          CHAIR BINKLEY: Same place, same channel,  
12 same time. Simple.

13          (End of video recording.)

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TRANSCRIPT**

**ALASKA REDISTRICTING BOARD  
BOARD MEETING  
NOVEMBER 4, 2021**

- Members Present:**
- John Binkley, Chair of the Board**
  - Melanie Bahnke, Board Member**
  - Bethany Marcum, Board Member**
  - Budd Simpson, Board Member**
  - Nicole Borromeo, Board Member**
  - Peter Torkelson, Executive Director**
  - T.J. Presley, Deputy Director**
  - Juli Lucky, Staff Member**
  - Matt Singer, Legal Counsel**

1 right?

2 MEMBER BAHNKE: Mr. Chair --

3 CHAIR BINKLEY: Go ahead, Melanie.

4 MEMBER BAHNKE: In terms of process, I'd  
5 like to also ask our counselor if we need to be  
6 prepared to have any kind of discussions that would  
7 require us to go into executive session today or not,  
8 based on what you observed yesterday, or -- or is it  
9 premature?

10 MR. SINGER: It's premature. If I see a  
11 decision on which I would like to share legal advice  
12 with you, I'll suggest that we have an executive  
13 session.

14 And if you reach a point for a decision  
15 where you'd like some input from counsel, the -- as  
16 we discussed, there are -- there are VRA implications  
17 or analyses that need to be done with regard to  
18 districts that -- the districts you have heretofore  
19 labeled 37 through 40 and potentially districts in  
20 Anchorage.

21 And so if there's going to be drastic  
22 changes from board-adopted or -- six board-adopted  
23 plans, if you have a new solution, after the board  
24 engages in the Hickel process and comes up with a  
25 proposed idea, there's a second piece, which is a

1 legal analysis with the VRA.

2 And so some of that we can do on the fly in  
3 executive session. Some of that will require input  
4 from our experts, and they're standing by. So --  
5 (indiscernible) way of saying --

6 MEMBER BAHNKE: Okay.

7 MR. SINGER: -- it depends.

8 MEMBER BAHNKE: We'll see.

9 MR. SINGER: I think Anchorage is --  
10 Anchorage is a potential where we need to have a  
11 discussion if we're considering substantial changes  
12 from -- from the maps that, you know, we've had the  
13 opportunity to analyze over the last several weeks.

14 MEMBER BAHNKE: Okay. Thank you.

15 MEMBER SIMPSON: Mr. Chair, I mean, I have  
16 maybe a little bit different take on that.

17 If -- if we wait for counsel to, you know,  
18 throw up a red flag and say I need to talk to you  
19 guys, that kind of implies something's about to go  
20 sideways. I would rather that we just sort of have  
21 some ordinary scheduled executive sessions where we  
22 could talk candidly to counsel without throwing up a  
23 red flag, just talk through --

24 MEMBER BAHNKE: That's true.

25 MEMBER SIMPSON: -- where we're at, at any

1 given time.

2 MR. SINGER: Would it make sense to have an  
3 executive session at 11:30 today for 30 minutes?  
4 Then we'll take our -- we'll take our one-hour lunch  
5 break, and then the public and the board can resume  
6 at 1:00.

7 MEMBER BAHNKE: Can we schedule it for 11?  
8 Because yesterday's we planned from 4:30 to 5, and I  
9 think we left here close to 5:30. So just to give us  
10 some buffer time. Because we have a hard stop at  
11 noon for an hour. So I --

12 MEMBER MARCUM: (Indiscernible.)

13 MEMBER BORROMEO: So let's start working.  
14 11, executive session? I like that suggestion. And  
15 Melanie's, too, that we reserve time that's a little  
16 bit longer. If we don't need it, we can come out of  
17 executive session and keep mapping.

18 MEMBER BAHNKE: We'll break early for lunch  
19 so you can work on your map.

20 CHAIR BINKLEY: Okay. There seems to be  
21 consensus on that, so we'll look at 11:00 as the time  
22 to take a break, go into executive session, make sure  
23 we're on track legally.

24 If there aren't any areas that we need to be  
25 concerned about or cautioned maybe by counsel, and

1 that hopefully will roll into lunch at 12, and then  
2 we'll be back on the record at 1.

3 Okay. So I think that started with your  
4 question, Melanie, to Matt, on executive sessions.  
5 We're still talking about process, how to begin and  
6 start to come to consensus. I think, Bud, as you  
7 pointed out, there really wasn't consensus other than  
8 maybe in 40. I think there were a lot of different  
9 ideas. We kind of hashed those out, which was very  
10 productive, I thought. But it illustrated to me how  
11 making hard decisions in one area is going to affect  
12 significantly other areas. And so maybe we tackle  
13 some of those key decisions that will potentially  
14 resolve the other areas.

15 For example, what we do in the Fairbanks  
16 North Star Borough, we leave it whole versus if we  
17 take out a significant portion of the borough and  
18 move to District 36, whether Valdez stays in or not,  
19 those are kind of pivotal decisions. And I think  
20 it'll affect then the districts that Nicole was  
21 mentioning, 40, 39, 38, and 37.

22 So I mean, my sense is we can't come to a  
23 conclusion on those until we solve that problem on  
24 the Fairbanks North Star Borough in Valdez and how  
25 we're going to -- and then, of course, Valdez is --

1 Cantwell --

2 MEMBER MARCUM: And I just assigned it,  
3 Nicole. It took it up to negative 1.12.

4 MEMBER BORROMEO: Much better.

5 MEMBER MARCUM: So it's 18,129 people.

6 MEMBER BORROMEO: And then it's negative how  
7 many people?

8 MEMBER MARCUM: Negative 206 people.

9 MEMBER BORROMEO: Seems rational to me.

10 MR. TORKELSON: (Indiscernible.)

11 (Indiscernible background conversation.)

12 CHAIR BINKLEY: Well, we can -- Nicole wants  
13 to look at the (indiscernible) go to the noon hour,  
14 so why don't we just -- you can work on that over  
15 there.

16 MEMBER BORROMEO: Mr. Chairman, I am  
17 comfortable with your suggestion that Melanie also  
18 echoed in bringing Cantwell over. I appreciate the  
19 exercise in letting me see the deviations and the  
20 explanations that unincorporated -- has repeatedly  
21 laid out in public testimony throughout the process,  
22 and I'm comfortable moving Cantwell into the rural  
23 Interior district, our proposed 36.

24 CHAIR BINKLEY: Any other objections to that  
25 or thoughts on it?

1                   MEMBER SIMPSON: I agree.

2                   MEMBER MARCUM: I'm not necessarily going to  
3 object. I just want it to be clear that, you know,  
4 that takes us to another very hard discussion about  
5 Valdez.

6                   CHAIR BINKLEY: Yeah. Yeah. Okay. Well,  
7 let's -- let's move on. So fireworks?

8                   MEMBER BAHNKE: And if we're going to have  
9 that on the record, then I also want to have on the  
10 record that, like I said earlier, Valdez has been  
11 established to have some socioeconomic ties with the  
12 Mat-Su area compared to the other option, which would  
13 push villages from District 36 into District 39,  
14 where there are no socioeconomic connections, so --

15                   MEMBER MARCUM: And I will continue on the  
16 record to say that Mat-Su Borough has testified to  
17 the socioeconomic non-integration of Valdez. Valdez  
18 has testified to the non-integration of them with the  
19 Mat-Su Borough.

20                   CHAIR BINKLEY: Why don't we wait until we  
21 have consensus, and then we'll establish everything  
22 on the record.

23                   MEMBER BAHNKE: That's fine. I mean  
24 (indiscernible).

25                   CHAIR BINKLEY: Yeah. So let's -- let's

1 not just the VRA, but that was part of the  
2 discussion.

3 MEMBER BORROMEEO: I agree. Thank you,  
4 Bethany.

5 CHAIR BINKLEY: Okay. Is everybody in  
6 agreement? We'll take a break. We'll have the  
7 chance to go into executive session, and we'll need a  
8 motion to do that.

9 And then we'll go right into lunch and  
10 reconvene at 1:00. We don't anticipate any decisions  
11 being made when we come out of executive session  
12 sometime between now and 12:00. So from the public's  
13 perspective, you can sign back in at 1 and we'll be  
14 back on the record at that point.

15 MEMBER BORROMEEO: Mr. Chairman, I just would  
16 like to preserve my idea earlier that if we have a  
17 shorter executive session, that we come back and  
18 revisit the Kenai Peninsula Borough, if there is  
19 enough will among the board to get there before  
20 lunch, because I also think that we're close on this  
21 part of the map.

22 CHAIR BINKLEY: I don't know. What do you  
23 think, Melanie?

24 MEMBER BAHNKE: I don't -- it doesn't -- I  
25 can go either way.

1           But it's just -- basically just a shape.  
2   This is a cleaner -- I felt this was a cleaner line  
3   (indiscernible).

4           MEMBER MARCUM: (Indiscernible.)

5           CHAIR BINKLEY: Shall we go with Peter's?  
6   Looks a little bit better to me.

7           MEMBER BORROMEO: Looks slightly more  
8   compact.

9           MEMBER MARCUM: And the deviations you said  
10   are --

11          MEMBER BORROMEO: Yeah, I was just going to  
12   say, can I see (indiscernible).

13          (Indiscernible - multiple speakers.)

14          MEMBER BORROMEO: Are you comfortable with  
15   this, Bethany?

16          MEMBER MARCUM: Yeah, absolutely.

17          MEMBER BORROMEO: I am, as well.

18          CHAIR BINKLEY: Okay. Let's go with  
19   Peter's.

20          MEMBER BORROMEO: Okay.

21          CHAIR BINKLEY: You want to take a break  
22   then?

23          MEMBER BAHNKE: Sure. And then go into  
24   executive session?

25          CHAIR BINKLEY: No. I mean go into

1 executive session.

2 MEMBER BAHNKE: Oh, okay.

3 CHAIR BINKLEY: But let the public know that  
4 we're not going to come back until 1:00.

5 MEMBER BORROMEO: Yes.

6 MEMBER BAHNKE: Yes.

7 CHAIR BINKLEY: If we get done early, we'll  
8 do it. If we have to go past noon, Melanie can be  
9 excused in executive session and we can go as long as  
10 we need to.

11 MEMBER MARCUM: Thank you.

12 MR. SINGER: Do -- we need a motion.

13 CHAIR BINKLEY: Yeah. We need a motion to  
14 go into executive session, and I think Bud's got it  
15 here.

16 So we're going to come back to our work  
17 session to order, and then we're going to recognize  
18 Board Member Simpson for purpose of a motion.

19 MEMBER SIMPSON: Mr. Chair, I move that the  
20 board go into executive session under AS 44.62.310(c)  
21 and subsections (3) and (4) respectively, involving  
22 matters which, by law, municipal charter, or  
23 ordinance, are required to be confidential and  
24 matters involving consideration of government records  
25 that by law are not subject to public disclosure. I

1 ask that we do that after a five-minute break.

2 CHAIR BINKLEY: Okay. Well, maybe take --  
3 is there a second to the motion?

4 MEMBER BORROMEO: I second.

5 CHAIR BINKLEY: Discussion? Maybe we'll  
6 take a break as we clear the room and get into  
7 executive session.

8 And for purposes of the public, too, we  
9 won't come back into public session until 1:00, and  
10 we won't take any action until that time, as well.

11 So does everybody understand the motion?

12 MEMBER BORROMEO: Yes.

13 CHAIR BINKLEY: Is there any objection to  
14 the motion? Hearing none, we are in executive  
15 session.

16 And we'll realign the room and the Zoom.

17 MEMBER BORROMEO: You said (indiscernible)  
18 bathroom?

19 CHAIR BINKLEY: Yeah. Just take a quick  
20 break while we --

21 2:02:49

22 (End of part 1.)

23 [PART 2]

24 00:00:00

25 CHAIR BINKLEY: We're back on the record and

1 out of executive session. It's just a little after  
2 1:00.

3 We've been making very good progress, I  
4 believe, in terms of getting to consensus on all 40  
5 districts. We've got a ways to go.

6 I think we've been working on Anchorage.  
7 Did we wrap up (indiscernible)? Did we wrap up  
8 Kenai? I think we got consensus on that?

9 MEMBER BORROMEO: We did, Mr. Chairman.  
10 Yes, we did.

11 CHAIR BINKLEY: So really, the only area  
12 left is -- and we got the VRA districts. I think  
13 we're in consensus there.

14 MEMBER BORROMEO: I think we just have to do  
15 formal action on that, but we're in consensus on  
16 that, too.

17 MEMBER BAHNKE: Valdez?

18 CHAIR BINKLEY: Well, yeah. I mean, all  
19 those pieces fit together, really. But maybe the  
20 area we really haven't gone into much detail on this  
21 morning is Anchorage. So shall we go into Anchorage?

22 MEMBER BORROMEO: Sure.

23 CHAIR BINKLEY: (Indiscernible) consensus --

24 MEMBER MARCUM: Yeah.

25 CHAIR BINKLEY: -- and give it a try.

1           MEMBER MARCUM: I would like to raise  
2 something, if I could.

3           CHAIR BINKLEY: Okay. Please.

4           MEMBER MARCUM: It would significantly  
5 change the Anchorage action perhaps. It ties to the  
6 other discussions we've been having thus far about  
7 Valdez, where does it go.

8           CHAIR BINKLEY: Okay.

9           MEMBER MARCUM: And it's my understanding  
10 that Valdez has been paired with Anchorage in the  
11 past. And as I noted, Valdez is not keen on going  
12 with the Mat-Su. The current iteration of things  
13 we've been looking at would not allow Valdez to be in  
14 the horseshoe district, District 36. District 5 is  
15 also full. Maybe Anchorage is a consideration, and I  
16 would like for us to discuss that possibility.

17           MR. SINGER: Did you -- have you tried  
18 mapping Valdez and Anchorage?

19           MEMBER MARCUM: It literally just occurred  
20 to me last night.

21           MR. SINGER: Okay.

22           MEMBER MARCUM: But looking at the history,  
23 I know it has been done in the past.

24           MR. TORKELSON: (Indiscernible.)

25           MEMBER MARCUM: I was going to ask, do you

1 have the numbers of how low we are in Anchorage and  
2 how much putting Valdez in would put us over?

3 MR. TORKELSON: Anchorage is 15.88  
4 districts, 15.88, and so it needs about .12. So it  
5 needs -- from memory here, it needs about twenty- --  
6 about 2,000 people roughly. And Valdez is 4,000. So  
7 if you brought Valdez in, it would --

8 MEMBER MARCUM: I think 2,000 would work,  
9 would not be --

10 MR. TORKELSON: Flip it over.

11 CHAIR BINKLEY: -- about the same going the  
12 other direction.

13 MEMBER MARCUM: The same going the other  
14 direction, yeah. So I don't think numerically it  
15 would be an issue. Obviously it would apply  
16 significant changes to how we shape Anchorage  
17 districts, but I think we need to have that  
18 conversation.

19 Because I want to make sure we explore all  
20 of the Valdez possibilities because of the fact that  
21 they do get tossed around so much.

22 CHAIR BINKLEY: I don't think it hurts to  
23 explore the possibilities, to see what options are  
24 out there.

25 Matt, what -- could you remind us what

1 happened when Valdez was in with Anchorage or  
2 proposed to be with Anchorage at one point?

3 MR. SINGER: Well, it was lit- -- the issue  
4 was litigated in the -- I believe it was litigated to  
5 the Supreme Court or (indiscernible) in the Superior  
6 Court in the 2001 plan, and the Court ruled that it  
7 was constitutional, that there were socioeconomic  
8 ties between Valdez and Anchorage, including daily  
9 air service, the oil industry connections,  
10 connections with university. So there's a legal --  
11 there's a case at the Superior Court affirming that  
12 pairing.

13 I -- what I don't recall in 2001 is whether  
14 Valdez stays in the ultimate proclamation plan or if  
15 it came out as a consequence of other changes that  
16 the Court -- so the Court was okay with the  
17 Valdez/Anchorage pairing, but it was not okay with  
18 the entire plan. And so then there was -- I just  
19 have to pull up the 2001 proclamation plan.

20 CHAIR BINKLEY: I think it may have come  
21 out --

22 MR. SINGER: Yeah.

23 CHAIR BINKLEY: -- of negotiations.

24 MR. SINGER: And then there was litigation  
25 about the current pairing of Valdez with Mat-Su,

1 mostly focused on issues of compactness, and the  
2 Court affirmed -- the Superior Court affirmed the  
3 current district in which Valdez and Mat-Su are  
4 paired.

5 So there's been -- there's been -- Valdez is  
6 a sticking point. I believe at least one of the  
7 cases even talks about the reason Valdez is -- often  
8 comes up. It's just a unique community with a large  
9 population in an isolated part of the state with  
10 significant industry. It doesn't have any sisters  
11 close by with similar attributes.

12 MEMBER MARCUM: So it's my understanding  
13 from the numbers that (indiscernible) --

14 CHAIR BINKLEY: No problem.

15 MEMBER MARCUM: -- that putting Valdez in  
16 either Anchorage or the Mat-Su is going to  
17 overpopulate those districts, and therefore they'll  
18 be underrepresented. Is that everyone else's  
19 understanding of the numbers?

20 CHAIR BINKLEY: I guess to what extent? It  
21 will be slightly in Anchorage.

22 MEMBER MARCUM: I think about the same.  
23 Because we've done the Anchorage -- Valdez into  
24 Mat-Su. That's the one that Nicole and I worked on  
25 before we went to Valdez. And the numbers were 2,

1 2 and a half percent or so over, right? And it looks  
2 like that's going to be about the same for Anchorage,  
3 to be overpopulating Anchorage.

4 MEMBER BAHNKE: The difference between the  
5 two, though, to me, is a matter of compact and  
6 contiguity. It makes more sense to me to pair Valdez  
7 with the lesser two options -- physical options, I  
8 guess. And we have to look at compactness and  
9 contiguity.

10 MEMBER MARCUM: I think it -- the ports  
11 are --

12 MEMBER BAHNKE: The deviations are fairly  
13 close.

14 MEMBER MARCUM: It didn't (indiscernible)  
15 compactness and contiguity in the past; is that  
16 right?

17 MR. SINGER: The Superior Court in 2001  
18 allowed -- my recollection of that district is it was  
19 Valdez, across Prince -- sort of following the ferry  
20 route, essentially, to Whittier, and then on into  
21 south Anchorage.

22 And the Court allowed -- allowed that  
23 district.

24 MEMBER BAHNKE: And the courts allowed for  
25 both.

1           MR. SINGER: And -- and Valdez is currently  
2 paired with portions of Mat-Su, yes.

3           MEMBER BAHNKE: Yes. So when you compare  
4 the two, since they're both -- they've both already  
5 been identified as being compact, contiguous,  
6 socioeconomically integrated, the deviations are  
7 similar, but pairing them with Mat-Su is more compact  
8 and contiguous than with Anchorage; am I correct?

9           MR. SINGER: I'm not comfortable giving, on  
10 the fly, a legal opinion about which of two options  
11 is -- better meets the constitution. I'd have to  
12 look. I think what I would say is that they're both  
13 likely constitutionally permissible options.

14          MEMBER BAHNKE: Okay.

15          MR. SINGER: So -- and I tried to grade one  
16 on the -- without really looking. But I think they  
17 are both available options to the board, and so the  
18 board should be considering the realities of  
19 population and then the relative socioeconomic  
20 pattern of socioeconomic integration that results.

21                 So what -- what is the (indiscernible)  
22 effect of one choice versus the other? Does one make  
23 more sense to the best of the board's plan?

24          MEMBER MARCUM: I had a follow-up question  
25 and then I lost it.

1 CHAIR BINKLEY: Okay.

2 MEMBER MARCUM: It was really important,  
3 too. It'll come back to me, I guess.

4 MEMBER BORROMEO: Mr. Chairman?

5 CHAIR BINKLEY: Yes, Nicole.

6 MEMBER BORROMEO: Thank you. I've actually  
7 drawn a map early on that did exactly what Melanie  
8 asked, in terms of pairing Valdez with Anchorage. It  
9 is possible.

10 It's also very difficult to observe that  
11 population into the districts in Anchorage, keep  
12 neighborhoods, school districts, et cetera, tight as  
13 they are in my before now, but has been further  
14 improved. So it sacrifices compactness.

15 I also, at the end of it, though, really  
16 came to a policy call in terms of Valdez having no  
17 road to Anchorage, and that connectedness isn't there  
18 in the same way that it is to the Valley. Yes, you  
19 can drive the Glenn down into Anchorage, but when you  
20 look at that district, District 9 I mean, Bethany,  
21 and how it would be over to Valdez, there is no road  
22 between District 9 and -- and Valdez. You would have  
23 to drive through 18 other districts at least to get  
24 to there.

25 So at the contiguity piece and the

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

**CERTIFIED  
TRANSCRIPT**

**VIDEOCONFERENCE**

**MEETING OF THE ALASKA REDISTRICTING BOARD**

**Friday, November 5, 2021**

**3901 Old Seward Highway, Suite 141**

**Anchorage, Alaska**

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

2 -o0o-

3 CHAIRMAN JOHN BINKLEY: Okay. We're going to  
4 call the work session back to order. It's Friday  
5 morning, a little after 9:00. All members are present,  
6 as well as staff, legal counsel, and we have good  
7 participation from the public here as well, and  
8 hopefully others online via Zoom.

9 We will be continuing to do mapping and work  
10 on the plan, and then we anticipate that at some point  
11 today, before we adopt a final plan, that we will be  
12 inviting public testimony. It would depend -- the  
13 time, it just depends on how far we get and how  
14 quickly we get this morning.

15 BOARD MEMBER BUDD SIMPSON: Mr. Chair?

16 CHAIRMAN JOHN BINKLEY: Budd, go ahead.

17 BOARD MEMBER BUDD SIMPSON: If it's an  
18 appropriate time, at the end of the day yesterday, we  
19 asked legal counsel to look into a Voting Rights issue,  
20 and I'd like to have an Executive Session to receive  
21 that advice and kind of see where we are with that  
22 question.

23 CHAIRMAN JOHN BINKLEY: Okay.

24 BOARD MEMBER BUDD SIMPSON: So if members agree  
25 with that, I'll make a motion.

1 CHAIRMAN JOHN BINKLEY: Okay. Go ahead, Budd.

2 BOARD MEMBER BUDD SIMPSON: So, Mr. Chair, for  
3 the purpose of receiving legal advice, I would like to  
4 move that the Board go into Executive Session under AS  
5 44.62.310, involving matters which by law or ordinance  
6 are required to be confidential, and matters involving  
7 consideration of government records that by law are not  
8 subject to public disclosure.

9 CHAIRMAN JOHN BINKLEY: Is there a second to the  
10 motion?

11 BOARD MEMBER MELANIE BAHNKE: I second that  
12 motion.

13 CHAIRMAN JOHN BINKLEY: Is there discussion on  
14 the motion? Is there any objection to the motion?

15 Hearing none. We're going to move into  
16 Executive Session.

17 And we'll take just a few minutes to -- I'll  
18 kindly ask that the audience, who just walked in --

19 BOARD MEMBER BUDD SIMPSON: And made  
20 themselves comfortable.

21 CHAIRMAN JOHN BINKLEY: -- to excuse  
22 themselves, and we'll make the adjustments online as  
23 well, and we'll give you as much of a heads up and  
24 keep you posted on how we're doing in Executive  
25 Session.

1 (Executive Session in progress.)

2 DEPUTY DIRECTOR TJ PRESLEY: We are back on.

3 No, we're good. I'm monitoring the mute button.

4 CHAIRMAN JOHN BINKLEY: Okay. We're back  
5 online, and we have members of the public who are  
6 present as well. All board members are here, so we're  
7 going to get back in.

8 I see something on the screen. We're going to  
9 get rid of that. Just a moment.

10 Okay. So we're going to come back into our  
11 work session out of Executive Session, and we had an  
12 opportunity to have a discussion on some legal aspects  
13 that we were inquiring of legal counsel.

14 And we would like, now, to go to mapping.  
15 There were some questions on v.4 Best, and there's  
16 some alternatives to that.

17 And, Bethany, if you would like to make a  
18 presentation on the Anchorage area --

19 BOARD MEMBER BETHANY MARCUM: Yeah.

20 CHAIRMAN JOHN BINKLEY: -- an alteration to v.4  
21 Best.

22 BOARD MEMBER BETHANY MARCUM: Yeah. We agreed  
23 that --

24 CHAIRMAN JOHN BINKLEY: Oh, v.3 Best. Excuse  
25 me. Sorry.

1           BOARD MEMBER BETHANY MARCUM: Some background:  
2    So as you all heard, I -- I have concerns about Valdez,  
3    and, you know, so I had offered yesterday to -- to try  
4    to find another solution to Valdez. They've been really  
5    clear about their desire to be with Richardson Highway,  
6    and that was taken off the table yesterday. There are  
7    other solutions that they proposed for coastal, and that  
8    was also not a possibility. It was taken off the table.

9           And so what -- you know, that kind of left  
10   them with Anchorage or the Mat-Su. They've testified  
11   that they do not want to be with the Mat-Su --  
12   official resolutions and such -- the Mat-Su has  
13   testified they don't want Valdez with them, so I  
14   wanted to -- to look at really the only other  
15   opportunity to pair them with another area, and that  
16   would be with Anchorage. And so I volunteered to try  
17   to -- to do that, and I spent a lot of time on that  
18   last night.

19           However, based upon some of the parameters  
20   that we now understand from our legal counsel, I was  
21   not able to find a reasonable solution for putting  
22   Valdez with Anchorage. Knowing that, I also, then,  
23   realize- -- we realized those same legal parameters  
24   affected the previous version of the map that I  
25   presented for Anchorage, which is "Version 3 Best," I

1 we've not made -- the numbers that are assigned are not  
2 an indication from the Board that this is how we think  
3 the Senate pairings should be.

4 ATTORNEY MATT SINGER: I just raise it so that  
5 it's a discussion for you all, because I agree with that  
6 conclusion.

7 BOARD MEMBER BETHANY MARCUM: I just have a  
8 question about the process. I'm not sure that I  
9 understand.

10 For Senate pairings, we know they have to be  
11 physically contiguous, but do they also have to be  
12 numerically chronological, or -- because I believe  
13 that in the past they've had two numbers that were not  
14 chron- -- you know, not next to each other that were  
15 still Senate pairing because they were physically  
16 contiguous. But that's what I'm asking. I'd like  
17 to -- to get a definitive answer on that.

18 CHAIRMAN JOHN BINKLEY: I don't have the answer.

19 ATTORNEY MATT SINGER: I don't think there's any  
20 legal requirement that -- that, for example, District 1  
21 must be with 2 as opposed to 5, but rather the -- the  
22 requirement of the constitution is that they be -- that  
23 two be contiguous with each other. Right. So you  
24 shouldn't be pairing districts that are distant from  
25 each other and not connected.

1           BOARD MEMBER MELANIE BAHNKE: Yesterday,  
2 Mr. Chair -- and it wasn't a criticism of the map that  
3 you drew, Bethany, but I had cause for concern about the  
4 Muldoon area and the impact to dilution of minority  
5 voters. I wouldn't say that was a personal criticism of  
6 your map. Our job is to draw the best map, so I  
7 expressed my cause for concern over that so we don't run  
8 afoul of our constitutional mandate and the VRA. That's  
9 not a criticism.

10           I guess what I was trying to get at is: Do  
11 you have any similar causes for concern that run us  
12 afoul with the constitution or the Federal Voting  
13 Rights Act when it comes to Board Version 4 Best?

14           It wasn't so much an invitation for you two to  
15 criticize each other's iterations. I'm asking: Are  
16 there any concerns similar to the one that I raised  
17 yesterday that run us afoul of our mandates?

18           CHAIRMAN JOHN BINKLEY: Let me ask you this:  
19 Are you inclined to support Version v.3 Alt, if there's  
20 some different answer to that, or are you just trying to  
21 convince Bethany that Version 4 is a better version?

22           BOARD MEMBER MELANIE BAHNKE: I'm not --

23           CHAIRMAN JOHN BINKLEY: I mean, what's the point  
24 here?

25           BOARD MEMBER MELANIE BAHNKE: -- saying which

1 one's better. I'm asking if she has any concerns about  
2 v.4, to give us --

3 CHAIRMAN JOHN BINKLEY: I think she's expressed  
4 that, but she doesn't want to do it in a manner that's  
5 critical. She wanted to say that she thinks Version 3  
6 Alt is better. That's all.

7 BOARD MEMBER MELANIE BAHNKE: I'm not asking  
8 which one's better or not --

9 CHAIRMAN JOHN BINKLEY: But -- but --

10 BOARD MEMBER MELANIE BAHNKE: -- I was asking --  
11 and then the other thing is --

12 CHAIRMAN JOHN BINKLEY: What's the point? What  
13 are you trying to accomplish, Melanie?

14 BOARD MEMBER MELANIE BAHNKE: To determine if  
15 there are any things that violate the constitution or  
16 the VRA that we should be aware of as we consider Board  
17 Version 4 Best. And the other thing is, as we look at  
18 the brand-new Board Version 3 Alt, we're going to need  
19 that legal counsel advice before we make any decisions,  
20 and that's why I've asked for some Executive Sessions.

21 I won't push the issue anymore. You don't  
22 need to answer it. I didn't hear any, I guess,  
23 explicit concerns over compactness, contiguity,  
24 socioeconomic integration. We heard some concerns  
25 over deviation. So I'll take that non-answer as you

1 don't have those kinds of concerns.

2 BOARD MEMBER BETHANY MARCUM: I -- I would say  
3 you're absolutely incorrect, but it's not my position to  
4 publicly criticize that map. I've expressed those  
5 concerns, as, again, I said, in private work sessions  
6 and will continue to do so if we have work sessions, but  
7 the reality is this is not the forum for that.

8 And -- and I'm sorry that you don't feel that  
9 the fact that I'm a Christian is relevant, but it is,  
10 because my -- as a Christian --

11 (Indiscernible crosstalk.)

12 BOARD MEMBER BETHANY MARCUM: -- criticize  
13 people. That -- that's --

14 BOARD MEMBER MELANIE BAHNKE: We are not the  
15 same person.

16 CHAIRMAN JOHN BINKLEY: Let her finish, please.

17 BOARD MEMBER BETHANY MARCUM: I don't feel it's  
18 appropriate to publicly criticize people in a forum like  
19 this, and that was part of my ethics and my morals, and  
20 you're pushing that because you know that is something  
21 that is an Achilles' heel, and I --

22 BOARD MEMBER MELANIE BAHNKE: I didn't know.

23 BOARD MEMBER BETHANY MARCUM: -- I -- I very  
24 much -- I very much --

25 BOARD MEMBER MELANIE BAHNKE: I don't ask people

1 about their religions. I'm sorry. And we are two  
2 different people.

3 CHAIRMAN JOHN BINKLEY: Okay.

4 BOARD MEMBER BETHANY MARCUM: I said you pushed  
5 it. I didn't say that (indiscernible) --

6 CHAIRMAN JOHN BINKLEY: Let's --

7 BOARD MEMBER MELANIE BAHNKE: No. You said --

8 CHAIRMAN JOHN BINKLEY: Let's just stop this,  
9 please. I think you've made a legitimate request, that  
10 you want to see us go into Executive Session to -- I  
11 can't recall exactly why, but you want to get legal  
12 advice -- advice from counsel?

13 BOARD MEMBER MELANIE BAHNKE: Yes. Just like we  
14 did yesterday. We've got a whole new map that is now on  
15 the table for consideration.

16 CHAIRMAN JOHN BINKLEY: If you --

17 BOARD MEMBER MELANIE BAHNKE: I'd like legal  
18 advice.

19 CHAIRMAN JOHN BINKLEY: You can make a motion,  
20 if you'd like, to go into Executive Session. I think we  
21 can probably get the right language here, if you'd like,  
22 and we can...

23 BOARD MEMBER MELANIE BAHNKE: I think it's  
24 prudent for us. It turned out to be prudent yesterday.

25 BOARD MEMBER NICOLE BORROMEO: If it doesn't

1 have to be the exact language, I'd like to move,  
2 Mr. Chairman, that the Board enter Executive Session  
3 under Alaska Statute 44.62.310(c), Subsection 3 and 4,  
4 respectively involving matters which by law, municipal  
5 charter, or ordinance are required to be confidential  
6 and matters involving consideration of government  
7 records that by law are not subject to public  
8 disclosure.

9 BOARD MEMBER MELANIE BAHNKE: I second that  
10 motion.

11 CHAIRMAN JOHN BINKLEY: There's a motion before  
12 us, and seconded to go into Executive Session for items  
13 stated in the motion.

14 Is there a discussion on motion? Is there any  
15 objection to the motion? Okay. We're going to head  
16 into Executive Session.

17 And apologies, but we're going to have to  
18 clear the room again, and hopefully it won't be too  
19 long.

20 (Executive Session in progress.)

21 CHAIRMAN JOHN BINKLEY: And we both have people  
22 here locally in Anchorage, as well as online on Zoom,  
23 and we're going to continue to work on trying to achieve  
24 consensus on some of the maps. We're going to move to  
25 the Mat-Su, which we really hadn't closed out yet or

1 achieved any kind of consensus on.

2 So let's pull that up, Peter, and maybe you can  
3 explain where we're at and which map that we're looking  
4 at is, and this is Nicole's map.

5 (Indiscernible crosstalk.)

6 UNIDENTIFIED SPEAKER: This is actually --

7 BOARD MEMBER NICOLE BORROMEO: No. It's  
8 Bethany's.

9 CHAIRMAN JOHN BINKLEY: This is --

10 BOARD MEMBER MELANIE BAHNKE: Board Version 4  
11 Best?

12 BOARD MEMBER NICOLE BORROMEO: No. Board  
13 Version 3.

14 BOARD MEMBER MELANIE BAHNKE: Board Version 3...

15 BOARD MEMBER NICOLE BORROMEO: Board -- Board  
16 Version 3, Mat-Su.

17 BOARD MEMBER MELANIE BAHNKE: Alternative, or...

18 BOARD MEMBER NICOLE BORROMEO: This is just --  
19 this is Board 3, Mat-Su.

20 BOARD MEMBER MELANIE BAHNKE: Okay. Okay.

21 EXECUTIVE DIRECTOR PETER TORKELSON: So,  
22 Mr. Chairman, we have two Mat-Sus. I was just loading  
23 them up. I don't have a preference with which one to  
24 start. This happens to be Member Marcum's Mat-Su. Both  
25 of them bring Valdez into the Mat-Su, which I know has

1 been a point of, you know, considerable conversation,  
2 but they are somewhat different.

3 I think all -- both Mat-Su plans are the same.  
4 They closely respect the local government boundaries.  
5 In Mat-Su, they have three incorporated cities,  
6 Houston, Wasilla, and Palmer. Not only do they fully  
7 contain and do -- are careful not to divide a city  
8 boundary, but they also keep each of the three in a  
9 separate legislative district. So they're not sharing  
10 a population.

11 So you've got Houston and KGB Road. You've  
12 got City of Wasilla and out towards the lakes and this  
13 area's heavily populated. And then Palmer --  
14 similarly, Palmer surrounds, and this particular one  
15 is Palmer. And this is, you know, a middle district  
16 (indiscernible).

17 I think they both have some version of two  
18 east, west larger rural Mat-Su districts, which still  
19 pick up most of their population from the southern  
20 portion, but then extends up to taking all of the  
21 Mat-Su Borough in this case, and in the Denali Borough  
22 in this particular one. This one shows the Cantwell  
23 coming out to the Interior district.

24 And then this is Member Marcum's, so maybe she  
25 can speak to the facts, but I can also pull up Member

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**MEETING OF THE ALASKA REDISTRICTING BOARD**

November 8, 2021



3901 Old Seward Hwy, Suite 141  
Anchorage, Alaska

1 like Eielson and Fort Wainwright so that we could  
2 have some response on the military bases for our  
3 community support.

4 This is logical, and it also makes sense  
5 for what's best for this area. And, you know, we  
6 are constantly connected between Fort Greely and  
7 Eielson Air Force Base and Fort Wainwright, which  
8 (indiscernible). The traffic is (indiscernible).  
9 We have constant interaction. At the moment there  
10 are helicopters sitting on my airfield from  
11 Fort Wainwright. So I encourage you, please, to --  
12 to consider Districts 31 and 36 together. Thank you  
13 very much.

14 CHAIRMAN BINKLEY: Thank you, Dawn.

15 Questions for Dawn?

16 BOARD MEMBER BORROMEO: No.

17 CHAIRMAN BINKLEY: We'll move on to Gregory  
18 Sorensen from Hope.

19 GREGORY SORENSEN: Hello.

20 CHAIRMAN BINKLEY: Good morning, Gregory.

21 PUBLIC TESTIMONY OF GREGORY SORENSEN

22 GREGORY SORENSEN: Hey, I go by Johnny. But  
23 anyway, I live in Hope, Alaska. And I would like to  
24 keep this -- you know, I've kind of followed very  
25 lightly the redistricting, the districting of the

1 representatives. And I'm very, very happy with the  
2 current pairings in the Senate right now, and I  
3 would just like to maintain the current pairings.

4 CHAIRMAN BINKLEY: Okay. Thank you.

5 GREGORY SORENSEN: Pretty simple.

6 CHAIRMAN BINKLEY: That's pretty simple and  
7 straightforward, Johnny.

8 GREGORY SORENSEN: It's just -- you know, and  
9 I'm only representing myself. I'm not any  
10 organization or anything big like that. You know, I  
11 can't speak for anybody else but just for myself,  
12 all I can represent.

13 CHAIRMAN BINKLEY: Okay. Appreciate it.

14 Questions for Johnny?

15 Thank you very much for calling in.  
16 Appreciate it.

17 GREGORY SORENSEN: Okay. Thank you.

18 CHAIRMAN BINKLEY: That's all.

19 GREGORY SORENSEN: Okay. Bye-bye.

20 CHAIRMAN BINKLEY: Goodbye now. That's all we  
21 have both online and in person. So with that, if  
22 there's nobody further to testify, we're going to  
23 close public testimony and move on with our agenda.

24 We have had our Voting Rights Act  
25 consultant online since 10:30. And so we're going

1 to go into executive session. I would propose that.  
2 If members want to make a motion to such so that we  
3 can speak with our legal counsel and voting rights  
4 consultant on some of the issues that are before us  
5 with this process. So with that, I'd look for a  
6 motion to move into executive session.

7 Anybody have a motion to make?

8 BOARD MEMBER BORROMEO: Mr. Chairman, I move  
9 that we head into executive session for legal and  
10 other (indiscernible) purposes related to receiving  
11 legal counsel for the redistricting Board.

12 CHAIRMAN BINKLEY: Is there a second to that  
13 motion?

14 BOARD MEMBER SIMPSON: I second.

15 CHAIRMAN BINKLEY: Discussion on the motion?  
16 Any objection to the motion? Hearing none, we're  
17 going to move into executive session.

18 Members of the public, can we give an  
19 estimate about, what do you think, Peter, any guess?  
20 Hard to say?

21 DIRECTOR TORKELSON: It's hard to say.

22 CHAIRMAN BINKLEY: Let's -- let's do this.  
23 It's almost 11:00 now. We'll probably be an hour I  
24 would guess and then we'll roll into lunch. So  
25 let's just anticipate, if it's okay with the Board,

1 that we're going to come back into and on the record  
2 at 1:00. There will be no decisions made when we  
3 come out of executive session to take a lunch break.  
4 So you can assume that -- you can be back at 1:00  
5 for those of you that are here in the room or back  
6 online on Zoom at 1:00. Okay. Thank you. It will  
7 take us just a few minutes to get cleared and  
8 into --

9 EXECUTIVE SESSION WITH LEGAL COUNSEL  
10 (Board entered executive session at 11:00  
11 a.m.)

12 CHAIRMAN BINKLEY: Okay. Thank you. We're  
13 going to come back to order here. We came out of  
14 executive session just about at noon, and then we've  
15 been on break, lunch break since noon to 1:00. And  
16 now we're back into a formal work session that will  
17 be on the record. We did not take any action after  
18 coming out of executive session, and we don't  
19 anticipate any action as a result of that.

20 The next item on the agenda today is to  
21 get -- I don't have the agenda in front of me -- but  
22 it is get to technical corrections and a report from  
23 staff on the writing of the metes and bounds that  
24 they've been engaged in over the weekend, and any  
25 irregularities or minor technical corrections that

1 those in the room said to do today, you put Mountain  
2 View with that greater U-Med district and pair then  
3 the base, Government Hill, and Downtown.

4 I would be open to entertaining some  
5 other changes as we went around Anchorage. I am  
6 very opposed to splitting Eagle River into two  
7 separate Senate seats, as well as splitting Muldoon.  
8 These make no reasonable sense to do this.

9 Thank you, Mr. Chairman.

10 BOARD MEMBER MARCUM: Mr. Chairman, could I  
11 read some public testimony?

12 CHAIRMAN BINKLEY: Sure, please.

13 BOARD MEMBER MARCUM: "First, I want to say I  
14 don't envy your job. So that it's important to  
15 correct the mistaken impression that you may have  
16 gotten that Eagle River is so different from  
17 Northeast Anchorage and that the two areas cannot  
18 possibly be included in the same legislating  
19 district. We chose not to do that. The truth is  
20 these areas have a long and close relationship and  
21 that you should have no concerns about combining  
22 residents or that most of Eagle River would have any  
23 serious objection. The question of whether Eagle  
24 River is" --

25 CHAIRMAN BINKLEY: Okay. Continue. Thank

1 you.

2 BOARD MEMBER MARCUM: "The question of whether  
3 Eagle River is part of the Municipality of Anchorage  
4 was resolved more than 40 years ago. Yes, it is.  
5 While it may be a somewhat friendlier, safer part of  
6 Anchorage, Eagle River is as much a part of the Muni  
7 as are South Addition, Bayshore, and Hillside.

8 "Our town of Eagle River functions, in no  
9 small part, as a bedroom community to the military  
10 base and to parts of Anchorage. We commute to and  
11 from Anchorage and the military base to work, shop,  
12 and recreate. Eagle River has many close ties.  
13 Many military families live in our community and  
14 commute to duty or civilian jobs on base. Military  
15 spouses work, shop, and socialize at both ends of  
16 the Glenn Highway. Their families are pillars of  
17 our community.

18 "It is not widely known, but the Chugiak,  
19 Eagle River, and Muldoon area is home to more  
20 military, both active duty and retired, than  
21 anywhere else in the state. Residents mingle as  
22 they shop at the PX, Fred Meyer, or Carrs, exercise  
23 at Buckner Fieldhouse, play golf at Moose Run. This  
24 creates a cohesion that is important to us."

25 There's more, and I can keep reading it.

1 It's actually a whole nother page. But I think --  
2 and one of the things that -- one of the points  
3 that's made is that there's some historical  
4 precedent for Eagle River and parts of Northeast  
5 Anchorage to be blended together.

6 In fact, the Anchorage Assembly districts  
7 do exactly that. So the Anchorage Assembly  
8 districts have precincts in the eastern part of  
9 Anchorage. So they are combined together with  
10 Eastern Anchorage. It's been that way for quite a  
11 while, and there's never been an issue with it,  
12 there's never been a concern, there's never been  
13 anyone raised -- situation raised where they feel  
14 like they don't have fair representation.

15 In fact, there's exactly the opposite as  
16 mentioned, which I'd be happy to produce. But,  
17 again, there's lots of data here. I'd be happy to  
18 get to it (indiscernible) and put it forward.

19 Both Nicole and Melanie raised race as an  
20 issue. And I wanted to ask the counselor if that's  
21 something that we can or should discuss. I'm happy  
22 to do so if we think that's appropriate since it was  
23 raised by both Melanie and Nicole.

24 MATT SINGER: I think in the context of this  
25 discussion, questions to counsel would best be done

1 in executive session.

2 CHAIRMAN BINKLEY: Okay. Budd, you your hand  
3 up.

4 BOARD MEMBER SIMPSON: Well, a couple of  
5 comments were made that there's like no conceivable  
6 reasonable basis for this, and I just have to  
7 disagree with that. Bethany has articulated a  
8 number of reasonable, logical connections in support  
9 of the pairings that she's suggesting. Certainly  
10 they're not the only ones, and they are things about  
11 which reasonable people could differ, but we keep  
12 coming up against the same problem, and that is that  
13 there's always 50 different ways or some number like  
14 that to do these pairings, and in the end we have to  
15 pick one or two or whatever and -- and make a  
16 decision. But I don't think it's right to say that  
17 there's no reasonable basis for those. There's  
18 reasons, and she's articulated them.

19 BOARD MEMBER BAHNKE: Mr. Chair, can I respond  
20 to Bethany's question about race? I brought up the  
21 issue of race because we do have to abide by the  
22 Voting Rights Act not to suggest any other ulterior  
23 motives, but I thought that, in my mind, we have the  
24 VRA for a reason. It is to protect the ability of  
25 minority voters to be able to -- I'm not going to

1 read you the definition of the VRA. You're very  
2 familiar with it, and I don't want to belabor this  
3 any longer, but that's the reason why I brought the  
4 matter up.

5 CHAIRMAN BINKLEY: Thank you. Okay. So I get  
6 a sense that there's a majority of, not consensus  
7 for the plan that Bethany has brought forward. If  
8 that's the case, I think we should move on to the  
9 last one that we got, which is Fairbanks.

10 BOARD MEMBER BORROMEIO: Mr. Chairman, before  
11 we do that, is -- is it your understanding that  
12 she's only presenting one? Because there's so  
13 many --

14 BOARD MEMBER BAHNKE: We're moving on to  
15 Fairbanks is what I heard.

16 BOARD MEMBER BORROMEIO: I know, but --

17 CHAIRMAN BINKLEY: But I think there was. I  
18 got a clear --

19 Do you want to go back over it?

20 BOARD MEMBER MARCUM: No, (indiscernible).

21 BOARD MEMBER BORROMEIO: I don't know what all  
22 of the different combinations were. There have been  
23 so many.

24 BOARD MEMBER MARCUM: I think we're going  
25 to --

1 BOARD MEMBER BAHNKE: He said there's  
2 non-consensus on --

3 BOARD MEMBER BORROMEO: Okay.

4 BOARD MEMBER BAHNKE: -- Bethany's map.

5 BOARD MEMBER BORROMEO: Okay.

6 BOARD MEMBER BAHNKE: So unless --

7 CHAIRMAN BINKLEY: But a majority.

8 BOARD MEMBER BAHNKE: -- we want to debate  
9 that --

10 CHAIRMAN BINKLEY: Yeah.

11 BOARD MEMBER MARCUM: I mean, I can go over  
12 it. I got the map right here in front of me.

13 BOARD MEMBER BAHNKE: So just because of the  
14 masks I think it's hard to hear.

15 CHAIRMAN BINKLEY: Yeah, the numbers.

16 BOARD MEMBER BAHNKE: I think she heard  
17 consensus when you said non-consensus on Bethany's  
18 map.

19 CHAIRMAN BINKLEY: Right, I said "majority"  
20 not "consensus."

21 BOARD MEMBER BAHNKE: Yes.

22 CHAIRMAN BINKLEY: Yeah. But I think Nicole's  
23 question was what are those pairings? It wasn't  
24 clear to her.

25 BOARD MEMBER BAHNKE: I gave the pairings.

1 I'm assuming then that there's consensus on the map  
2 that I presented? Because I didn't hear objections  
3 over it. Is that why we're moving on?

4 CHAIRMAN BINKLEY: No.

5 BOARD MEMBER BAHNKE: Oh.

6 CHAIRMAN BINKLEY: No. No, I think that --

7 BOARD MEMBER BAHNKE: So why are we moving on  
8 to Fairbanks if we don't have consensus on  
9 Anchorage?

10 CHAIRMAN BINKLEY: Well, we don't have a  
11 consensus, but I think we have a majority of those  
12 that have spoken that agree with Bethany's pairings  
13 of her Anchorage map.

14 BOARD MEMBER BAHNKE: Wait. What?

15 CHAIRMAN BINKLEY: Just like we did --

16 BOARD MEMBER BAHNKE: I thought you said we  
17 had non-consensus on Bethany's map.

18 CHAIRMAN BINKLEY: Well, consensus I'm saying  
19 is that everybody is in agreement, all five of us.  
20 And my point is I don't think we have all five  
21 members in agreement with Bethany's map, but I've  
22 heard it articulated from three of the members,  
23 myself included, that we think that Bethany's map is  
24 the most reasonable.

25 BOARD MEMBER BAHNKE: Mr. Chair, if we're

1 going to continue down this line of even considering  
2 any one of the four versions of Bethany's map, I'm  
3 going to ask that we go into executive session for  
4 the purposes of receiving legal counsel's advice.

5 BOARD MEMBER BORROMEO: I'll second that.

6 CHAIRMAN BINKLEY: Okay. There's a motion  
7 before us to go into executive session for purposes  
8 of reviewing Bethany's map; is that correct?

9 BOARD MEMBER BAHNKE: No, if we're going to  
10 consider it on the table, if it's going to continue  
11 to be an option on the table, I'd like to hear legal  
12 advice.

13 CHAIRMAN BINKLEY: Just on Bethany's --

14 BOARD MEMBER BAHNKE: We can get --

15 CHAIRMAN BINKLEY: -- proposed map on  
16 Anchorage?

17 BOARD MEMBER BAHNKE: No, we can get advice on  
18 both maps. That would be even better.

19 CHAIRMAN BINKLEY: On your map and Bethany's  
20 map?

21 BOARD MEMBER BAHNKE: Yes.

22 BOARD MEMBER SIMPSON: Mr. Chair.

23 CHAIRMAN BINKLEY: Discussion, Budd? Budd?

24 BOARD MEMBER SIMPSON: We had an executive  
25 session this morning and went over what I think is

1 the same ground.

2 BOARD MEMBER BAHNKE: Okay.

3 BOARD MEMBER SIMPSON: My suggestion would be  
4 that we finish going through the rest of the  
5 pairings, and then if we need an executive session,  
6 do all at the end of the day or first thing in the  
7 morning or something like that.

8 BOARD MEMBER BAHNKE: I'm comfortable with  
9 that, so I'll withdraw my motion.

10 CHAIRMAN BINKLEY: Okay. Does the second  
11 withdraw as well?

12 BOARD MEMBER BORROMEO: When he -- you say  
13 "other pairings," you mean you want to put Anchorage  
14 on pause and go to Fairbanks?

15 BOARD MEMBER SIMPSON: No, I didn't say put it  
16 on pause, but, I mean, move on to the other ones,  
17 so --

18 BOARD MEMBER BORROMEO: Okay. I think it's  
19 just Fairbanks. I'll withdraw my second, and we can  
20 to move to Fairbanks for a little bit.

21 CHAIRMAN BINKLEY: Okay. Thank you.

22 BOARD MEMBER BAHNKE: Can we have a break,  
23 though?

24 CHAIRMAN BINKLEY: Sure.

25 BOARD MEMBER BAHNKE: Is that all right?

1           CHAIRMAN BINKLEY: Correct.

2           DIRECTOR PRESLEY: And 35 and 31?

3           CHAIRMAN BINKLEY: Correct, and 33 and 34.

4           DIRECTOR PRESLEY: Okay.

5           CHAIRMAN BINKLEY: You got it.

6           DIRECTOR PRESLEY: (Indiscernible.)

7           CHAIRMAN BINKLEY: Okay. I think -- have we

8 have been around the state now?

9           DIRECTOR PRESLEY: You have.

10          CHAIRMAN BINKLEY: For all the Senate

11 pairings?

12          DIRECTOR PRESLEY: Uh-huh.

13          CHAIRMAN BINKLEY: Maybe what I would suggest

14 is we take another brief at ease and have staff put

15 together, so that we don't make any mistakes on

16 this, the areas that we've achieved consensus on and

17 also those where we achieved a majority on.

18          BOARD MEMBER SIMPSON: Everything, in other

19 words?

20          CHAIRMAN BINKLEY: Yes. Yeah, exactly, put

21 those together into one list.

22          DIRECTOR TORKELSON: Okay. And then bring

23 back a new files with the numbers changed, or do you

24 just want to see --

25          CHAIRMAN BINKLEY: We don't need to change the

1 numbers; we just need to see the pairings with these  
2 numbers on them.

3 DIRECTOR TORKELSON: Okay. So you need this  
4 list without all the hash marks on it?

5 CHAIRMAN BINKLEY: Please.

6 DIRECTOR TORKELSON: You want it properly laid  
7 out in a grid, just numbers. Okay.

8 CHAIRMAN BINKLEY: Correct.

9 DIRECTOR TORKELSON: Yeah, we'll do it.

10 CHAIRMAN BINKLEY: I think that's it, yeah.  
11 Okay. So let's take an at ease while they put that  
12 together. And then when they have that, we'll come  
13 back together. So thank you for your deference. I  
14 appreciate that.

15 (Off record.)

16 CHAIRMAN BINKLEY: Let's go ahead. We're  
17 going to -- I think they're going to have a quick  
18 executive session, but you can go ahead and if  
19 that's completed, that's great.

20 DIRECTOR TORKELSON: Well, I would like the  
21 members to --

22 CHAIRMAN BINKLEY: Double-check.

23 DIRECTOR TORKELSON: -- to double-check.

24 DIRECTOR PRESLEY: I would say  
25 double-checking.

1           DIRECTOR TORKELSON: Yeah, one, let's let her  
2 double-check first.

3           CHAIRMAN BINKLEY: Well, let me double-check  
4 too. I'm going to double-check --

5           DIRECTOR TORKELSON: Yeah, yeah, yeah, they're  
6 right --

7           CHAIRMAN BINKLEY: -- with the notes that I  
8 have.

9           DIRECTOR TORKELSON: Yeah, double-check.

10          CHAIRMAN BINKLEY: I think we should all.

11          BOARD MEMBER MARCUM: What is this?

12          DIRECTOR TORKELSON: This is a grid --

13          CHAIRMAN BINKLEY: These are the ones as we've  
14 gone around the state which we either had consensus  
15 on or a majority of expressions of support for.  
16 Let's do this. Let's come back on record. Are we  
17 on?

18          JULI LUCKY: We are on. We're going to come  
19 back on, and I believe that there was an expression  
20 that we'd like an executive session.

21          BOARD MEMBER BAHNKE: Yes, please.

22          CHAIRMAN BINKLEY: So we can chat.

23                 Does somebody want to make that motion?

24          BOARD MEMBER BAHNKE: I'll move.

25          CHAIRMAN BINKLEY: I think maybe we should put

1 a little more context in terms of why we're taking  
2 an executive session.

3 BOARD MEMBER BORROMEO: Let me get this.

4 BOARD MEMBER BAHNKE: We have a  
5 (indiscernible).

6 CHAIRMAN BINKLEY: Well, I don't know that we  
7 need the full document.

8 BOARD MEMBER BAHNKE: Well, okay, since --

9 MATT SINGER: For legal advice with regard to  
10 the --

11 CHAIRMAN BINKLEY: Proposed pairings.

12 MATT SINGER: -- proposed Senate pairings in  
13 Anchorage.

14 CHAIRMAN BINKLEY: Okay. Second to that  
15 motion?

16 BOARD MEMBER BORROMEO: Second, yes.

17 CHAIRMAN BINKLEY: Everybody understands the  
18 motion?

19 BOARD MEMBER BORROMEO: Yes.

20 CHAIRMAN BINKLEY: Discussion on the motion?  
21 Any objection to the motion?

22 We're going to go into executive session,  
23 and apologies, but --

24 BOARD MEMBER BAHNKE: It should be short.

25 BOARD MEMBER SIMPSON: It should be very

1 short.

2 BOARD MEMBER BAHNKE: It should be short.

3 EXECUTIVE SESSION WITH LEGAL COUNSEL

4 (Board entered executive session at 5:01 p.m.)

5 CHAIRMAN BINKLEY: We're back into session,  
6 and apologize to the public for being in executive  
7 so -- session so long, but there's some challenging  
8 legal issues that we continue to struggle with.

9 And I think at this point we feel bad  
10 about keeping the public waiting, particularly those  
11 that are here waiting outside on-site.

12 And so we have -- are going to recess for  
13 evening, come back in the morning, and convene the  
14 executive session -- oops, sorry, one member from  
15 the public is trying to get in the side door and not  
16 able. We'll wait until they get -- get in.

17 And so we're going to meet, continue in  
18 executive session at 9:00 tomorrow morning. But we  
19 don't want to have to have the public waiting for us  
20 all that time, so we're going to set a time certain.  
21 And even if we come out of public session --  
22 public -- excuse me, executive session prior to  
23 that, we will wait to go back into public session  
24 and on the record again until 10:30.

25 So for purposes of tuning in on Zoom or

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**CERTIFIED  
TRANSCRIPT**

**MEETING OF THE ALASKA REDISTRICTING BOARD**

**NOVEMBER 9, 2021**

**3901 OLD SEWARD HWY, SUITE 141  
ANCHORAGE, ALASKA**

1 (Audio commenced at Time Stamp 1:33:55)

2 CHAIRMAN JOHN BINKLEY: Okay. We are going to come  
3 back into public session. We've been in Executive  
4 Session, kind of an extended one. A lot of legal issues  
5 to go through as we kind of close in on finalization for  
6 the Senate pairings that we've been working on this week  
7 and -- Yeah, Bethany?

8 BOARD MEMBER BETHANY MARCUM: Yeah, Mr. Chairman,  
9 I'd like to move that we accept the following Senate  
10 pairings for Anchorage.

11 CHAIRMAN JOHN BINKLEY: Okay.

12 BOARD MEMBER MELANIE BAHNKE: For reference, can you  
13 let us know which map you're looking at?

14 BOARD MEMBER BETHANY MARCUM: For Anchorage. I'm  
15 going to read the Senate pairings.

16 CHAIRMAN JOHN BINKLEY: For the -- You'll use the  
17 numbers off our current House pairing --

18 BOARD MEMBER BETHANY MARCUM: Exactly. The current  
19 adopted plan for Anchorage.

20 CHAIRMAN JOHN BINKLEY: Okay. Okay. Go ahead,  
21 Bethany.

22 BOARD MEMBER BETHANY MARCUM: I move we accept  
23 Senate pairings for Anchorage as follows: 9 -- District  
24 9 with District 10. District 11 with District 12.  
25 District 13 with District 14. District 15 with District

1 no truncation conversation. With House districts, they  
2 all must run again. With -- with the Senate seats, we --  
3 we'll refer to them as "seats" -- Seat A through B -- A  
4 through T, some of those -- Ten of those already have to  
5 run again in 2022 no matter what. And then the other ten  
6 are then subject to the truncation decision, you know,  
7 was there substantial change?

8 BOARD MEMBER BUDD SIMPSON: So, this report is going  
9 to show -- It's not going to be attached to any names or  
10 even to specific Senate districts --

11 EXECUTIVE DIRECTOR PETER TORKELSON: No.

12 BOARD MEMBER BUDD SIMPSON: -- in case we might  
13 know of the names --

14 EXECUTIVE DIRECTOR PETER TORKELSON: Correct.

15 BOARD MEMBER BUDD SIMPSON: -- it's just going to be  
16 some percentage amount --

17 EXECUTIVE DIRECTOR PETER TORKELSON: 20 numbers.  
18 It's going to be a stack of 20 values and they're going  
19 to go from the high 90s probably for some districts that  
20 didn't change at all, down to -- I don't know. We'll  
21 see. 5 percent. Maybe there's only 10 percent of -- of  
22 voters that remain in one new Senate seat, you know.  
23 We'll see. I have no idea. They'll be a stack of  
24 numbers and then we'll -- I'll explain those numbers when  
25 we get them, what they mean. And then you folks will --

1 It's up to the Board, then, to decide what percentage of  
2 change is substantial within guidelines. I think legal  
3 counsel has provided some, you know, some kind of  
4 sideboards on that, where the cut-off is for truncation.

5 BOARD MEMBER NICOLE BORROMEO: Mr. Chairman --

6 CHAIRMAN JOHN BINKLEY: So, that will give us an  
7 opportunity to do that blind --

8 EXECUTIVE DIRECTOR PETER TORKELSON: Yeah. Blind.

9 CHAIRMAN JOHN BINKLEY: -- of any personalities for  
10 specific Senate districts.

11 Yeah, Nicole?

12 BOARD MEMBER NICOLE BORROMEO: I move to reconsider  
13 the last vote.

14 BOARD MEMBER MELANIE BAHNKE: I second.

15 CHAIRMAN JOHN BINKLEY: Motion before us to  
16 reconsider the last vote --

17 BOARD MEMBER NICOLE BORROMEO: And Mr. Chairman --

18 CHAIRMAN JOHN BINKLEY: -- is there a discussion on  
19 the motion --

20 BOARD MEMBER NICOLE BORROMEO: Yes, there is  
21 discussion on the motion.

22 I strongly oppose the pairing of Districts 18 and  
23 24. I believe it opens the Board up to an unfortunate  
24 and very easily winnable argument to partisan  
25 gerrymandering. The record is before many litigants,