

2. I have been retained by the City of Valdez (“Valdez”) through the law firm of Brena, Bell & Walker, P.C., with regard to the redistricting cases consolidated in the above-captioned matter.

3. All the materials considered in forming the opinions contained herein are identified in this report. I am being compensated at an hourly rate of \$400 per hour for my work and at an hourly rate of \$200 for work performed by other EDS, Inc.’s, staffers.

I. BACKGROUND AND QUALIFICATIONS FOR EXPERT TESTIMONY

4. I attended American University in Washington, D.C., from 1969 through 1974 (having taken a year off for the 1972 campaign) where I earned a B.A. degree in Political Science. I started EDS, Inc., in 1977 and have been with the company since that time. Prior to 1977, I was a journalist and was employed by such companies as NBC News, Congressional Quarterly, and Plus Publications.

5. As president of EDS, Inc., I supervise and direct all major projects in which the company is involved. EDS, Inc., has been viewed by clients, the press, academics, and the general public as a research facility and consulting firm dealing with many aspects of the electoral process. The company and its staff have been hired by state and local governments across the nation to provide software, database development services, and consulting services for the creation of districting plans and the analysis of many aspects of the redistricting process.

6. Since 1979, I, individually and with EDS, Inc., have been actively involved in many aspects of the redistricting process, having gone through four full census and redistricting cycles, and now, beginning in 2021, am in my fifth decade of work in the field.

I have been a consultant to many state and local governmental organizations around the nation, providing strategic advice and consulting on redistricting matters, coordinating the development of extensive databases used in the redistricting process, creating and assisting others with the creation of districting plans, and analyzing many aspects of districts and district configurations, including conducting racial bloc voting analysis.

7. Over the past 44 years, EDS, Inc.'s clients for redistricting services have come from more than half the states in the nation. In this past year we have been involved in the redistricting process in Illinois, Rhode Island, Michigan, Virginia, and Alaska, as well as the cities of Chicago, Illinois; Virginia Beach, VA; Cook County, Illinois, and numerous smaller jurisdictions in Illinois and Rhode Island. We have worked with state legislators in the line-drawing process, as well as providing total line drawing and support services for the Michigan Independent Citizens Redistricting Commission established by voter initiative to remove politicians from the redistricting process. In addition, over the past four decades I have been called upon to provide reports, expert witness testimony, and assistance to attorneys in more than 75 different court cases.

8. I frequently give speeches to groups and organizations and participate in numerous conferences and panels on various aspects of apportionment, redistricting, and the census. Since the early 1980s, I have been a regular participant and speaker at annual and bi-annual meetings of the Task Force on Redistricting of the National Conference of State Legislatures ("NCSL"). I have also been on their faculty, as NCSL has conducted five regional Get Ready for Redistricting seminars each decade since 1980. I was also appointed by the U.S. Secretary of Commerce to the 2010 Census Advisory Committee, a

20-person advisory board to the Director of the United States Bureau of the Census (“Census Bureau”). Earlier this year I was asked to be NCSL’s representative on a series of half-day, small-group expert meetings, being arranged by the Committee on National Statistics (“CNSTAT”) to delve deeply into and provide informal discussion/feedback with Census Bureau staff as they continue to develop the differential privacy-based Disclosure Avoidance System for the 2020 census. I am repeatedly called upon by members of the press with questions on redistricting, reapportionment, the census, election administration issues, and politics in general.

9. For the past four decades, EDS, Inc., and I have studied and issued yearly reports on the apportionment process using new population estimates released by the Census Bureau and private demographic firms. All our reports can be found at our website www.electiondataservices.com, under the “Research” tab. We have become a staple for the press and others to cite when looking at the shift that is occurring in population between different states.

10. A copy of my curriculum vitae is attached as Exhibit A, which includes a complete list of cases in which I have testified as an expert at trial or by deposition.

11. Board meeting and deposition transcripts referenced herein are attached as Attachments 1 – 6.

II. CONSTITUTIONAL REDISTRICTING CRITERIA

12. I have reviewed relevant Alaska legal authority regarding redistricting in the state, including the Alaska Constitution and relevant case law. It is common for me to review this kind of information so that I am familiar with the “rules of the road” when

involved with redistricting in a particular state. Through the many decades, I have learned that each state has some uniqueness in their laws that are important to understand.

13. The Alaska Constitution provides in Article VI, Section 6:

District Boundaries – The Redistricting Board shall establish the size and area of house districts, subject to the limitations of this article. Each house district shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area. Each shall contain a population as near as practicable to the quotient obtained by dividing the population of the state by forty. Each senate district shall be composed as near as practicable of two contiguous house districts. Consideration may be given to local government boundaries. Drainage and other geographic features shall be used in describing boundaries wherever possible.

14. According to the leading case of *Hickel v. Southeast Conference*, 846 P.2d 38, 44-45 (Alaska 1992):

The requirements of contiguity, compactness and socio-economic integration were incorporated by the framers of the reapportionment provisions to prevent gerrymandering. 3 PACC 1846 (January 11, 1956)3 PACC 1846 (January 11, 1956) (“[The requirements] prohibit[] gerrymandering which would have to take place were 40 districts arbitrarily set up by the governor.... [T]he Committee feels that gerrymandering is definitely prevented by these restrictive limits.”). Gerrymandering is the dividing of an area into political units “in an unnatural way with the purpose of bestowing advantages on some and thus disadvantaging others.” *Carpenter v. Hammond*, 667 P.2d 1204, 1220 (Alaska 1983) (Matthews, J., concurring). The constitutional requirements help to ensure that the election district boundaries fall along natural or logical lines rather than political or other lines.

15. In the last redistricting cycle, the Alaska Supreme Court confirmed the importance of applying these constitutional requirements per *Hickel*, stating its decision in *In re 2011 Redistricting Cases*, 274 P.3d 466, 468 (Alaska 2012):

The *Hickel* process assures compliance with the Alaska Constitution’s requirements concerning redistricting to the greatest extent possible. The *Hickel* process also diminishes the potential for partisan gerrymandering and

promotes trust in government. We have previously noted that the article VI, section 6 requirements were designed to prevent gerrymandering by ensuring ‘that the election district boundaries fall along natural or logical lines rather than political or other lines.’ A redistricting plan that substantially deviates from these constitutional requirements undermines trust in the process.

16. The Alaska Constitution provides in article VI, section 10:

Within thirty days after the official reporting of the decennial census of the United States or thirty days after being duly appointed, whichever occurs last, the board shall adopt one or more proposed redistricting plans. The board shall hold public hearings on the proposed plan, or, if no single proposed plan is agreed on, on all plans proposed by the board. No later than ninety days after the board has been appointed and the official reporting of the decennial census of the United States, the board shall adopt a final redistricting plan and issue a proclamation of redistricting. The final plan shall set out boundaries of house and senate districts and shall be effective for the election of members of the legislature until after the official reporting of the next decennial census of the United States.

III. MAPPING PROCESS.

17. I have been hired by Valdez to analyze the Alaska Redistricting Board’s (“Board”) actions in drafting their 2021 Proclamation for redistricting in Alaska (“Final Plan”).

18. Any redistricting effort begins with the data. As I have outlined in my Exhibit B to this report, redistricting systems are configured with two major components: the geography (in the form of shape files of various layers of geography in a state) and raw number data.

19. These two components come from the Census Bureau in the form of the Topologically Intergraded Geographic Encoding and Reference system (“TIGER”) files, (the geography), and the PL94-171 data files (“PL Files”) (the population and demographic

data for all the geographic layers in the state). The Census Bureau has informed me¹ that Alaska's TIGER files were available via the internet beginning February 9, 2021, and shipped to the state on a CD so that it arrived the same day.

20. The PL Files were released by the Census Bureau in "legacy format" on August 12, 2021 (legacy format refers to an Access database structure which required the state or its vendor to programmatically join the data tables to the geography in order to make use of the data). There was confusion in a number of states on whether this legacy format data was the official PL data and whether it might change when another set of the data came out a month later. I had been repeatedly informed by my contacts at the Census Bureau that the two files would have the same data. In our contracts with a number of states we incorporated a task to verify the two files when the second one was released and we always found them to be the same.

21. We, and other vendors and states, wanted to get our hands on the data as soon as it came out in order to start studying the information for changes around a state. Other states were hoping for more evaluation time and set their starting time on the second release of data. It would appear that might have been the case in Alaska.

22. The PL Files were again released on September 16, 2021, in an "easy to use" format (this release contained the same Access formatted data tables, but also included

¹ Exhibit C (Jan. 13, 2022 e-mail communication with Mr. James Whitehorne, head of the Census Bureau's Redistricting division.)

Excel readable files of various spreadsheets of the information for different geographies).

At the same time, the data became available to the public via the Census Bureau's website.

23. Many states (and all redistricting vendors, including my company EDS, Inc.) jumped at the chance to begin understanding the data, data formats, and begin the creation of their redistricting databases. Understanding the early results of the 2020 Census when the "legacy" files came out in August 2021 was possible, particularly creating the state's or vendor's own excel file tables of information such as total population for all boroughs, racial designations, and counts for each city in Alaska, etc. In many states they turned to their software vendors for this task. Alaska had selected the same vendor they used last decade (CityGate GIS, which is the developer of the software product AutoBound EDGE). EDS, Inc. is a heavy user of CityGate GIS's products and has been for multiple decades.

24. One of the first tasks of all redistricting entities when new census data is released is to tally the populations from all census blocks into subtotals for each of the old districts that are currently in existence and have been electing members to districted offices in the previous decade. Alaska appears to be no different; however, it is apparent from data and shape files provided in discovery that multiple versions of the 2013 Proclamation's districts were created in the weeks after the census data was released.

25. The Board's website shows that redistricting had to take place, as eight districts were above the +5% ideal district size and 12 districts had lower than the -5% cut-off point for acceptable deviations. Our own calculations showed the 2013 plan having a 37.5% total deviation between the highest and lowest populated districts in the state with the 2020 census data. This is well above the 10% deviation that is normally considered

acceptable in redistricting circles, and clearly indicates redistricting must be done this decade.

26. The Board's staff began processing the 2020 census data by creating databases from the legacy format 2020 census data. Board Staff and an employee with the Department of Labor separately created databases and then cross-referenced the databases. This validation process was apparently completed within a few days of receipt of the census data completed on August 23, 2021, when Board staff presented the data to the Board.

27. While the Board received census data, released in a "legacy format" (Access database structure) on August 12, 2021, the Board did not begin mapping together until September 7, 2021.²

28. Under the Alaska Constitution, the Board has a 30-day period beginning from the delivery of the census data to adopt proposed plans that then must be subject to public comment. However, the Board spent less than three days mapping together prior to adopting draft plans.

29. According to the deposition testimony of Board Chair John Binkley, the delay was caused, in part, by the process of verifying and uploading census data.³

30. Ordinarily verifying and uploading census data takes only a few days.

31. It is also unclear why the AutoBound software was not configured to reconcile census blocks from the 2011 redistricting process so that the 2020 census data

² Attachment 1: Deposition Transcript of Bethany Marcum at 12, line 15 – 13, line 8; Attachment 2: Deposition Transcript of John Binkley at 48, lines 13-15.

³ Attachment 2: Binkley at 49, line 8 – 51, line 10.

could be imported into the 2013 Proclamation districts' boundaries. EDS, Inc., has done this type of work in other states, and it's not an easy process because there is not a one-to-one equivalency of census blocks between decades. The Census Bureau describes it as an "n to n" process where singular or multiple instances of blocks can be on either side of the equation. In the case of Alaska this was important because apparently the census blocks were reduced from 45,292 in 2010 to 28,568 in 2020.⁴ The Census Bureau did release the geographic TIGER files for the 2020 census to all states in February 2020, well before the actual population was released. In this way, states could begin preparing as early as February 2020 the geography part of the redistricting database building process. That was also the time when the State could have begun creating their 2013 boundaries so that the existing districts' populations could be produced when the PL files were released.

32. It is unclear why the Board delayed beginning its mapping process until September 7, 2021, nearly 19 months after the geography part was set and nearly a month after the PL data was received.

33. Under ordinary circumstances the redistricting process begins in earnest in April, a year after census day. However, due to the delay in the delivery of the 2020 census data (partly because of the COVID virus), redistricting bodies (including Alaska) were under additional pressure to begin the mapping process as soon as possible.

34. After the Board convened its first joint mapping meeting on September 7, 2021, it spent very little time producing the two proposed plans, Version 1 ("V.1") and

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⁴ Attachment 7 (Affidavit of Peter Torkelson (January 12, 2022) at paragraph 28).

Version 2 (“V.2”), that were adopted on September 9, 2021, two days before the deadline for the adoption of proposed plans under the Alaska Constitution.⁵

35. After adoption of the proposed plans on September 9, 2021, individual Board members undertook mapping efforts out of the public eye and introduced and adopted new versions of their maps on September 20, 2021, which were identified as V.3 and V.4 and replaced V.1 and V.2 respectively.

36. The Board did not meet again to continue joint mapping efforts until November 2, 2021. The Board engaged in mapping work sessions on November 3, 4 and 5 and adopted a final house district plan on November 5.

37. The Board appears to have spent very little of the time available to them actually drawing district boundaries and considering alternatives. In light of the minimal amount of time spent mapping together, the Board appears to have been constrained in its consideration of alternatives that better satisfy the constitutional redistricting criteria.

A. Population Data Anomalies.

38. One of the first tasks I performed was to review the Board’s Final Plan, which was adopted by the Board on November 10, 2021. The Board placed a shape file of that Final Plan on their website, and I was interested if they had correctly tallied the plan’s populations and were reporting them correctly. I brought the shape file into our version of AutoBound EDGE and rebuilt the plan from their shape file into our system. I then proceeded to cross check our population numbers with the table of population the Board

⁵ Alaska Constitution, art. VI, §10.

included in its Proclamation, the Board’s website contained the Final Plan Deviation Table attached as Exhibit D (“Proclamation Deviation Table”).

39. Comparison of the Proclamation Deviation Table to the shape files revealed that populations for 23 of the 40 districts were inaccurate. While Districts 1 through 10, District 30 and Districts 36 through 40 are identical between the Proclamation Data Table, Districts 11 through 29 and Districts 31 through 35 appear like they were scrambled, possibly through some “renumbering” process that was undertaken by the Board. I have created Exhibit D to demonstrate the population anomalies between these two different versions of what, in theory, should be the same plan.

40. The information in columns A through F in Exhibit D start from the population table report prospective. If one starts in column A, the Board’s table report for District 1 (for example) shows it has a population of 17,921. Column F notes that it is the same population number produced by the shape file from the Board’s website (shaded in green). This can be cross verified by looking at the data in columns H through M, which starts from the prospective of the shape files from the Board’s website. Column I shows that the shape file from the Board’s website produced the same 17,921 population total for Districts 1 through 10 districts in the plan.

41. The population anomalies begin in District 11. Column B in Exhibit D shows that District 11 had 18,103 people in the district according Proclamation Population Table. However, in the shape file available on the Board’s website, District 11’s outline produces a population of 18,168, as shown in column I of Exhibit D. The answer to this puzzle lies in columns F and M where one sees that the population of 18,103 is actually connected to

District 15 in the shape file. This same flipping or renumbering took place in all the districts identified in pink on Exhibit D.

42. There are significant errors in population totals and deviations as they appear in the Proclamation Deviation Table and the shape files for Districts 15 through 29 and 31 through 35 as identified in the maps included the Final Plan. In several instances, the population deviation errors reflected that a particular district was overpopulated in the deviation chart while it was actually underpopulated in the shape files. The same is true for the converse.

43. For example, the deviation chart for District 21 shows that it is underpopulated by 312 people, while the shape file reflects over population of 79 people.

44. Clearly the shape file and the population tables were produced at two different points in time or from different redistricting plans.⁶ The Board's process is unclear. For example, it is unclear whether District 15 was originally drawn and the shape file produced followed by renumbering of that territory to designate it as District 11, after which the deviation table was produced or if the reverse occurred.

45. This discrepancy calls into question what plan the Board actually adopted on November 10, 2021. The 2021 Proclamation contains both of these conflicting pieces of information. It is unclear what plan was actually adopted.

⁶ Exhibit E (Population Tables with Errors and Corrected).

46. These population errors were also embedded in the Board’s public-facing mapping software (“Districtr”) until it was corrected on January 13, 2022, by the Executive Director.

47. As a result of these errors, a member of the public would not have been able to review or analyze the population numbers or deviations for numerous districts.

48. On January 13, 2022, the Board changed the Proclamation Deviation Chart on their website in order to correct the population data anomalies that were included in the Final Plan as the Board adopted it on November 10, 2021.⁷ The Board also appears to have corrected the population data anomalies as they appeared in the interactive version of the Final Plan on the Board’s website. I am not aware of any formal action taken by the Board to correct these errors.

49. As a result of this discovery, I spent more time checking the other plans that the state had created and/or analyzed from alternative map drawers. We produced map sets of each of the plans so we could check what the state and others had done, particularly as it relates to the Skagway plaintiffs (Map Exhibits F-O). These map sets are composed of a statewide map of the plan, and then individual maps for each district. In addition, we created a series of tables (which we call Workbooks for each of the plans) that reported the populations, voting-age populations, and racial characteristics for each of the plans that were produced so that we had consistent numbers and definitions to analyze (Exhibits P-Y). Each workbook contains 5 separate tables of data: 1) Overview tab – population

⁷ Exhibit E (Corrected Deviation Chart).

deviation for each district and overall plan, 2) Population total tab, showing the “Alone” method of calculating the racial characteristics (a more complete description of the “Alone” and “Combo” method is contained in Exhibit B; 3) Population total tab, showing the “Combo” method of calculating the racial characteristics; 4) Voting Age population tab, showing the “Alone” method of calculating the racial characteristics; and 5) Voting Age population tab, showing the “combo” method of calculating the racial characteristics.

50. As I noted above, one of the first tasks of all redistricting entities when new Census data is released is to tally the populations from all census blocks into subtotals for each of the old districts that are currently in existence and have been electing members to districted offices in the previous decade. As I noted above, there were multiple versions of the 2013 plan on the Board’s website and within the laptop computers assigned to each of the Board members, but I was finally able to match up, through the same population comparison effort noted above, the right shape file with the population numbers reported on the Board’s website for the 2013 plan (that’s a shape file called “2013ProclamationPlanSept162021”). This has allowed me to create a map set of the old 2013 districts and plan (Exhibit F), along with a spreadsheet set of tables showing the total population, voting-age population, and the racial/ethnic-oriented population counts reported by the Census Bureau (Exhibit P). For each plan I have sorted them by the date they were impacting the process. For example, the population data for the 2013 plan (the plan that started the previous decade after the court decision in 2013) is identified as Exhibit P. In total, we reviewed 10 different map plans created by the Board and/or outside groups.

They are the following:

- 2013 Proclamation Plan
- Board Composite 1
- Board Composite 2
- Board Composite 3
- Board Composite 4
- Doyon Coalition Plan
- Alaskans for Fair and Equitable Redistricting (AFFER) Corrected Plan
- Senate Minority Caucus Plan
- Alaskans for Fair Redistricting (AFFR) Plan
- Final Adopted Board Plan, 11/9/21

For each plan, we have created a consistent set of information (maps and data) which is appended onto the exhibit number.

51. The Overview total population table for the 2013 Proclamation Plan⁸ confirms the need to conduct redistricting, as the old plan showed a total deviation of 37.5% when the 2020 Census data was applied to the old geography.

B. Renumbering of Districts Caused Confusion in the Public Process.

52. The Board’s practice of renumbering districts at various times in an *ad hoc* manner makes it difficult for the public to provide meaningful comment during the redistricting process. Indeed, it appears that this practice resulted in the presentation of inaccurate data to the public.

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⁸ Exhibit P.

53. The districts appear to have been renumbered on numerous occasions during the redistricting process, which adds confusion and appears to be the source of the population discrepancies between the Board’s Final Plan as it appears in AutoBound and as it appears in program and the Proclamation Deviation Chart.

54. According to the Board’s Executive Director, there was “persistent confusion” regarding district numbers as a result of variations with district numbering both among Board-created maps and third-party proposed maps that were produced by third parties. There were several iterations of draft redistricting plans that contained different numbers for identical districts. With regard to the Board’s proposed plans, it appears that renumbering occurred between September 9, 2021, when Board proposed Version 1 (“V.1”) and (“V.2”) and the adoption of Board proposed Version 3 (“V.3”) and Version 4 (“V.4”). The numbers were changed again in an *ad hoc* manner during Board meeting between November 3, 2021, and November 5, 2021. In addition, the districts were renumbered on November 9, 2021, to accommodate senate pairings.

C. The Board Improperly Focused on Voting Rights Act (“VRA”) Districts from the Outset of the Redistricting Process.

55. It is my professional opinion that the *Hickel* process was violated by virtue of the Board’s consideration of VRA information at the outset of its map drawing efforts.

56. The Supreme Court has articulated the *Hickel* process as follows:

In *Hickel v. Southeast Conference*, we considered a Proclamation Plan that, like the Plan in this case, “accorded minority voting strength priority above other factors, including the requirements of article VI, section 6 of the Alaska Constitution.” We cautioned that while compliance with the Voting Rights Act takes precedence over compliance with the Alaska Constitution, “[t]he Voting Rights Act need not be elevated in stature so that the requirements of the Alaska Constitution are unnecessarily compromised.” We then described the process the Board must follow to ensure that our constitutional redistricting principles are adhered to as closely as possible. After receiving the decennial census data, “[t]he Board must first design a reapportionment plan based on the requirements of the Alaska Constitution. That plan then must be tested against the Voting Rights Act. A reapportionment plan may minimize article VI, section 6 requirements when minimization is the only means available to satisfy Voting Rights Act requirements.”⁹

57. On the other hand, it’s possible that the packing of minorities in two districts adopted by the Board may itself lead to a violation of the VRA. I could find no instances of attempts to unpack the minority concentrations in Alaska’s districts.

58. The Board considered avoiding retrogression in VRA districts at the outset of the redistricting process. Districts 37 through 40 were VRA Districts in the 2013 Proclamation Plan, and the Board was aware that these districts were required to be VRA districts for purposes of the 2021 redistricting process.

⁹ *In re 2011 Redistricting Cases*, 274 P.3d 466, 467 (Alaska 2012) (quoting *Hickel v. S.E. Conf.*, 846 P.2d 38, 51 n.22 (Alaska 1992).

59. The process by which the proposed plans including V.1 through V.4 and the Final Plan were drawn reflects the Board's decision to draw traditional VRA districts first and then draw the rest of the districts afterwards.¹⁰

60. The testimony of Board Member Borrromeo reveals that the Board was focused on VRA compliance from the outset of the redistricting process rather than complying with the *Hickel* process, which requires the board to draw districts that satisfy the constitutional redistricting criteria before considering VRA compliance.

61. Ms. Borrromeo testified that:

Q: Apart from ANCSA boundaries, did the Board take Native populations into account when drawing its districts?

A: Yes, we did. We have to under the VRA.

Q: How did you do that?

A: We looked at the VRA members, what it required. We had the benefit of advice from counsel, as well as a VRA expert. Most of those discussions, some of them occurred in Executive Session.¹¹

We actually started at the top of the state with District 40, and then we came down the west coast. When we combined the North Slope Borough with the Northwest Arctic Borough, it pretty much reached the target ideal population. There was a slight deviation upwards, but the Board was willing to accept it for the sake of keeping the Northwest Borough entirely intact.

And, again, the definition or the -- the court ruling that a borough meets the definition of socio-economic integration, that was a factor for us as well. Then we started in the Bering Straits region. That is District 39. Came down the coast, wanted to keep the Bering Straits region as intact as possible. And when we got down around the exchange there between the YK Delta and the Bering Straits region, like around Kotlik and whatnot, we had to keep going

¹⁰ Attachment 3: Deposition Transcript of Nicole Borrromeo at 216, line 1 – 222, line 8.

¹¹ Attachment 3: Borrromeo at 196, lines 3-13.

down south because there wasn't enough population to fulfill the requirements of the 18,335 and 339.

And we also knew that the YK Delta region, Calista boundaries, if you will, that had 26,000 Alaskans in it, which was going to be way too much for just one district. So Calista region was going to have to shed population both to the north and to the south in order to meet the district populations that were required based on the 2020 census data. So we took as little as we could. We also understood, from John's experience living out in the region, and others who had testified, and Melanie and I working and also lived experience, that there are clusters of communities in -- in rural Alaska that should, if possible, be districted together.

So we brought in Hooper Bay, Scammon Bay, Chevak as a cluster of three. That almost got us -- that got us close to the district ideal population for 39, then we came down to 38. We also looked at some school districts around here while we were drafting 39 and 38. 38 is the primary, I guess, Calista or AVCP region, if you will. It's just 100 percent contained within Calista and AVCP service delivery -- service delivery boundaries.

Then we came down to District 37. That was in District -- in the previous cycle, stretched all the way up into the Interior, but because the district numbers were 18.3 compared to 15.1 last time around, we could shrink that area again and not have Athabascans pulled into that district.

And to our great benefit, the census data that was returned from those districts didn't present any real VRA problems because those districts held constant in their populations and/or grew in populations. So they fairly easily rounded out their district's population requirements, and they were compact, and they were contiguous. So that's how we approached it. But ANCSA boundaries did guide us in -- in that decision because that's an unorganized borough area of the state.¹²

62. The Board drew VRA districts based upon ANCSA boundaries and gained general consensus on such boundaries prior to adoption of draft plans on September 9, 2021.

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¹² Attachment 3: Borromeo at 216, line 7 – 218, line 13.

63. There are minimal variations in the VRA districts drawn by the Board in V.1 and V.2 and those adopted in the Final Plan.¹³ Districts 37 through 40 appear to have been locked-in very early on in the process, which foreclosed consideration of alternatives that would have altered the boundaries for these districts. Alterations from the proposed V.1 - V.4 VRA Districts and the Final Plan VRA Districts are minimal. The Final Plan added Nanwalek and Port Graham to District 37, and slightly shifted the boundaries of District 37 and 38 north, so that District 37 added Goodnews Bay and Platinum and District 38 added Chevak and the addition of area from the Kodiak Island Borough's territory on the Alaska Peninsula.

64. The 2020 census data was embedded with racial data for the entirety of the redistricting process.

65. The Board also had access to VRA consultants and legal counsel who provided guidance regarding VRA compliance throughout the redistricting process.

66. VRA analysis on V.3 and V.4 appears to have occurred in September shortly after the Board adopted those plans on September 20, 2021.

67. On November 2, 2021, the Board ran VRA Analysis on V.3 and was informed that the Board that no modifications were required to Districts 37, 38, 39, and 40 to satisfy the voting rights act.

68. Counsel for the Board stated:

The conclusion of that work is -- is the following: Districts 37, 38, 39, and 40 are protected by the Voting Rights Act. Those districts, it's important

¹³ Exhibit Z (V.3, V.4, and Final VRA Districts with ANCSA Overlay).

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

69. Because the Board began the redistricting process by creating VRA Districts first, gained consensus on VRA Districts first, ran VRA analysis on those districts prior to drawing a final plan pursuant to the constitutional criteria, and failed to consider alternatives that made any change to the VRA district, it is my opinion that the Board violated the *Hickel* process.

D. The Board Focused on ANCSA Boundaries and Combining Native Populations.

70. The Board focused its redistricting efforts on protecting ANCSA boundaries from the outset of the redistricting process.

71. It is readily apparent that the Board prioritized the goal of keeping ANCSA boundaries intact over the criteria enumerated in the Alaska Constitution.

72. Board Member Borromeo testified:

A: So they fairly easily rounded out their district's population requirements, and they were compact, and they were contiguous. So that's how we approached it. But ANCSA boundaries did guide us in -- in that decision because that's an unorganized borough area of the state.¹⁴

So the Board version drafted the cleanest breaks that we could based on those ANCSA boundaries, based on VRA considerations, based on our

¹⁴ Attachment 3: Borromeo at 216, line 7 – 218, line 13

constitutional criteria, and this is the plan that we thought was the best for Alaska on balance.¹⁵

So you asked if -- if I thought the Doyon region and Ahtna region was more socio-economic than the Calista, and I'm -- than Calista, and I'm saying no because we have coupled Doyon and Ahtna together in 36, whereas we have consolidated all of Calista to just 38. Calista doesn't have to worry about any other ANCSA regions in 38. And then part of 39 and 36 also includes the excess population from the Calista region, which was, again, more than we could put into one district or two without significant damage to the rest of the map.¹⁶

We considered the ANCSA region ties. A lot of the testimony that came from the Doyon Coalition, Ahtna as -- as well, as a member of that coalition testified extensively in our Anchorage hearings and submitted written testimony as -- as to the ties. Both Ahtna CEO Michelle Anderson and Doyon CEO Dron Schutt, had given the Board examples of the historic trade routes between the Athabascans from the Dena'ina country and the Ahtna part of the region.¹⁷

Q: Okay. Now, do you view it as a goal to keep Doyon and the villages together, Doyon villages together? A: I wouldn't use the word "goal," but I viewed it as something that we should attempt to do if possible. So I would view it as a consideration.¹⁸

Q: And in your opinion, as a board member, what's a more important consideration, the consideration of keeping the Ahtna region together, or the consideration of keeping the Denali Borough together?

A: Alaska law is pretty clear on that point. We have to consider borough and local boundaries of government. It doesn't say anything about ANCSA boundaries.¹⁹

Q: How do Alaska Native Corporations relate to the question of socio-economic integration? A: Because the regional corporations, through

¹⁵ Attachment 3: Borromeo at 255, line 24 – 256, line 3.

¹⁶ Attachment 3: Borromeo at 277, line 17 – 278, line 1.

¹⁷ Attachment 3: Borromeo at 132, lines 3-4.

¹⁸ Attachment 3: Borromeo at 135, line 24 – 136, line 4.

¹⁹ Attachment 3: Borromeo at 164, line 19; Page 165, line 1.

ANCSA, had to demonstrate socio-economic integration to draw -- draw their geographic boundaries. It's evidence of socio-economic integration.

And it's -- it's been 50 years since -- since ANCSA. Are those -- those boundaries still useful for that purpose? A: Yes. But they're not the only factor, but they are useful.

Sure. If they were the only factor, I think we may not be having this meeting. So how do you balance ANCSA boundaries versus borough boundaries? A: Borough boundaries is a legal requirement that we have to take into consideration. The Board does not have to take ANCSA boundaries into consideration. One is "need to do." The other is a "nice to do."²⁰

73. Although the Board understood that consideration of borough boundaries was a requirement, the Board drew a redistricting plan largely based upon honoring ANCSA boundaries at the expense of breaking borough boundaries. However, the Board inconsistently used ANCSA boundaries in the redistricting process. While the Board vigorously sought to protect the boundaries of Doyon and Ahtna, it combined different ANCSA corporation boundaries in other parts of the State.

74. The Board repeatedly referred to District 36 as the "Doyon District" or the "Doyon-Ahtna District" throughout the redistricting process and intended to create a district that protected the boundaries of Doyon and Ahtna.

75. District 36 in the Final Plan seeks to protect the Ahtna and Doyon ANCSA boundaries over all else, including borough boundaries.

76. In order to create District 36, the Final Plan breaks borough boundaries four times.

²⁰ Attachment 3: Borromeo at 194, line 23 – 195, line 16.

77. First, the Board added an appendage to include Cantwell in District 36 that broke the boundaries of both the Denali Borough and the Mat-Su Borough.

78. Second, the Board took population from the Goldstream area of the Fairbanks North Star Borough (“FNSB”).

79. Third, the Board combined Valdez, which is outside of the Mat-Su Borough, almost exclusively with population from within the Mat-Su Borough.

80. Chair Binkley stated during Board meetings that:

And I did suggest that we bring Cantwell into District 36. I thought that really improved the overall socioeconomic connection, and some of the historical connection of the Ahtna -- people of the Ahtna region. . . . It means making a break in the Denali Borough, but I think it’s really the only break that we would have in the Denali Borough. And I think there’s justification for making that. . . . And the population really won’t affect negatively, it’ll actually help, *in terms of District 36, the Doyon district. . . . Which would then really be the Doyon Ahtna district, because both of those would be intact.*²¹

The *only* suggestion that I would have that I take seriously and I think we should discuss, I would want to see us take in Cantwell so that we can keep Ahtna whole.”²²

81. Counsel for the Board, Matthew Singer, stated:

And *you’ve* heard testimony, and a specific request from the ANCSA Regional Corporation to include Cantwell with the other Ahtna villages, and *the Board has -- with District 36, it’s really sought to create a Doyon district.* So it’s -- it’s consistent, and I think it’s within your discretion.²³

²¹ Attachment 2: Binkley at page 72-73 (emphasis added).

²² Attachment 5: Nov. 4, 2021, Board Meeting Transcript at 72, line 7 – 73, line 4 (emphasis added).

²³ Attachment 6: Nov. 5, 2021, Board Meeting Transcript at 253, lines 20-25 (emphasis added).

82. The Board's focus on protecting ANCSA boundaries, which were formed based upon commonalities among Alaska's native populations, fails to consider the socioeconomic ties among non-native populations within the districts.

83. The Board made similar decisions with regard to adding Nanwalek and Port Graham, which are located in the Kenai Peninsula Borough, into District 37. In order to combine the populations of Nanwalek and Port Graham with District 37 the Board broke both the Kodiak Island Borough Boundary and the Kenai Peninsula Borough Boundary.

84. There are numerous examples where the Board created strange appendages to bring native populations into ANCSA boundaries or VRA districts.

85. The Board created a strange appendage to bring Cantwell into District 36 in order to maintain Ahtna's ANCSA boundary. This decision was based exclusively upon testimony from ANCSA members or employees. Cantwell's population is only 27.5% native, yet the Board broke both the Denali Borough and the Mat-Su Borough boundaries in order to keep Ahtna whole.

86. In District 37, the Board decided to cross Cook Inlet in order to add the native communities of Port Graham and Nanwalek to District 37. These communities combined have a population of 623 people.

E. Chair Binkley's Prioritization of FNSB Boundaries.

87. From the outset of the Redistricting Process, Chair Binkley prioritized maintaining FNSB boundaries and not breaking those boundaries. As a result, the Board did not consider a full range of redistricting options. It was not until November 4, 2021,

just a day before the adoption of the final house district plan, that Chair Binkley conceded that FNSB should shed population.

88. At the November 4, 2021 Board meeting Chair Binkley stated:

You know, the premise that I looked at for Fairbanks was keeping the borough whole, because I thought there was definitely a – we lost population. We came down from 5.6, I believe it was, or thereabouts to 5.2, and that that then brought it into the reasonable age, excuse me, of keeping the borough whole and slightly overpopulating each of the five districts within the borough. . . . Again, I felt that that was within the legal bounds, and I think our counsel wore that out, that that would be perfectly defensible. But then we had the borough assembly that weighed in on that. . . . And that's significant. And I gave that a lot of weight. Even though it wasn't a unanimous decision on the part of the borough, it was significant that the elected body from the entire borough said you should push out people from the borough to the broader District 36 -- . . . to try and achieve the ideal -- to achieve the ideal district size, and that if you do take that group, put them into one district. So those were the major takeaways that I got from the borough's resolution.

So I -- I really view that -- I take that seriously and respect that. So I worked with Peter on -- we were just working on it before the meeting started, to try to look at that to see how close we could get to ideal district size and still take into account some of the other factors that I heard in Fairbanks, as well, some of which were keep the city intact, the City of Fairbanks, put it into two legislative districts, keep it to the city limits the best you can, and have two legislative districts in the City of Fairbanks and one Senate district.²⁴

89. By delaying his decision to allow the FNSB boundary to be broken despite the obvious overpopulation, Chair Binkley foreclosed consideration of redistricting options that broke the boundaries, including pairing Valdez with the Richardson Highway and a portion of FNSB.

²⁴ Attachment 5: Nov. 4, 2021 Board Transcript at 40, line 2 – 41, line 22.

90. Board Member Borrromeo testified that:

The exercise that John was trying to do at this point that I was happy to proceed with on an exercise-basis, was to see if we could draw a draft plan that preserved all of the boundaries of the boroughs, and we started with his home borough of Fairbanks North Star. And I said, "Okay. You know, let's -- let's just game this out to see how far it gets"; right? Well, within an hour or two we were already considering breaking the Mat-Su Borough and the Municipality of Anchorage. And that's when his exercise, in my mind, ended, because he wanted to preserve some borough boundaries but not all. And for his borough, his home borough to be overpopulated by 20 percent, Mat-Su to be underpopulated by 20 percent, Anchorage to be underpopulated by 20 percent, it didn't make sense to me then and it doesn't make sense to me now, that you would not break the borough boundary for Fairbanks North Star but you would break the borough boundary between the Mat-Su Borough and the Municipality of Anchorage.

Q. It would be fundamentally wrong to the task of the Board to protect the boundaries of Fairbanks to a greater degree than the borough boundaries for other boroughs; correct? A: Correct.²⁵

91. Board Member Borrromeo also testified that it was "painfully obvious" that FNSB boundaries had to be broken,²⁶ yet Chairman Binkley refused to concede that the Borough should be broken until the week of November 4, 2021.²⁷

92. By the time Chair Binkley finally conceded that FNSB boundaries should be broken, it was too late in the process to seriously consider other viable redistricting alternatives that were not considered due the clear priority of maintaining FNSB Boundaries.

²⁵ Attachment 3: Borrromeo at 116, line 18 – 117, line 16.

²⁶ Attachment 3: Borrromeo at 115, lines 13 – 15.

²⁷ Attachment 3: Borrromeo at 112, line 20 – Page 113, line 6.

F. Additional VRA Issues.

93. These population and voting-age population tables also help establish an important milestone as it relates to the VRA. It allows redistrictors to tally up the number of minority seats in the chamber so that they don't retrogress the final number of minority seats in the redistricting process. The report on the 2013 Proclamation plan with the 2020 census data (Exhibit P) shows that just three seats were majority Native Alaskan in the census numbers, with two of them appearing to be heavily packed: District 38, located along the coast of the Bering Sea, and District 39, also located on the coast and surrounding Norton Sound, were 84.1% and 83.1%, respectively in Non-Hispanic Native Alaskan in total population using the "alone" method of calculating racial groups, and 88.5% and 87.9%, respectively in Non-Hispanic Native Alaskan in total population using the "in combination or called combo" method of calculating racial groups. The North Slope's District 40 is the third district with a majority minority concentration, that being 64.5% with the "alone" method of calculating Non-Hispanic Native Alaskan and 69.5% "in combo," both for total population. For voting age population, District 40 is 57.8% Non-Hispanic Native American using the "alone" method of calculating race & ethnicity and 61.6% "in combo." District 37, stretching from the Aleutians to the Yukon, might be categorized as an "influence" district, as it shows being in the lower 40% range in all the calculations.

94. The Board's final plan adopted November 10, 2021, kept the Native American population's strength where they had been in the previous decade. The packing of the Districts 38 and 39 stayed in the mid to high 80 percentile range for all the methods

of calculations. The North Slope's District 40 stayed in the low 60% range. Finally, the Aleutian's District 37, now minus the Yukon, remains in the lower 40% range, gaining only a couple of percentage points, dependent upon the method of calculation used.

95. This result is in clear contrast to the redistricting process I just participated in for the state of Michigan, where my company had the role as the chief line drawer for the Michigan Citizens Independent Redistricting Commission ("Commission"). There the Commission went out of its way to "unpack" similar concentrations of minority members (African-Americans in the Detroit area). I served alongside Bruce Adelson, who also helped the Commission unpack the minority concentrations and who also advised the Alaska Board.

96. In my professional judgment, the Board's redistricting process does not appear to have complied with the VRA. I believe it's an outstanding question whether the VRA allows the districts to be so high in minority concentration.

IV. ANALYSIS OF FINAL PLAN

97. In addition to the numerous procedural issues associated with the adoption of the Final Plan, the Final Plan fails to satisfy constitutional criteria. In particular, Districts 29 and 36 do not satisfy constitutional criteria.

98. Any analysis of the Valdez case needs to start with an understanding of how the Board drew District 29 in their plan. I have taken the outline of that district, and utilized AutoBound EDGE, been able to create three regions within that district. First, there is the area around the Wasilla and Palmer portion of the Mat-Su Borough. Second, there is the

Valdez area, and lastly there is the remainder of District 29. A map of these three regions is attached as Exhibit AA.

99. The following is a table of the important aspects of that District:

AREA	POPULATION	% OF POP	AREA (SQM)	% OF AREA
Wasilla and Palmer	14,306	76.21%	673	4.16%
Valdez	3,985	21.23%	272	1.68%
Remainder of 29	482	2.57%	15,230	94.16%
Total	18,773	100.00%	16,175	100.00%

A. Population Characteristics of District 29.

100. Citizens of the Mat-Su Borough dominate District 29 and constitute 78.5% of the population in District 29.

101. The population of District 29 is highly concentrated in the Palmer and Wasilla areas. Population from Palmer and Wasilla suburbs accounts for 14,306 of the total 18,773 or 76.2% of District 29's population.²⁸

102. Valdez accounts for 3,985 of District 29's population or 21.3% of the total population.²⁹

103. The population centers of the Palmer and Wasilla Suburbs and Valdez constitute 97.5% of the population in District 29.

104. District 29 is effectively a pairing of Valdez with Wasilla and Palmer suburbs despite the fact the residents of these communities live over 240 road miles apart.

²⁸ Exhibit AA (Population Concentration Map and Data).

²⁹ Exhibit BB (District Population by Borough) at 30.

105. Outside of the City of Valdez and the Wasilla and Palmer suburbs there are 45 people located in the Chugach Census Area, 430 people in the Mat-Su Borough, and just 7 people in the Copper River Census Area.

106. The lack of population from the Copper River Census Area reflects the Board's decision to separate Valdez from all communities along the Richardson Highway including Glennallen.

107. District 29 is 16,175 square miles, yet in 15,230 square miles of the District there are only 482 people. The Palmer and Wasilla suburb populations that constitute 76.2% of District 29's population is located in a 673 square-mile area, which is 4.2% of the total geographic area. Valdez, where 21.3% of District 29's population resides, is 272 square miles or 1.7% of the geographic area of District 29. The remaining 94% of District 29 contains only 2.5% of the Districts population.³⁰

108. The Board has paired population centers separated by over 240 road miles and massive geographic features (the Chugach Range) in Order to create District 29. 97.5% of the District 29's population is located in just 6% of its geographic area. Indeed, subtracting the 482 people living outside of Valdez and the Palmer and Wasilla areas would result in a smaller population deviation for District 29 than it presently has.

109. Simply put, District 29 is created by pairing entirely distinct communities that are not associated with one another.

³⁰ Exhibit AA at 2.

110. I understand that under Alaska Law the citizens of Valdez are legally entitled to “‘fair and effective representation’—the right to group effectiveness or an equally powerful vote.” In my professional opinion, District 29 fails to provide fair representation for the citizens of Valdez because the population residing in the Palmer and Wasilla area completely overwhelms their vote. Residents in the Palmer and Wasilla areas will decide elections in District 29.

111. The population characteristics of District 29 weigh heavily against a finding that the constitutional criteria of compactness, contiguousness and socioeconomic integration are satisfied.

B. Compactness.

112. The Alaska Supreme Court has described Compactness as:

Compact in the sense used in redistricting means having a small perimeter in relation to the area encompassed. Compact districting should not yield bizarre designs. Odd- shaped districts may well be the natural result of Alaska’s irregular geometry. However, “corridors” of land that extend to include a populated area, but not the less-populated land around it, may run afoul of the compactness requirement. Likewise, appendages attached to otherwise compact areas may violate the requirement of compact districting. The Alaska Supreme Court looks to the relative compactness of proposed and possible districts in determining whether a district is sufficiently compact.³¹

113. District 36 contains 198,605 square miles, is an odd horseshoe shape, and contains appendages designed to reach population centers without taking in adjacent unpopulated land. For these reasons District 36 is not compact.

³¹ *Hickel v. S.E. Conf.*, 846 P.2d 38, 45 (Alaska 1992), *as modified on reh’g* (Mar. 12, 1993) (internal citations and quotations Omitted).

114. Specifically, District 36 contains one appendage that carves out Glennallen and neighboring population along the Glenn Highway and one appendage that carves out a portion of the Denali Highway in order to reach Cantwell and preserve Ahtna's ANCSA boundary.

115. It is my professional opinion that District 36 is not compact because it contains an incredibly large geographic area, is bizarrely shaped, and contains corridors of land that extend into populated areas, but not adjacent unpopulated areas.

C. Contiguity.

116. District 29 is contiguous in the sense that it is connected by a continuous area of land. However, it separated Valdez from most of the Richardson Highway and Glenn Highway that one would have to travel in order to travel from Valdez to the Wasilla and Palmer areas that it is paired with in order to form a district.

117. While District 29 may appear contiguous, it is actually created by merely combining Valdez with Wasilla and Palmer suburbs. These distinct communities are located over 240 road miles apart. The Board appended a substantial amount of unpopulated geographic area in order to create a district that appears compact. In reality the population centers for District 29 are separated because the Board chose to place most of the Richardson and Glenn Highways that a citizen from one community would have to travel to reach the other community in District 36 rather than in District 29.

118. Similarly, District 36 combines numerous communities that have no road access with all Richardson Highway communities aside from Valdez.

D. Socioeconomic Integration.

119. The Alaska Supreme Court has stated: “In addition to preventing gerrymandering, the requirement that districts be composed of relatively integrated socio-economic areas helps to ensure that a voter is not denied his or her right to an equally powerful vote.”³²

120. The Court has also cautioned that:

[W]e should not lose sight of the fundamental principle involved in reapportionment—truly representative government where the interests of the people are reflected in their elected legislators. Inherent in the concept of geographical legislative districts is a recognition that areas of a state differ economically, socially and culturally and that a truly representative government exists only when those areas of the state which share significant common interests are able to elect legislators representing those interests. Thus, the goal of reapportionment should not only be to achieve numerical equality but also to assure representation of those areas of the state having common interests.³³

121. Fundamentally, Socio-economic integration means where people live together and work together and earn their living together. It has been described as occurring when a group of people live within a geographic unit, following, if possible, similar economic pursuits.

122. The configuration of District 36 caused the Board to raise concerns regarding socioeconomic integration.

Chair Binkley stated:

I think it’s a judgment call. I think there’s -- you know, you can make – when you look at the -- 36, it’s very diverse as well; you know, there’s a lot of

³² *Hickel v. S.E. Conf.*, 846 P.2d 38, 46 (Alaska 1992), as modified on reh’g (Mar. 12, 1993).

³³ *Id.* (citing *Groh v. Egan*, 526 P.2d 863, 890 (Alaska 1974)).

differences between Glennallen versus some of their remote villages on the [Yukon], or you look at Tok that's on the highway system or Delta on the highway system. Those are different communities, completely, in many of the rural communities out north and -- and out west. And so it's difficult to say, socioeconomically, you know, that 36 is homogeneous. It's very different, and you can find different areas of Fairbanks that related to different areas of District 36. So it's hard to make a generalization.³⁴

But as I said, there's -- you know, when you look at 36, it's very -- even without any of the Fairbanks North Star Borough, when you look at Valdez and, you know, all those areas along the Richardson Highway, compared to all the rural villages out west along the Yukon River, there's a huge difference in socioeconomic integration between those areas.³⁵

123. The Board's statements on the record, deposition testimony, and the weight of public comment suggest that District 36 is not socioeconomically integrated

124. With regard to District 29, Chair Binkley could not articulate any socioeconomic ties between Valdez and the Wasilla and Palmer area where 76.5% of District 29's population resides.

125. Instead, Chair Binkley testified that there are "lots of reasons Valdez is connected to the Richardson Highway" and that it was fair to say that Valdez is socioeconomically integrated with the Richardson Highway.³⁶

126. Other Board members were also unable to point to any real socioeconomic ties between Valdez and the Palmer and Wasilla area where the great majority of the population in District 29 resides.

³⁴ Attachment 6: Nov. 5, 2021, Board Meeting at 242, line 15 – 243, line 3.

³⁵ Attachment 4: Nov. 3, 2021, Board Meeting at 251, lines 17 – 24.

³⁶ Attachment 2: Binkley at 168, line 13 – page 189, line 9.

127. District 29 separates Valdez from all Richardson Highway communities and all Prince William Sound Communities and instead pairs Valdez with suburbs of Palmer and Wasilla.

128. Historically (2002 and 2013 Proclamations), Valdez has been placed in districts that included Richardson Highway Communities and FNSB along with some Mat-Su Borough communities. To my knowledge, Valdez has never been paired exclusively with Mat-Su Borough communities and has never been paired with such a high percentage of population from Wasilla and Palmer Suburbs.

129. Valdez is socioeconomically integrated with Richardson Highway communities and the FNSB, as articulated in the Affidavits of Mayor Sharon Scheidt, Ms. Sheri Pierce, and Mr. Nathan Duval and in the voluminous amount of public comment provided to the Board.

130. Generally, it appears that there was no real discussion of the socioeconomic ties between Valdez and the Palmer and Wasilla areas during the Board's deliberations.

131. Instead, it appears the Board decided on November 4, 2021, that in order to lower deviations in FNSB, Valdez had to be removed from District 36 and paired with Mat-Su so that FNSB could shed population into District 36. Essentially the population of Valdez was replaced with population from FNSB in order to make District 36 work.

132. Chair Binkley defended his plan to keep the FNSB intact until the very end of the redistricting process. Once he conceded that FNSB should shed excess population, the only option the Board considered was placing Valdez in a District with the Mat-Su Borough.

133. The Board appears to have relied almost exclusively on advice from counsel regarding the socioeconomic integration of Valdez with the Mat-Su Borough in determining that Valdez could legally be placed in a district where 76.5% of District 29's population resides in the Wasilla and Palmer areas.

V. THE VALDEZ ALTERNATIVE MAP BETTER SATISFIES THE CONSTITUTIONAL REDISTRICTING CRITERIA

134. The Valdez Plan attached hereto as Exhibit DD, better satisfies the constitutional redistricting criteria for Alaska, honors borough boundaries, and contains deviations well within the acceptable range.

135. The Board's Final Plan breaks borough boundaries substantially more than the Valdez Plan,³⁷ which generally maintains borough boundaries.³⁸

136. The Valdez Plan is substantially similar to historically adopted plans and is in many ways similar to the Board's Final Plan.³⁹ Exhibit DD at 1 shows the similarities between the Valdez Plan and the Final Plan by overlaying the Final Plan boundaries on the Valdez Plan.

137. The Valdez Plan is identical to the Board plan for Districts 1, 2, 9 through 24, and 40. Exhibit DD at 2 shows the Valdez Pan with boroughs and census areas overlaid.

³⁷ Exhibit CC (Final Plan with Borough Overlay).

³⁸ Exhibit DD (Valdez Plan with Overlays) at 1.

³⁹ Exhibit DD (Valdez Plan with Overlays) at 2.

138. Districts 3 and 4 reflect an alternative pairing for Valdez and Skagway with Downtown Juneau as previously approved by the Alaska Supreme Court in the 2013 Proclamation Plan.

139. District 5 pairs Kodiak with Seward as the Board did in its Final Plan. However, District 5 also includes Bear Creek, which is closely associated with Seward, and maintains the Kodiak Island Borough boundaries.

140. District 6 contains Seldovia, Halibut Cove, the East End communities associated with Homer, Homer, Anchor Point, Happy Valley, Ninilchik, Clam Gulch, Kasilof and other Communities on the East side of Cook Inlet and along the Sterling Highway. This District is substantially similar to District 6 in the Board's final plan.

141. District 7, which contains Kenai, Soldotna, and neighboring areas, is also substantially the same as District 7 in the Board's Final Plan.

142. District 8 includes Nikiski, Sterling, Funny River, Cooper Landing, Moose Pass, and Hope and is, again, substantially similar to the Board's plan with the exception that Bear Creek is included in District 5 with Seward, rather than District 8.

143. District 25, 26, 27, and 28 are compact, contiguous, socioeconomically integrated districts contained entirely within the Mat-Su Borough that protect the City boundaries of Palmer and Wasilla.

144. District 29 maintains the integrity of the Mat-Su Borough and includes eastern Mat-Su communities along the Glenn Highway as well as rural communities surrounding Palmer and Wasilla.

145. District 30, like District 30 in the Final Plan, includes Houston, Willow, Talkeetna, Chase, Denali, Healy, Clear, and Anderson. District 30 also includes Cantwell, which the board included in District 36 by virtue of an odd appendage and includes Nenana. All of these communities are Parks Highway communities

146. District 31 is comprised of the western Portion of the City of Fairbanks, is entirely within the City of Fairbanks boundaries, and is substantially similar to the Board's District 31.

147. District 32 includes the eastern half of the City of Fairbanks and neighboring communities.

148. District 33 contains North Pole, its neighboring communities, and neighborhoods along Badger Road much like District 33 in the Board's Final Plan.

149. District 34 includes rural FNSB communities and interior villages and rural communities that utilize Fairbanks as a commercial hub including Fort Yukon, Birch Creek, Beaver, Stevens Village, Tok, Eagle, Northway, and Tetlin.

150. District 35 is substantially similar to the Board's District 35 and includes the University of Alaska Fairbanks, the Fairbanks International Airport, Broadmoore, Chena, and Fort Wainwright.

151. District 36 includes Cordova, Valdez, Richardson Highway communities and Eielson Air Force Base. These communities are socioeconomically integrated for the abundant reasons set forth in the affidavits and public testimony to the Board. The plan places Valdez in a District with Richardson Highway communities and a portion of FNSB, which was previously approved by the Alaska Supreme Court.

152. District 37 is substantially similar to District 37 in the Final Plan. However, the borough boundaries of the Kodiak Island Borough and the Kenai Peninsula Borough are maintained, and District 37 in the Valdez Plan does not include the eastern Cook Inlet communities of Nanwalek and Port Graham, which are not contiguous with the remainder of District 37. In addition, District 37 includes the Village of Tuluksak in addition to the other Kuskokwim River communities of Lower Kalskag, Upper Kalskag, Aniak, Crooked Creek, Sleetmute, and Stoney River. District 37 also includes Quinhagak.

153. District 38 unites Scammon Bay and Hooper Bay with Tooksook Bay, Night Mute, Chefornek, Bethel and other Lower Kuskokwim villages.

154. District 39 unites Yukon River villages and includes Nome, Brevig Mission, Shismaref, Stebbins and other coastal communities. District 39 is similar to District 39 in the 2013 Proclamation.

155. The Board's Final Plan breaks the Mat-Su Borough by including an appendage from District 36 to obtain population from Cantwell and appends Valdez to the Mat-Su Borough including the Wasilla and Palmer suburbs that constitute 76.5% of District 29. Valdez's Plan Does not break the Mat-Su Borough boundary at all.

156. The Final Plan breaks the Denali Borough by virtue of the Cantwell appendage. The Valdez Plan includes Nenana in a district with the Denali Borough but does not break the borough boundary.

157. While the Final Plan breaks the Kodiak Island Borough boundary, Valdez's plan does not.

158. The Final Plan unnecessarily breaks the Kenai Peninsula Borough in order to combine Port Graham and Nanwalek into District 37. The Valdez Plan does not.

159. The Valdez Plan is substantially superior to the Final Plan with regard to maintaining the integrity of borough boundaries.

160. The Valdez Plan also appears generally more compact than the Final Plan. In particular, District 36 in the Board's Final Plan has been replaced with much more compact districts. Rather than include an enormous bizarrely shaped horseshoe district with two strange appendages that consume populated areas but not adjacent unpopulated areas, the Valdez Plan includes more compact districts that are substantially smaller in size.

161. The Valdez Plan also avoids the type of non-socioeconomic pairings that the Final Plan included in District 29 and District 36. Every district in the Valdez Plan is socioeconomically integrated. The Valdez Plan also better maintains the integrity of transportation corridors including highways rather than including districts that require citizens from one district to travel substantial distances outside their district before reentering it.

162. In addition, the Valdez plan has a lower total deviation (7.3%)⁴⁰ than the Board's Final Plan (7.48%).⁴¹

⁴⁰ Exhibit EE (Population Data for Valdez Plan).

⁴¹ Exhibit E.

163. In my professional opinion, the Valdez Plan better satisfies the legal criteria for redistricting in Alaska and gives proper weight to compactness, socioeconomic integration, and borough boundaries.

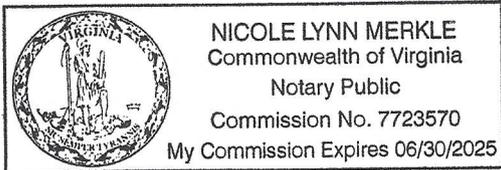
164. I reserve the right to supplement this affidavit based on further discovery and depositions in this case.

DATED this 18th day of January, 2022.



Kimball Brace

SUBSCRIBED AND SWORN to before me this 18 day of January, 2022.



Notary Public in and for Virginia

My Commission Expires: 06/30/2025

Certificate of Service

The undersigned hereby certifies that a copy of the foregoing document was e-mailed to the following attorneys/parties of record this 18th day of January, 2022:

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