UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SUSAN SOTO PALMER, *et al.*,

    Plaintiffs-Appellees,

    v.

STEVEN HOBBS, in his official capacity as the Secretary of State of Washington, and the STATE OF WASHINGTON,

    Defendants-Appellees,

    and

JOSE TREVINO, ISMAEL CAMPOS, and ALEX YBARRA,

    Intervenors-Defendants-Appellants.

No. 24-1602

D.C. No. 3:22-cv-05035-RSL
United States District Court for the Western District of Washington
Tacoma, Washington

PLAINTIFFS-APPELLEES' OPPOSITION TO APPELLANTS' EMERGENCY MOTION FOR A STAY PENDING APPEAL

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INTRODUCTION

This Court has already denied Appellants' ("Intervenors") motion for a stay of the district court's injunction. *See* Dkt. 9.1. Now Intervenors raise the precise same arguments again. Their motion should be denied. Neither the State nor the Secretary of State has appealed and Intervenors—three private individuals granted permissive intervention below—have no standing to appeal. Moreover, their kitchen-sink approach to their stay motion arguments mischaracterizes and distorts the record and law.

BACKGROUND

On August 10, 2023, after a year and half of litigation and a four-day trial, the district court found that Washington's 15th Legislative District (LD15) violated Section 2 of the Voting Rights Act. ADD-32.[1] The district court found that the enacted boundaries of LD15, "in combination with the social, economic, and historical conditions in the Yakima Valley region" resulted in an unequal opportunity for Latino voters in the area. *Id*. The court conducted a "detailed evaluation," of the *Gingles* and Senate factors, finding that the pervasive racially polarized voting in the Yakima Valley consistently led to Latino candidates of choice being defeated. ADD-28. The court provided an opportunity for Washington's

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[1] Citations to the *Soto Palmer v. Hobbs* district court docket that appear in Intervenors' Addendum, ECF No. 6.1, are cited as "ADD." Citations to additional documents included in Plaintiffs' Appendix are cited as "Pl. App."

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Redistricting Commission, which drew the enacted map, to be reconstituted to redraw the district, and also established a parallel remedial process to ensure a new map would be adopted by the Secretary of State's March 25, 2024, deadline. *Id.*

Intervenors—three individuals who were granted permissive intervention in the district court—filed a notice of appeal a month later, on September 8, 2023. ADD-45. Secretary Hobbs and the State of Washington—the defendants below— did not appeal. On November 3, 2023, Intervenors filed a petition for certiorari before judgment with the Supreme Court, seeking to bypass this Court's appellate review. *See* Petition for Certiorari Before Judgment, *Trevino v. Soto Palmer*, No. 23-484 (U.S. Nov. 3, 2023). On December 5, 2023—four months after the district court issued its decision and injunction, three months after its appeal in this Court was docketed, and one month after asking the Supreme Court to bypass this Court— Intervenors filed a motion with this Court to stay the district court's injunction and remedial proceedings. *See* Mot. to Stay Injunction and Lower Court Proceedings, *Susan Palmer, et al. v. Jose Trevino, et al.*, No. 23-35595 (9th Cir. Dec. 5, 2023), Dkt. 34-1 ("First Stay Motion").[2]

On December 21, 2023, a motions panel of this Court issued an order denying Intervenors' motion for a stay, citing Intervenors' failure to satisfy the stay factors

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[2] This was Intervenors' first stay motion in this Court but accompanies five stay attempts in the district court, each one of which was denied.

set forth in *Nken v. Holder*, 556 U.S. 418, 434 (2019). Order Denying Stay, *Susan Palmer, et al. v. Jose Trevino, et al.*, No. 23-35595 (9th Cir. Dec. 21, 2013), Dkt. 45. On January 5, 2024, Intervenors filed a motion to hold their own appeal in abeyance pending the district court's remedial proceedings and their Supreme Court petition, *id.*, Dkt. 48, which this Court granted, *id.*, Dkt. 59. That is, five months after the district court entered an injunction they contend imminently harmed them and necessitated a stay, Intervenors sought to delay resolution of their own appeal. Thereafter, the Supreme Court denied their petition for certiorari before judgment on February 20, 2024. *See Trevino v. Soto Palmer*, No. 23-484.[3]

In the meantime—and following this Court's denial of Intervenors' motion to stay the trial court remedial proceedings—the district court held a robust remedial process. Pursuant to the district court's remedial order, on December 1, 2023, Plaintiffs submitted five maps, each one of which would remedy the Section 2 violation. ADD-34; Pl. App. 168-194. As Plaintiffs' expert and map-drawer Dr.

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[3] The same day, the Supreme Court also declined to take jurisdiction in a related case, *Garcia v. Hobbs*, No. 23-467 (2024). That case concerns the appeal in a separate suit filed in the district court two months after Plaintiffs filed this suit, challenging LD15 as a racial gerrymander. Like Plaintiffs, Mr. Garcia sought to invalidate LD15 and have a new valid plan enacted in its place, and following Plaintiffs' win in this case invalidating LD15, *Garcia* was dismissed as moot. *Garcia v. Hobbs*, No. 3:22-cv-05152, ECF No. 81. The circumstances surrounding Mr. Garcia's case, however, are unusual. He is represented by the same attorneys as Intervenors here, despite his desire to invalidate the same district Intervenors were trying to maintain.

Kassra Oskooii explained, he drew the maps to unify the population centers from East Yakima to Pasco and the cities in the Lower Yakima Valley that the district court identified as a community of interest. Pl. App. 171. In doing so, Dr. Oskooii started with the enacted map and then made the changes necessary to achieve this goal while adhering to the redistricting criteria in Washington law, traditional redistricting principles, equal population mandates, and respecting other communities of interest—including the desires of the Yakama Nation. Pl. App. 171-72. No other party submitted maps by the court's deadline.

In response to criticism from Intervenors, on January 5, 2024, Plaintiffs submitted slightly revised versions of their five maps that eliminated nearly all incumbent displacement in the districts surrounding LD14 and LD15. Add-34; Pl. App. 98-142. The remedial process continued throughout the early months of 2024 with additional briefing and expert reports, the appointment of a special master, oral argument on the district court's preferred map, and an evidentiary hearing on March 8 at which expert and lay witnesses testified. ADD-34-35. In the lead-up to the evidentiary hearing (nearly three months after the initial deadline), Intervenors submitted a proposed remedial map. ADD-145.

Following the evidentiary hearing, on March 15, 2024, the district court ordered in place Plaintiffs' Map 3B, which remedied the Section 2 violation while respecting the priority of the Washington Redistricting Commission to

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simultaneously unite the Yakama Nation Indian Reservation with its off-reservation trust lands in Klickitat County near to and along the Washington/Oregon border. ADD-36.

ARGUMENT

I. Intervenors lack standing to appeal.

Intervenors lack standing to appeal this case. To establish standing, a litigant must demonstrate "an invasion of a legally protected interest" that is "concrete and particularized" and "actual or imminent." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992) (internal quotations omitted). "[S]tanding 'must be met by persons seeking appellate review, just as it must be met by persons appearing in courts of first instance.'" *Hollingsworth v. Perry*, 570 U.S. 693, 705 (2013)) (internal citation omitted); *see also Virginia House of Delegates v. Bethune-Hill*, 139 S. Ct. 1945, 1951 (2019) ("As the [Supreme] Court has repeatedly recognized, to appeal a decision that the primary party does not challenge, an intervenor must independently demonstrate standing") (internal citation omitted). This ensures that "the decision to seek review . . . is not to be placed in the hands of 'concerned bystanders,' who will use it simply as a 'vehicle for the vindication of value interests.'" *Diamond v. Charles*, 476 U.S. 54, 62 (1986) (internal citation omitted).

This appeal is such a vehicle. In granting Intervenors only permissive intervention, the district court expressly found that "intervenors lack a significant

protectable interest in this litigation." Pl. App. 287. Two of the three, Ybarra and Campos, *do not even reside or vote in LD15*, and thus have no possible cognizable interest in the district's configuration. *United States v. Hays*, 515 U.S. 737, 744-45 (1995).

Intervenors Campos and Trevino below asserted an interest "in ensuring that any changes to the boundaries of [their] districts do not violate their rights to 'the equal protection of the laws'" and "that Legislative District 15 and its adjoining districts are drawn in a manner that complies with state and federal law." Pl. App. 281. But neither has been racially classified, and a blanket interest in "proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits [the intervenors] than it does the public at large[,] does not state an Article III case or controversy." *Lujan*, 504 U.S. at 573-74; *Allen v. Wright*, 468 U.S. 737, 754-55 (1984).

Moreover, the district court has not ordered *Intervenors* "to do or refrain from doing anything." *Hollingsworth*, 570 U.S. at 705 (holding that non-governmental intervenor-defendants lack standing to appeal); *Republican Nat'l Comm. v. Common Cause of Rhode Island*, 141 S. Ct. 206 (2020) (Mem.) (denying stay of consent decree between state officials and plaintiffs because "no state official has expressed opposition" and intervenor "lack[s] a cognizable interest in the State's ability to enforce its duly enacted laws") (internal quotations omitted). Intervenors have no

role in enforcing state statutes or implementing any remedial plan. Thus, Intervenors' only interest in reversing the district court's decision is "to vindicate the [] validity of a generally applicable [Washington] law." *Hollingsworth*, 570 U.S. at 706. But the Supreme Court has repeatedly held that "such a 'generalized grievance,' no matter how sincere, is insufficient to confer standing." *Id.*

Intervenor Ybarra's status as a legislator also does not confer standing. Any interest in "avoiding delays in the election cycle and in knowing ahead of time which voters will be included in his district," Pl. App. 283, is not particularized enough for Article III standing—every party (and the public) has an interest in an orderly election—and no legislator is entitled to advance notice of his constituents. In addition, the district court's remedial order *guarantees* that Rep. Ybarra will know his district's boundaries before the candidate filing date. ADD-43. Similarly, individual legislators have "no standing unless their own institutional position" is affected. *Newdow v. United States Cong.*, 313 F.3d 495, 498-99 (9th Cir. 2002). Nothing in this litigation impacts Rep. Ybarra's institutional position or powers, and he is only one legislator of many, without the ability to assert harm on behalf of others. *Bethune-Hill*, 139 S. Ct. at 1953-54.

Nor does Rep. Ybarra have standing because of any argument that the remedial map *might* make his reelection campaign more difficult or costly. No official is guaranteed reelection or particular district lines, and to assert standing a

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litigant "must do more than simply allege a nonobvious harm." *Bethune-Hill*, 139 S.

Ct. at 1951 (citing *Wittman v. Personhuballah*, 578 U.S. 539, 543-45 (2016)).

Intervenors have not done so. To begin, as of the date of this filing, Rep. Ybarra's

reelection campaign is uncontested.[4] Despite that fact, Intervenors speculate harm

based on a "net movement of Democrats into Representative's Ybarra's district."

Mot. at 26. But that is not a cognizable injury, and the partisan lean of Rep. Ybarra's

district does not change in Map 3B. Pl. App. 140 (comparing LD13 in the Enacted

Plan's 63.85% Republican performance to Map 3B's 63.21% Republican

performance). If having new constituents established standing, *every legislator*

would be able to sue over almost any changes to their district at least every 10 years.[5]

That cannot be so.

If anything, Map 3B *better* reflects Rep. Ybarra's wishes for his own district

boundaries, adding communities to his district he testified he desired be included

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[4]*See* Washington Public Disclosure Commission, *Candidates: Legislative District 13-House*, https://www.pdc.wa.gov/political-disclosure-reporting-data/browse-search-data/candidates?jurisdiction=LEG+DISTRICT+13+-+HOUSE&jurisdiction_type=Legislative.

[5] Nor is spending $3.76 to campaign for reelection in one's own district (LD13) enough to establish standing to challenge a remedial map, particularly to challenge *another* district entirely (LD15). In contrast to the inapposite *Van* case cited by Intervenors, Rep. Ybarra would spend more than $3.76 campaigning in LD13 even if his district did not change. For example, Rep. Ybarra ran in uncontested primary and general elections in 2020 yet spent over $73,000 campaigning. *Id*.

and removing areas he desired be excluded. Pl. App. 243. As such, a *stay* would harm Rep. Ybarra's interests.

In addition to the reasons above, Intervenors have no other concrete interest in a remedial appeal. Two of the three do not live in the remedial district in Map 3B. The district court's remedial order did not order Intervenors to do or not do anything, nor are Intervenors injured in any way by changes they claim are beyond "necessary," Mot. at 29; only the State Defendants could raise such an argument and they have not appealed. Moreover, any allegations that Intervenors Trevino or Ybarra were *personally* subject to a racial classification are not based in the record. *Hays*, 515 U.S. at 745 ("[A]bsent specific evidence" showing a voter has been subject to racial classification, the voter "would be asserting only a generalized grievance against governmental conduct of which he or she does not approve" and lack standing); *Cooper v. Harris*, 581 U.S. 285, 290 (2017). Nothing about Map 3B suggests that race predominated. *See infra* II.B.2. To the contrary, Plaintiffs' mapping expert "did not consider race or racial demographics in drawing the remedial plans." Pl. App. 172. Thus, Plaintiffs' plans would not even prompt, let alone fail, strict scrutiny.

II.   Intervenors are unlikely to succeed on the merits.

Even if this Court had subject matter jurisdiction over this appeal, Intervenors are unlikely to succeed on the merits. To begin, Intervenors misleadingly quote 28

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U.S.C. § 2284 to contend that a three-judge court was required to adjudicate Plaintiffs' statutory VRA claim. No court anywhere has ever held as much because, as six Fifth Circuit judges have explained, *see Thomas v. Reeves*, 961 F.3d 800, 801 (5th Cir. 2020) (Costa, J., concurring), the plain text of § 2284 limits the jurisdiction of three-judge courts to constitutional challenges. *See* 28 U.S.C. § 2284 ("A district court of three judges shall be convened . . . when an action is filed challenging *the constitutionality* of the apportionment of congressional districts or the apportionment of any statewide legislative body." (emphasis added)).

A. **Intervenors are unlikely to succeed on the merits of the district court's Section 2 liability finding.**

1. **LD15's bare Latino majority did not preclude the district court's Section 2 liability finding.**

The district court did not clearly err in finding a Section 2 violation notwithstanding LD15's bare majority of Latino voters. A majority-minority district can dilute the minority's voting power where, as here, the minority lacks a real opportunity to elect their candidates of choice. *See, e.g., Perez v. Abbott*, 253 F. Supp. 3d 864, 880 (W.D. Tex. 2017) ("[T]he existence of a majority HCVAP in a district does not, standing alone, establish that the district provides Latinos an opportunity to elect, nor does it prove non-dilution."); *Pope v. Cnty. of Albany*, 687 F.3d 565, 575 n.8 (2d Cir. 2012) ("[T]he law allows plaintiffs to challenge legislatively created bare majority-minority districts on the ground that they do not

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present the 'real electoral opportunity' protected by § 2"); *Mo. State Conference of the NAACP v. Ferguson-Florissant Sch. Dist.*, 894 F.3d 924, 933 (8th Cir. 2018); *Kingman Park Civic Ass'n v. Williams*, 348 F.3d 1033, 1041 (D.C. Cir. 2003); *Monroe v. City of Woodville*, 881 F.2d 1327, 1333 (5th Cir. 1989). The Supreme Court has further recognized that it is "possible for a *citizen voting-age majority* to lack real electoral opportunity," *LULAC v. Perry*, 548 U.S. 399, 428 (2006) (emphasis added), and, as the district court held, "the evidence shows that that is the case here." ADD-29.

Intervenors' contention that "if a group constitutes a majority of the citizen-age voting population, then it necessarily possesses *at least an equal* opportunity to do so," Mot. at 11-12 (emphasis in original), ignores the district court's "searching practical evaluation of the past and present reality" in the Yakima Valley. *Gingles*, 478 U.S. at 79 (internal quotations omitted). Here, the district court found that "[a] majority Latino CVAP of slightly more than 50% is insufficient to provide equal electoral opportunity where past discrimination, current social/economic conditions, and a sense of hopelessness keep Latino voters from the polls in numbers significantly greater than white voters." ADD-29.[6] This finding accords with extensive evidence presented at trial, including evidence that the LD15 cracked the

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[6] When adopted, LD15 was *50.02%* Hispanic CVAP. Pl. App. 235.

Latino community of interest "in Yakima, Pasco, [and] along the highways and rivers in between." ADD-10-11; *see, e.g.*, Pl. App. 228 ("[W]hite voting power was higher in the included precincts, even though they're high-density Latino, relative to the excluded precincts."); Pl. App. 210-11, 274-75; *see also Perez*, 253 F. Supp. 3d at 887-88 (fracturing politically active communities had "the foreseeable effect of depressing Latino turnout"). Intervenors do not show this was clear error.

2.   The Latino community in the Yakima Valley is compact.

The district court properly found that Plaintiffs satisfied the compactness requirement of the first *Gingles* precondition. ADD-9-11. Intervenors argue that the district court "failed to analyze the compactness of minority populations, rather than the geographic lines of the districts." Mot. at 10. This argument has no merit.

In *LULAC*, the U.S. Supreme Court held that a Texas congressional district stretching from the Mexican border to Austin was not reasonably compact for § 2 purposes because of the "enormous geographic distance" separating the two pockets of Latino communities and the "disparate needs and interests" of those communities. 548 U.S. at 435. In so doing, the Court "emphasize[d] it is the enormous geographic[] distance separating the Austin and Mexican-border communities, coupled with the disparate needs and interests in these populations—not either factor alone—that renders District 25 noncompact for § 2 purposes." *Id.*; *see id.* at 424 (concluding that

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another district stretching 500 miles satisfied *Gingles* 1 where its Latino population had shared interests).

Here, neither factor is present. The district court concluded that the Latino population was geographically proximate and connected. ADD-10-11. And the district court concluded, based upon the testimony at trial, that the communities had shared "socio-economic status, education, employment, health, and other characteristics," *id.* at 424 (internal quotation marks omitted), and "form a community of interest based on more than just race." ADD-10-11, 19. Intervenors flippantly label these shared socio-economic disparities and community characteristics as "ubiquitous characteristics of Hispanic voters," but do not show how the district court clearly erred. Their own expert, Dr. Mark Owens, "acknowledged at trial that he does not know anything about the communities in the Yakima Valley region other than what the maps and data show," ADD-11 n.7, and testified that he had no opinion on whether LD15 was compact. Pl. App. 218.

3. The district court did not err by failing to analyze the cause of racially polarized voting.

The district court did not err by failing to analyze the cause of racially polarized voting in the Yakima Valley. Intervenors do not dispute that Latino voters are cohesive (*Gingles* 2), and that white voters vote as a bloc to routinely defeat the preferred candidate of Latino voters (*Gingles* 3), but instead argue that any

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polarization is "caused by partisanship," Mot. at 15, not racial attitudes of voters. Intervenors are wrong on the law and facts.

A majority of the U.S. Supreme Court has concluded that this type of causation argument is not pertinent to assessing racially polarized voting. *Gingles*, 478 U.S. at 51, 62-63, 74 (plurality) (the "legal concept of racially polarized voting incorporates neither causation nor intent" and "the reasons [Latino] and white voters vote differently have no relevance to the central inquiry of § 2"); *id.* at 100 (O'Connor concurring) (agreeing, along with three other justices, that where statistical evidence shows minority political cohesion and assesses prospects of winning, "defendants cannot rebut this showing by offering evidence that the divergent racial voting patterns may be explained in part by causes other than race"); *see also Allen v. Milligan*, 599 U.S. 1, 19 (2023) (explaining that the third *Gingles* precondition "establish[es] that the challenged districting thwarts a distinctive minority vote at least plausibly on account of race" (internal quotation marks omitted) (bracket in original)).

This Court has likewise so held. *See Old Person v. Cooney*, 230 F.3d 1113, 1128 (9th Cir. 2000) (noting that *Gingles* plurality rejected this argument); *United States v. Blaine Cnty., Mont.*, 363 F.3d 897, 912 & n.21 (9th Cir. 2004) (holding that in vote dilution claims, "evidence of racial bloc voting provides the requisite causal link between the voting procedure and the discriminatory result" and that plaintiffs

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do not have "the additional burden of proving that white bloc voting is due to discriminatory motives"); *Gomez v. City of Watsonville*, 863 F.2d 1407, 1415-16 (9th Cir. 1988) (holding that "[t]he court should have looked only to *actual voting patterns* rather than speculating as to reasons why" (emphasis in original)). Intervenors contend that this Court has required a causal connection in Section 2 cases but misconstrue the Court's precedent. Mot. at 14 (quoting *Smith v. Salt River Project Agric. Improvement & Power Dist.*, 109 F.3d 586, 595 (9th Cir. 1997)). In *Salt River*, the court assessed the presence or absence of a causal connection by considering whether, under the Senate Factors, the totality of circumstances supported finding a Section 2 violation. 109 F.3d at 595-96; *see Blaine County*, 363 F.3d at 912 n.21 (expressly rejecting Intervenors' reading of *Salt River*).

In any event, the district court found that Intervenors' argument was factually incorrect, ADD-11-14, 30-31, and Intervenors identify no clear error in that conclusion. Indeed, the State's expert Dr. John Alford persuasively testified about "a real ethnic effect on voting in this area." Pl. App. 212-13. Plaintiffs' expert Dr. Loren Collingwood's analysis demonstrated that Latino-preferred candidates with Spanish surnames also lose in nonpartisan races. Pl. App. 225-26. And Intervenors' counsels' other client, Benancio Garcia, testified to racial discrimination he faced from the Washington State Republican Party as a Latino candidate running for Congress in the Yakima Valley. In Mr. Garcia's own words, this discrimination

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"greatly affected th[e] election, the outcome, and suppressed the Latino vote." Pl. App. 238-40.[7]

Moreover, Intervenors claim that the district court ignored the victory of candidate Nikki Torres in LD15 in 2022, Mot. at 15, but that is belied by the record. The district court found that it confirmed the overall statistical evidence of racially polarized voting, with Latino voters cohesively voting for the *losing* candidate Lindsey Keesling, and white voters cohesively preferring Ms. Torres, the winning candidate. ADD-11-12.[8] Intervenors' constant refrain that Ms. Torres (a candidate opposed by Latino voters) won by 35 points simply highlights *the harm* of the enjoined district.[9]

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[7] Mr. Garcia's testimony demonstrates that even within the Washington Republican Party, white Republicans are favored over Latino Republicans.

[8] Moreover, LD15's 2022 election is a "special circumstance" with little probative value as it took place during the pendency of VRA litigation and featured a severel underfunded Latino-preferred candidate nominated as a write-in. Pl. App. 219-20; *Ruiz v. City of Santa Maria*, 160 F.3d 543, 557-58 (9th Cir. 1998) (elections "not representative of the typical way in which the electoral process functions" are less probative); *Gingles*, 478 U.S. at 75-76.

[9] Intervenors assume that because Ms. Torres is Latina, she *must* be the Latino-preferred candidate. That assumption is as offensive as it is incorrect. A minority *candidate* is not automatically the minority *candidate of choice. See, e.g., LULAC*, 548 U.S. at 438-41 (redistricting diluted Latino voting strength because Latino voters were near ousting non-Latino-preferred Latino incumbent); *Ruiz*, 160 F.3d at 551 ("[A] candidate is not minority-preferred simply because the candidate is a member of the minority") (collecting cases).

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> **4.** **The district court's totality of circumstances analysis was not clearly erroneous.**

The district court did not err in finding that the Yakima Valley region's Latino voters do not, under the totality of the circumstances, have an equal opportunity to elect state legislative candidates of their choice. The district court found that "[e]specially in light of the evidence showing significant past discrimination against Latinos, on-going impacts of that discrimination, racial appeals in campaigns, and a lack of responsiveness on the part of elected officials, plaintiffs have shown inequality in electoral opportunities in the Yakima Valley region." ADD-31. Contrary to Intervenors' assertions, the district court's analysis did take into account both LD 15's CVAP, *see infra* II.B.1, and the election of Senator Torres, *see supra* II.A.3. Indeed, even the State admitted "that under the totality of the circumstances, Hispanic voters in LD15 are less able to participate in the political process and elect candidates of their choice than white voters." Pl. App. 232-33. Intervenors cannot show clear error in the district court's findings.

> **B.** **Intervenors are unlikely to succeed on the merits of the district court's remedial order.**

> **1.** **The district court did not clearly err on account of the remedial district's HCVAP percentage.**

The district court did not clearly err by ordering a remedial district that has an HCVAP slightly below that of the enjoined version of LD15. "When devising a remedy to a § 2 violation, the district court's 'first and foremost obligation . . . is to

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correct the Section 2 violation.'" *United States v. Brown*, 561 F.3d 420, 435 (5th Cir. 2009) (quoting *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1022 (8th Cir. 2006)). Whether a district violates (or remedies a violation of) Section 2 "entails a functional analysis that is 'peculiarly dependent upon the facts of each case and requires an intensely local appraisal of the design and impact of the contested electoral mechanism.'" *Harding v. Cnty. of Dallas*, 948 F.3d 302, 309 (5th Cir. 2020) (quoting *Gingles*, 478 U.S. at 79).

The district court found that its remedial map cured the Section 2 violation—a conclusion that was supported by both Plaintiffs' expert Dr. Loren Collingwood and Intervenors' expert Dr. Sean Trende. ADD-34, 36, 155. Dr. Collingwood found that, under the remedial map's version of LD14 in the Yakima Valley, Latino voters in the region would have been able to elect their candidates of choice in 8 out of 8 analyzed elections. Pl. App. 39. By contrast, Dr. Collingwood and the State's expert, Dr. Alford, found that under the enjoined version of LD15, white voters usually defeated the preferred candidates of Latino voters (70% of the time). ADD-12.

Intervenors object that the remedial district's HCVAP is slightly lower than the enjoined district's. Mot. at 18-19. This argument is meritless. Whether a district violates Section 2—or, as here, remedies a Section 2 violation—is not about a numerical racial target. *See Cooper v. Harris*, 581 U.S. 285, 306 (2017) (noting that Section 2 compliance does not demand "precise[]" minority population targets).

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Rather, the inquiry is a functional analysis of the election results and voter behavior in a particular district. *See id.* (holding that district with a sub-majority minority population complied with Section 2 because of greater white "crossover" support for minority candidates in the region). Intervenors make no showing, under *Gingles*, that the remedial district dilutes Latino voting strength; they merely compare HCVAP numbers and label any decrease as "dilution." They are unlikely to succeed with this argument.

> **2.   Intervenors are unlikely to succeed on the merits of their contention that the remedial map is a racial gerrymander.**

Intervenors are unlikely to succeed on the merits of their contention that the remedial map is a racial gerrymander. To show that a map is an unconstitutional racial gerrymander, a party must "prove that 'race was the predominant factor motivating the [mapdrawer's] decision to place a significant number of voters within or without a particular district.'" *Cooper*, 581 U.S. at 291 (quoting *Miller v. Johnson*, 515 U.S. 900, 919 (1995)). This showing "entails demonstrating that the [map-drawer] "subordinated other factors—compactness, respect for political subdivisions, partisan advantage, what have you—to racial considerations." *Id.* (internal quotation marks omitted). The burden on the party claiming racial gerrymandering is "demanding." *Easley v. Cromartie*, 532 U.S. 234, 257 (2001). If the party succeeds in showing race was the predominant factor, "the design of the district must withstand strict scrutiny," with a compelling interest that is narrowly

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tailored. *Cooper*, 581 U.S. at 292. The Supreme Court "has long assumed that one compelling interest is complying with operative provisions of the Voting Rights Act of 1965." *Id.* Intervenors' 1.5-page argument falls woefully short of their burden.

First, Intervenors waived this argument by failing to raise it in the district court. This Court "will not consider arguments that are raised for the first time on appeal." *Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999). In neither their district court remedial briefing, Pl. App. 153-67, nor their oral argument regarding the remedial map, Pl. App. 64-97, did Intervenors ever contend that the district court would be imposing an unconstitutional racial gerrymander if it adopted any of Plaintiffs' proposed maps, including what ultimately became Map 3B.[10] Indeed, Intervenors contended in the district court that *partisanship* (not race) was the predominant motivation in the configuration of Plaintiffs' proposed remedial maps. *See, e.g.*, Pl. App. 153, 160-63 (contending that Plaintiffs proposed "an overtly partisan legislative map"); Pl. App. 72-73. Intervenors repeat that argument in their motion for a stay. Mot. at 18-19, 23-24. A party alleging a racial gerrymander must show "that race (not politics)" was the predominant consideration. *Cooper*, 581 U.S. at 318. Intervenors cannot raise for the first time on appeal a racial gerrymandering contention that was "not raised before the district court [and is] inconsistent with

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[10] Map 3A barely differed from Map 3B. *See* Pl. App. 1-6; Mot. at 16-17 n.2.

positions employed there." *Momox-Caselis v. Donohue*, 987 F.3d 835, 841 (9th Cir. 2021).

Second, Intervenors cite no record evidence to support their contention that race predominated in the drawing of the remedial map—nor could they. The remedial map was drawn by Plaintiffs' expert Dr. Oskooii, who testified as follows: "I did not consider race or racial demographics in drawing the remedial plans. I did not make visible, view, or otherwise consult any racial demographic data while drawing districts." Pl. App. 171; Pl. App. 122 (same regarding Map 3A).

Third, Intervenors' argument rests entirely on what they call the "remedial district's slithering-octopus shape," which they contend—without citation and contrary to the record—is "unexplainable except by race-based criteria." Mot. at 20 (internal quotation marks omitted). But Dr. Oskooii specifically explained the district's shape, and it had nothing to do with race, but rather with maximizing the number off Yakama Nation off-reservation trust lands and fishing villages kept whole with the reservation itself in the district—something *Intervenors requested*. Pl. App. 90-91; Pl. App. 56-63. Map 3 (and 3A and 3B) were variations on Map 1, which is shown below with remedial LD14 shown in green.

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Plaintiffs' Map 1

Pl. App. 172. This looks nothing like an octopus, or any other "bizarre shape." Mot.

at 19 (internal quotation marks omitted).[11] As Dr. Oskooi explained, Map 3 modified

Map 1 by including all, rather than just some, of the off-reservation trust lands and

fishing villages. Pl. App. 172, 175; *see also* ADD-144 (map of trust lands).

Intervenors object to features of the remedial map that the record reflects were

configured to address a concern *they raised* about including the maximum amount

of tribal lands. *See also* ADD-37-38 (district court explaining map's purpose in

maximizing inclusion of off-reservation trust lands).[12]

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[11] This shows how Intervenors' contention that uniting Latino communities of interest in the region "wrought the octopus" is contrary to the record. Mot. at 20.

[12] In addition to Dr. Oskooii's report on this topic, he testified to this effect at the March 8 remedial hearing, for which the transcript is not yet available.

3. **The district court's remedial map alters the enacted plan no more than necessary to cure the violation.**

In fashioning a Section 2 remedy, "a court, as a general rule, should be guided by the legislative policies underlying the existing plan to the extent those policies do not lead to violations of the Constitution or the [VRA]." *Abrams v. Johnson*, 521 U.S. 74, 79 (1997). The district court's chosen remedy, Map 3B, does exactly this. The court committed no error in finding that Map 3B follows state and traditional redistricting criteria, respects the state's policy judgments, and alters the enacted plan no more than is necessary to remedy the § 2 violation.

Plaintiffs' expert Dr. Oskooii drew all proposals, including Map 3B, by starting with the enacted plan and adjusting only as needed to remedy the violation while abiding by state and traditional redistricting principles. Pl. App. 101-02, 171. There is no dispute that the map has equal-population districts within acceptable deviation; is reasonably compact, contiguous, and convenient; minimizes county, city, and precinct splits; and respects communities of interest consistent with Washington law. See RCW § 44.05.090; Pl. App. 110, 129-30; ADD-146.

Map 3B also "follow[s] the policies and preferences of the State," *Upham v. Seamon*, 456 U.S. 37, 41 (1982), including the State's desire to honor the Yakama Nation's wish to keep the Tribe's land and people in one district to the extent practicable. Pl. App. 40-52. Indeed, Map 3B includes in LD14 the entire tribal reservation, more than 96% of tribal off-reservation trust lands, and 94% of the

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tribe's treaty fishing access sites along the Columbia River. Pl. App. 12-13. Map 3B also has the largest number and share of Native American voting-age residents in LD14 as compared to the enacted map and Intervenors' proposal. Pl. App. 14. The district court did not clearly err in finding that Map 3B accomplishes these objectives while "avoid[ing] gratuitous changes[]" to the enacted map." ADD-36. The State's contrary arguments are meritless.

First, Intervenors have no standing to raise this argument because only the State could be harmed by a court failing to adhere to its policy goals. The State has not appealed and has not contended its policy goals were infringed.

Second, Intervenors' refrain that Map 3B alters 13 of the state's 49 legislative districts is unpersuasive. This fact is unsurprising given that the two districts at issue, LD14 and LD15, are situated in the middle of the state and each border five and six districts with large areas of sparsely populated territory, respectively. Wash. State Redistricting Comm'n, District Maps & Handouts (Legislative District Maps), https://perma.cc/P48S-4GD9; ADD-40; Pl. App. 173-76. The number of districts affected also says nothing of the magnitude of the changes. They are small. Dr. Oskooii's undisputed core retention analysis shows that Map 3B affects less than 5.5% of the state's roughly 7.7 million people. Pl. App. 142. In other words, the map retains 94.5% of Washingtonians in the same district as the enacted plan. *See*

Singleton v. Allen, No. 2:21-CV-1291-AMM, 2023 WL 6567895, at *9 (N.D. Ala. Oct. 5, 2023) (ordering remedy with core population retention of 86.8%).

Intervenors' other claims regarding "population displacement," Mot. 22, are incorrect. They inflate by nearly 100,000 the number of affected people. And Map 3B does not affect "a majority," Mot. at 22, of the state's 39 counties as Intervenors claim; it affects only 12, or less than a third. Pl. App. 149 (Secretary of State employee describing the county impact of Map 3B's very similar predecessor proposal).

Furthermore, Intervenors' complaints regarding incumbents and political changes are irrelevant. Mot. 22-23. "[P]urely political considerations that might be appropriate for legislative bodies," like incumbent protection, "have no place in a plan formulated by the courts." *Larios v. Cox*, 306 F. Supp. 2d 1214, 1218 (N.D. Ga. 2004) (internal citations omitted). Nor is incumbent protection among the state's redistricting criteria. See RCW § 44.05.090. Nevertheless, after drawing Plaintiffs' map submissions first according to the state's actual criteria, Dr. Oskooii did adjust districts where possible to avoid incumbent displacement. Pl. App. 121-22, 128; *Abrams*, 521 U.S. at 84 (upholding plan subordinating incumbent protection to other factors).

Intervenors' demand for a map with specific partisan performance is similarly misplaced. *Personhuballah v. Alcorn*, 155 F. Supp. 3d 552, 563-64 (E.D. Va. 2016)

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("[W]e have found no case holding that we must maintain a specific political advantage in drawing a new plan[.]"). Because Washington prohibits favoring or disfavoring any political party, RCW § 44.05.090(5), Dr. Oskooii declined to consider any political, partisan, or electoral data while drawing his remedial proposals, including Map 3B. ADD-42; Pl. App. 172. Nonetheless, his subsequent analysis contradicts Intervenors' claims of partisan bias: Map 3B confers no gain or loss to any party beyond LDs 14 and 15, and the overall partisan tilt of the legislative map remains slightly Republican, like the enacted plan. ADD-42; Pl. App. 116-121.

Intervenors claim that Dr. Trende's illustrative map—which was submitted to the district court three months after the parties' deadline to submit remedial proposals—shows that a remedy could be ordered that entails fewer changes. But Dr. Trende's map is not actually a remedy to the Section 2 violation because it fails to unify the Latino community of interest that the enacted plan had unlawfully cracked, hampering Latino voters' ability to organize effectively to elect candidates of their choice. ADD-41; Pl. App. 9-10. The Plan also suffered from additional flaws. Pl. App. 008-036. Such a map cannot serve as a reliable comparator.

Lastly, Intervenors claim the district court did not give the Commission an opportunity to draw remedial maps. Untrue. Although the district court initiated a parallel process for developing a court remedy on October 4, 2023, the court made clear that this process was a contingency plan should the Commission fail to be

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reconvened to draw a remedial map in time for the 2024 elections, App. 203-04, precisely what the legislative Republican leadership requested, ECF No. 218 at 32.

III.   Intervenors face no harm, irreparable or otherwise.

Irreparable harm absent a stay is the second of the two "most critical" factors in consideration of a stay pending appeal. *Mi Familia Vota v. Hobbs*, 977 F.3d 948, 952 (9th Cir. 2020) (citation omitted). Intervenors argue that they are "sorted on the basis of their race," Mot. at 24, in the adopted map, but they provide no evidence for this claim. *See supra*.

Lacking any evidence that race predominated however—or was even considered—in drawing or adopting the remedial map, Intervenors instead argue that *any* § 2 remedial map creates a cognizable injury. Mot. at 25. But this argument is flatly inconsistent with the Supreme Court's recent precedent. *See Allen*, 599 U.S. at 41. A district is not an unconstitutional racial gerrymander if the VRA requires its race-conscious drawing, as Intervenors have previously acknowledged. First Stay Motion at 9. Their assertion now that even where required for VRA compliance, consideration of race nevertheless causes an "irreparable injury" is nonsensical. Intervenors are not harmed by a remedial process that proceeded according to established precedent, or a remedial district adopted without racial consideration to remedy an established VRA violation. And even if race had been considered at all in adopting the remedial map, that would not constitute harm. *Allen*, 599 U.S. at 30.

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Finally, Intervenors' previous efforts to delay resolution of their appeal in this case significantly undermine the urgency of the present motion. Though Intervenors moved quickly to file this appeal after the district court issued its remedial order, they previously waited *three months* after the district court issued its decision on the merits before appealing, and then asked that that appeal be held in abeyance. ADD-47. The majority of issues in the present emergency appeal have been known to Intervenors since the district court's August 2023 opinion, and Intervenors have provided no explanation for their previous delay. *See Lopez v. Heckler*, 713 F.2d 1432, 1435 (9th Cir. 1983) (denying "emergency stay" pending appeal filed after "unexplained delay" of 56 days).

IV. A stay harms the orderly administration of justice and public interest.

The balance of equities and public interest strongly weighs in favor of denying Intervenors' request for a stay. It is a recognized public interest for elections to be conducted under lawful redistricting plans. *See e.g.*, *Reynolds v. Sims*, 377 U.S. 533, 585 (1964). Intervenors' arguments rest on the success of their appeal, but they neither have standing to appeal nor are likely to succeed on the merits. *See supra*. Courts faced with similar situations—the appeal of a redistricting decision and motion to stay the implementation of a remedial plan—have declined to stay the remedial order finding the risk of permitting elections on an unlawful map grossly against the public interest. *See Personhuballah*, 155 F. Supp. 3d at 560-61. To grant

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Intervenors' motion would "give [them] the fruits of victory whether or not the appeal has merit." *Jimenez v. Barber*, 252 F.2d 550, 553 (9th Cir. 1958); *see also Covington*, No. 1:15CV399, 2018 WL 604732, at *6 (M.D.N.C. Jan. 26, 2018).

Intervenors' request contravenes the public interest. They ask this Court to conduct the 2024 elections using a plan that after a four-day trial with expert and lay testimony, and after extensive briefing, was found to violate the VRA. Lawful elections cannot be conducted on an unlawful map.[13] *See Larios v. Cox*, 305 F. Supp. 2d 1335, 1344 (N.D. Ga. 2004)*; Personhuballah*, 155 F. Supp. 3d at 560-61. Courts have recognized that the harm suffered by Plaintiffs and the public compound for each election that is conducted under an unlawful plan. *See Larios,* 305 F. Supp at 1344; *Reynolds*, 377 U.S. at 585. There is no justification and no need for Washingtonians to vote in *another* election under an illegal plan.

CONCLUSION

The Court should deny the motion for a stay.

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[13] It is untrue that the Supreme Court has routinely stayed permanent injunctions in redistricting cases, the two cases cited by Intervenor's concern *preliminary* injunctions. *See, e.g.*, *Merrill v. Milligan*, 142 S. Ct. 879 (2022); *Ardoin v. Robinson*, 142 S. Ct. 2892 (2022). Once a remedial plan was ordered in *Milligan*, the Supreme Court denied the subsequent stay application. *See Allen v. Milligan*, 144 S. Ct. 476 (U.S. Sept. 26, 2023) (Mem.).

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March 20, 2024   Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1.   This brief contains 6,924 words spanning 29 pages, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 27(a)(2)(B) and 32(f). Intervenors moved—on their and Appellees' behalf—for leave to file a brief exceeding the limits of Federal Rule of Appellate Procedure 27(d)(2)(B) and Circuit Rule 27-1(1)(d).

2.   This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Times New Roman size 14-point font with Microsoft Word.

Dated: March 20, 2024

                                        /s/ Mark P. Gaber
                                        Mark P. Gaber

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CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2024, I electronically filed the foregoing

with the Clerk of the Court for the United States Court of Appeals for the Ninth

Circuit by using the CM/ECF system, which will notify all registered counsel.

/s/ Mark P. Gaber
Mark P. Gaber

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SUSAN SOTO PALMER, *et al.*,

    Plaintiffs-Appellees,

    v.

STEVEN HOBBS, in his official capacity as the Secretary of State of Washington, and the STATE OF WASHINGTON,

    Defendants-Appellees,

    and

JOSE TREVINO, ISMAEL CAMPOS, and ALEX YBARRA,

    Intervenors-Defendants –
    Intervenors.

No. 24-1602

D.C. No. 3:22-cv-05035-RSL
United States District Court for the
Western District of Washington
Tacoma, Washington

APPENDIX TO PLAINTIFFS-APPELLEES' OPPOSITION TO INTERVENORS' EMERGENCY MOTION FOR A STAY PENDING APPEAL

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The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

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SUSAN SOTO PALMER, et. al.,

Plaintiffs,

v.

STEVEN HOBBS, et. al.,

Defendants,

and

JOSE TREVINO, ISMAEL CAMPOS, and ALEX YBARRA,

Intervenor-Defendants.

Case No.: 3:22-cv-05035-RSL

Judge: Robert S. Lasnik

PLAINTIFFS' NOTICE OF FILING REMEDIAL MAP 3B AND PROPOSED ORDER

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        At the March 8, 2024 hearing, the Court requested that Plaintiffs make alterations to their

proposed Remedial Map 3A to address "trapped polygon"[1] issues identified in two declarations of

Nicholas Pharris—the Support Lead for the VoteWA/TotalAddress election management system

in the Elections Division of the Office of the Secretary of State—*see* Docs. 270 & 286, as well as

to incorporate three public domain land parcels identified by the Yakama Nation that were on the

border of the original version of proposed Map 3A, *see* Docs. 272 at 5-12; Doc. 277 at 6 n.5.

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[1] A "trapped polygon" in this instance refers to a small area of land that would be in a different legislative district than the balance of its corresponding city council or county commissioner district and thus, without modifications to the legislative map, may necessitate the creation of and additional precinct.

PLAINTIFFS' NOTICE OF FILING
REMEDIAL MAP 3B AND PROPOSED ORDER

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1   Plaintiffs have addressed these issues as follows and submit Map 3B (renamed to avoid confusion)

2   reflecting these changes by email to the Court, the special master, and the parties. As Mr. Pharris's

3   declarations note, most changes affect zero or very few people and thus the map's characteristics—

4   and remedial performance—are unaffected.

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       Public Domain Land Parcels. Plaintiffs have adjusted Map 3A to include within
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     Legislative District ("LD") 14 the three parcels identified in the Yakama Nation's filing, Doc. 272,
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     that Dr. Oskooii identified to be resolved, Doc. 277 at 6 n.5.
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9
       "Trapped Polygons" Remedied by Shifting Full Census Blocks. Most of the "trapped

10   polygons" identified in Mr. Pharris's declaration can be remedied by shifting entire Census Blocks

11   between districts, as Mr. Pharris suggested. Plaintiffs have adjusted Map 3A to make all of Mr.

12   Pharris's recommended adjustments—remedying the issues described in paragraph 9-17 and 19-

13   22 of his initial declaration, Doc. 270, and the sole issue raised in his second declaration, Doc. 286.

14
       "Trapped Polygons" Requiring Census Block Splits. Four of the "trapped polygons"
15
     identified by Mr. Pharris are the result of cities annexing *portions* of Census Blocks in the time
16
     since the 2020 Census was completed, such that the city boundaries do not align with Census Block
17
     boundaries. It is advisable that these polygons be addressed in the remedial map as they contain a
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     handful of voters, and voter privacy is best maintained by avoiding the need to create new precincts
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     containing 1-2 voters each. Plaintiffs and the Secretary have conferred in the time since the March
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     8 hearing and have concluded that the best way to address this category[2] is for the Court to describe
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23   _____

24   [2] The redistricting software available to Plaintiffs cannot readily split Census Blocks, but the
     Secretary has confirmed he can implement a map the Court orders with split Census Blocks. As
     Mr. Pharris's declaration notes, only seven voters are affected so there is no effect on the
25   population deviation of the districts. Doc. 270, ¶¶ 23-26. Several other states have some split
     Census Blocks in their legislative districts. *See* United States Census Bureau, State Legislative

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PLAINTIFFS' NOTICE OF FILING   2
REMEDIAL MAP 3B AND PROPOSED ORDER

the required adjustments in its remedial order, which the Secretary can then implement. Plaintiffs

have attached to this Notice a Proposed Order that includes suggested language—which has been

reviewed by the Secretary and confirmed to resolve the identified issues—that would adopt Map

3B with this category of "trapped polygons" remedied as suggested by Mr. Pharris's declaration.

Klickitat County/Yakama Nation Border. Klickitat County's Commissioner District

boundaries do not adhere to the Yakama Nation Reservation boundary. As a result, there are five

small, unpopulated areas of land where the "trapped polygon" issue arises, as noted in paragraph

18 of Mr. Pharris's initial declaration, Doc. 270. There are two ways to address this issue.

First, the legislative boundary can remain as it is in Plaintiffs' proposal. This approach will

respect the boundary of the Yakama Nation Reservation in the legislative map but will require

Klickitat County to do one of two things: (1) it can adjust the boundary between County

Commissioner Districts 1 and 2 to match the Yakama Nation Reservation boundary in the area

identified in paragraph 18 of Mr. Pharris's declaration or (2) it can create one or more new, zero-

population precinct(s) to include the "trapped polygon" territory.

Second, the legislative boundary in Map 3A can be adjusted to match the boundary of

Klickitat County Commissioner Districts 1 and 2 in the area identified in paragraph 18 of Mr.

Pharris's declaration. This would leave a small, unpopulated portion of the Yakama Nation

Reservation outside of LD14, but would eliminate the "trapped polygon" issue.

Plaintiffs believe the most appropriate choice is the first option, *i.e.*, to respect the Yakama

Nation Reservation boundary in the legislative map. Plaintiff would encourage the Klickitat

County Commission to make a minor adjustment to the boundaries of its county commissioner

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Districts, https://www.census.gov/programs-surveys/decennial-census/about/rdo/state-legislative-district.html.

PLAINTIFFS' NOTICE OF FILING   3
REMEDIAL MAP 3B AND PROPOSED ORDER

district to conform to the Yakama Nation's Reservation boundary in this region. Regardless of

how Klickitat County addresses the issue, however, the Secretary built time into the schedule for

these types of adjustments when he requested a remedial map be determined by March 2024. *See*

Doc. 179. And zero people are affected regardless of how the county chooses to respond.[3]

The attached Proposed Order adopts Map 3B, which makes all the corrections noted above,

and orders the implementation of that map with the minor adjustments necessary to remedy the

partial Census Block trapped polygons. Adopting this proposed order will ensure that zero people

are affected by any of the issues raised in Mr. Pharris's declarations and minimize the need for

county-level changes to implement the map.

Dated: March 14, 2024

                                           By: */s/ Mark P. Gaber*

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---

[3] If the Court disagrees and concludes that it is better to ensure that zero "trapped polygons" remain to be addressed by the county, it can add the following sentence to the list of adjustments in Plaintiffs' Proposed Order: "Reassign Klickitat County Census Blocks 530399501012106, 530399501012105, 530399501012112, and 530399501012114 from LD14 to LD17; reassign Klickitat County Census Block 530399503022058 from LD17 to LD14."

PLAINTIFFS' NOTICE OF FILING   4
REMEDIAL MAP 3B AND PROPOSED ORDER

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PLAINTIFFS' NOTICE OF FILING   5
REMEDIAL MAP 3B AND PROPOSED ORDER

1

CERTIFICATE OF SERVICE

2   I certify that all counsel of record were served a copy of the foregoing this 13th day of

3   March, 2024 via the Court's CM/ECF system.

4
                                        /s/ Mark P. Gaber
5   Mark P. Gaber
                                        Counsel for Plaintiffs
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PLAINTIFFS' NOTICE OF FILING   6
REMEDIAL MAP 3B AND PROPOSED ORDER

Pl.App.007
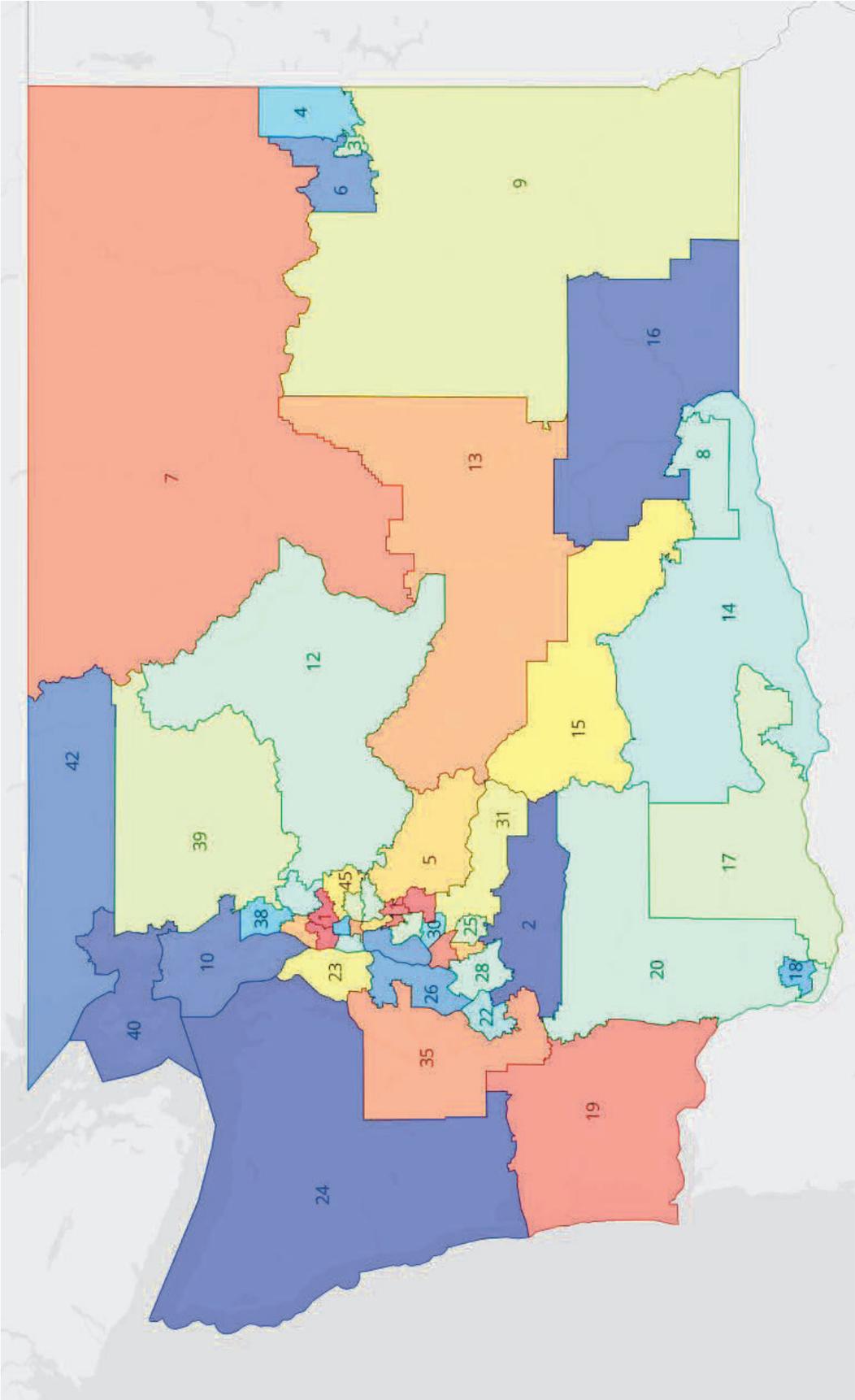
Supplemental Expert Report Submitted on Behalf of Plaintiffs

in *Soto Palmer, et al. v. Hobbs, et al.*

Kassra AR Oskooii, Ph.D.

University of Delaware

March 1, 2024

1

I.   **Background and Qualifications**

1.   I, Kassra AR Oskooii, am over 18 years of age and am competent to testify.

2.   My background and qualifications are set forth in my expert report dated and submitted

on December 1, 2023. I also attach here my latest curriculum vitae as Exhibit 1.

3.   I have reviewed the declaration of Nicholas Pharris from the Secretary of State's office,

Document 270. I appreciate Mr. Pharris's standard review for trapped polygons in Map

3A.[1] The tweaks he proposes are valid, and I am happy to assist in incorporating these

and any other necessary changes in a new version of Map 3A if the court wishes.

4.   I have also reviewed Dr. Trende's supplemental report and map, Document 273. My

understanding is that remedial proposals were due on December 1, but I did not receive

Dr. Trende's map until late in the evening of Friday, February 23.

5.   I have also reviewed the Intervenors' supplemental filing regarding Yakama Nation

lands, Document 267; the Yakama Nation's own filed statement on February 23,

Document 272; and the email and letter from counsel for the Yakama Nation to the

Attorney General's office, which is attached to this report as Exhibit 2.

6.   I offer the following responses.

II.   **Dr. Trende's Map Cracks Communities of Interest in the Yakima Valley**

7.   Dr. Trende claims that his proposed map addresses the concerns of the Yakama Nation

while creating a district (in his map, LD 15) that provides Hispanic voters an opportunity

to elect candidates of their choice.

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[1] As Mr. Pharris explains, trapped polygons refer to small areas of land caught between county boundaries, congressional districts, legislative districts, county council or commissioner districts, and city or town limits. Trapped polygons also arise in part from the fact that Washington's 2022 precinct shapefiles do not always precisely line up with census block lines, which are the smallest geographic unit that can be used for drawing district lines.

8.   With respect to the latter claim, it is unclear how Dr. Trende's Map could remedy the

VRA violation with respect to Latinos in the Yakima Valley because the map still cracks

the population along the Yakima-Pasco highway corridor that the court identified as a

community of interest—the very same community the Enacted Plan cracked and diluted

in violation of Section 2.

9.   Like LD 15 in the Enacted Map, LD 15 in Dr. Trende's Map continues to segregate

communities like Wapato and Toppenish from other similar communities in the Lower

Yakima Valley along the route from East Yakima to Pasco.

10.   Consequently, Dr. Trende's LD 15 also excludes two of the plaintiffs. I was provided the

plaintiffs' addresses, which were stipulated to by all parties.[2] Plaintiff Faviola Lopez

lives in Wapato, and Plaintiff Caty Padilla lives in Toppenish. Both are excluded from

Dr. Trende's LD 15.

11.   Map 3A, on the other hand, unites Wapato and Toppenish with alike communities in

Lower Yakima Valley, as well as East Yakima and Pasco, and includes all five Plaintiffs

in the remedial district.

12.   Beyond cracking this community of interest in the Yakima Valley, Dr. Trende's LD 15

also disregards other redistricting criteria. For example, LD 15 straddles the Columbia

River without providing a bridge or ferry crossing, violating Washington's contiguity

requirement.

13.   Dr. Trende's Map also places the Hanford Nuclear Site in the middle of LD 15, creating

another barrier between the eastern and western ends of the district, and separating the

site from voters in the City of Richland. Map 3A unifies the Hanford Nuclear Site with

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[2] Joint Pretrial Statement and [Proposed] Order, Document 191 at 3-4.

Pl.App.010

the City of Richland. I understand that Intervenors have previously objected to map proposals that separated the nuclear site from Richland, the community most affected by it, but now propose a map that does just that.[3]

III.   **Dr. Trende's Map Splits the Yakama Nation Reservation and Reduces Native American Voting Strength in LD 14**

14.   Dr. Trende's Map displays a lack of care and attention to the boundaries of the Yakama Nation Reservation and Native American voters.

15.   By my count, his LD 14 appears to split the Yakama Nation Reservation at least 14 times along the boundary between LDs 14 and 15 in the Lower Yakima Valley, based on the Census designated Reservation boundary. These splits are not limited to zero-population polygons. As shown in Figure 1, one part of the Reservation that is excluded from Dr. Trende's LD 14 has 117 residents, according to the 2020 Decennial Census. Presumably, this land was excised from the Reservation to avoid splitting the city of Union Gap, but as my Map 3A shows, it is possible to keep Union Gap whole while unifying all residents of the Reservation.

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[3] Intervenor-Defendants' Proposed Opposition to Plaintiffs' Motion for Preliminary Injunction, Document 61 at 7-8.

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Figure 1 – Illustrative Reservation Land Excluded from Dr. Trende's LD 14 (Yakama Reservation Boundary in Pink)

16.   This same LD 14-LD 15 boundary line in Dr. Trende's Map also disregards the voting rights violation by splitting the Latino community in the Yakima Valley.

17.   Map 3A, on the other hand, balances the need to remedy the cracking of communities of interest in the Enacted Plan with the interests of the Yakama Nation and Native American voters in the region. As I stated above, Map 3A unifies Toppenish and Wapato with other similar communities in the Lower Yakima Valley, as well as East Yakima and Pasco, all of which comprise a community of interest identified by the court.

18.   Because Toppenish and Wapato also exist within the boundaries of the Yakama Nation Reservation, I drew LD 14 in Map 3A (and in all other remedial proposals) to include the Yakama Nation Reservation.

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19.   I also included in LD 14 the Off-Reservation Trust Lands designated by the U.S. Census, which Dr. Trende does not dispute.

20.   LD 14 in Map 3A also includes 96% of the Public Domain Trust Land parcels identified by the Yakama Nation in its latest February 23 statement.[4] This is unsurprising because the Public Domain Trust Lands largely overlap with the Off-Reservation Trust Lands designated by the U.S. Census, except for a small handful of additional parcels. Indeed, only 9 of the 235 parcels identified by the Yakama Nation on February 23 are not included in LD 14.[5]

21.   Moreover, LD 14 in Map 3A includes 13 (93%) of the Yakama Nation's 14 Treaty Fishing Access Sites identified in its February 23 statement.[6] The single exception is the White Salmon site, which was not included to ensure that LD 14's population deviation remains within the most and least populous legislative districts in the Enacted Map.

22.   Dr. Trende mentions three other areas in the "region south of the Yakama Reservation" that he claims were "all … excluded from Remedial Map 3A, District 14" (p. 4). First, the part of Klickitat County containing Husum, like the White Salmon fishing access site, was not incorporated for population parity purposes. Second, while a portion of the Klickitat River watershed is located in LD 17, the majority of that watershed basin is

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[4] The Nation identified a total of 235 Public Domain Trust Land parcels, which are listed in a table in Exhibit A of its February 23 statement, Document 272 at 5-12. For each parcel (except for one), the Yakama Nation provided latitude-longitude coordinates and acreage, among other information. I used this information, alongside the Yakama Nation's map, to determine which parcels were and were not included in Map 3A's LD 14. There was only one parcel, identified as MV-171, that lacked latitude and longitude coordinates, so I cannot confirm whether this parcel was included in LD 14.

[5] Three of these parcels are located near the boundary of Map 3A's LD 14 and could easily be added to LD 14. These parcels are identified by the Yakama Nation as MV-72, 1026, and 1025.

[6] Document 272 at 13.

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included in LD 14 in Map 3A.[7] Third, the Yakima River watershed, which Dr. Trende

also mentions, does not extend south of the Reservation, and Map 3A includes all of the

Yakima River basin in LD 14 that intersects with the Reservation, as well as areas of the

basin that are excluded from Dr. Trende's LD 14.[8]

23. In short, Map 3A includes as much Yakama Nation territory and historical land in LD 14

as is practical while ensuring that the remedial district does not perpetuate the harm of

cracking other communities of interest in the Yakima Valley.

24. Importantly, Map 3A also best addresses the Yakama Nation's wish to avoid "dilut[ion]

of the Yakama voting population within the 14th Legislative District."[9] Table 1 below

compares the Native American voting age population in LD 14 across the Enacted Map,

Plaintiffs' Map 3A, and Dr. Trende's Map.

Table 1 – Native American Voting Age Population (VAP), 2020 Decennial Census

	Enacted Map	Pls. Map 3A	Dr. Trende's Map
Native American VAP	9,907	9,950	9,636
% of LD 14 VAP	8.5%	9.3%	8.1%

25. Table 1 shows that Plaintiffs' Proposed LD 14 includes *more* Native American voters

and a *higher proportion* of Native American voters than both the Enacted Map and Dr.

Trende's Map, best according with the request of the Yakama Nation that the legislative

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[7]   Yakima   Klickitat   Fisheries   Project,   Map   of   Klickitat   River   Subbasin,
http://www.ykfp.org/klickitat/klicksb_map.htm.

[8] Washington State Department of Ecology, The Yakima Basin Integrated Water Resource Management Plan,
https://storymaps.arcgis.com/stories/d78e5021c3554fb8a1af1c5020b8d741.

[9] Dec. 22 Letter of Gerald Lewis, Document 267-1 at 2.

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map not splinter Native American communities of interest. Meanwhile, Dr. Trende's

Map *reduces* the Native American voting age population and voting strength in LD 14

as compared to the Enacted Plan.

26. Finally, Dr. Trende's Figure 1 (p. 5) highlights in red the area of Klickitat County he

claims should have been included in LD 14 in Map 3A. In his February 15th disclosure,

he reported the total population of this red-shaded area as 15,760, but he neglected to

disclose other relevant demographic figures. The total Native American population of

the area is 662 (4.2% of the total population), and the Native American voting age

population is 498 (3.9% of the voting age population). Meanwhile, the white population

of the area is 12,207 (77.5%), and the white voting age population is 10,054 (79.4%). As

I have noted previously, I did not review or consider any racial demographic data before

or while drawing any of Plaintiffs' Remedial Maps. I checked the demographic

information here only after receiving Dr. Trende's supplemental report and map

proposal.

IV. Map 3A Has Minimal Impact on Surrounding Districts

25. Dr. Trende repeats his claim that Map 3A disrupts too many districts around LDs 14 and

15 by pointing to the existence of his new proposal and my other remedial proposals that

affect fewer districts. As I explain above, his proposal looks much like the Enacted Plan

that the court struck down and continues to crack the community of interest in the Yakima

Valley. With respect to my remedial proposals, as explained in my prior reports, I

provided the Court with multiple options, all of which had core retention rates between

94.1% and 97.5%. Map 3A has a core retention rate of 94.5% and balances Washington

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and traditional redistricting criteria, including unification of Yakama lands and voters, with the need to remedy the VRA violation.

26.   Dr. Trende concedes that core retention percentages are a "valid way to describe a map's shifts."[10] He goes on to state that there is some need to "place these percentages in context," but then simply restates the percentages as ratios. No matter how one chooses to describe a core retention rate of 94.5%, it still indicates minimal changes to the Enacted Plan.

27.   Core retention percentages also inherently provide the context Dr. Trende's own measures of "movement" cannot provide. This is for the simple fact that core retention rates, unlike population totals, account for the magnitude of population shifts compared to the total population of each district.

28.   As I explained in my January 5 report, Dr. Trende's method of totaling the people "moved" between districts is inaccurate. He states that 94,742 people from LD 15 in the Enacted Plan (where they comprised 60% of that district) were moved to LD 14 in Map 3A (where they still comprise 60% of the district). The use of the word "move" is misleading because these voters remain, as a group, the supermajority of their legislative district. The only difference is the number assigned to their district. Although that alters the election cycle in which they vote for state senate, it does not separate this group of voters into different districts from one another. This is why redistricting experts use the concept of "core retention"—which Dr. Trende resists—because it focuses on the relevant question of how many voters remain together in a district, whatever the district is labeled.

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[10] Supplemental Report of Dr. Trende, at 12, n.4.

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V.   Map 3A is Reasonably Compact

29.   With respect to compactness, Dr. Trende quibbles with my use of planwide compactness measures but does not dispute my conclusion that Map 3A has reasonably compact districts, largely on par with the Enacted Plan.

30.   Table 2 provides the Reock and Polsby-Popper compactness scores for Map 3A, Dr. Trende's Map, and the Enacted Map. Remedial Map 3A is slightly more compact than Dr. Trende's Map as measured by the Reock score.

Table 2 – Compactness Scores

	Enacted Map	**Remedial Map 3A**	**Dr. Trende's Map**
Reock	0.44	0.43	0.40
Polsby-Popper	0.33	0.32	0.32

VI.   Map 3A Has No Meaningful Political Impact on Surrounding Districts

31.   As demonstrated in Appendix Table 4 of my January 5th report (p. 42), Map 3A has no substantive impact on partisan outcomes in districts beyond LDs 14 and 15. Republican districts remain Republican, Democratic districts remain Democratic, and toss-ups remain toss-ups.[11]

32.   Dr. Trende also effectively concedes that the shifts in political makeup are minor. In his discussion of statewide partisan bias metrics, he states: "These metrics will generally not

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[11] Dr. Trende's quibble with my use of terms misses the point. He cannot identify any surrounding districts in Map 3A that would definitively flip in partisan control. And to the extent his complaint is that Map 3A incidentally makes some districts slightly more competitive, my understanding is that Washington's redistricting criteria require plans to "encourage electoral competition." RCW 44.05.090. It also bears mention that, unlike Dr. Trende, I did not view political data when drawing remedial maps, given that Washington law forbids drawing redistricting plans "purposely to favor or discriminate against any political party." RCW 44.05.090.

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change much unless a district is outright flipped from Democrat to Republican or vice-versa." He also notes that making an already competitive district, like LD 12, marginally more competitive will not change partisan statewide metrics. This is all true and only serves to confirm that Map 3A does not meaningfully change partisan outcomes in surrounding districts.

VII.   Map 3A Has Minimal Impact on Incumbents

27.   As I explained in my January 5 Report, the displacement of the incumbents in LD 14 and the Senator from LD 15[12] is a byproduct of relying on the applicable redistricting criteria to draw an LD 14 that unites the population centers forming a community of interest between East Yakima and Pasco, while keeping the Yakama Nation Reservation and Off-Reservation Trust Lands within LD 14.

28.   To reiterate, I avoided displacing incumbents wherever possible and remedied most incumbent displacements in the "A" Maps filed with the January 5 Report. Aside from the incumbents in LDs 14 and 15, the only other incumbent displaced in Map 3A is Senator Hawkins, the current LD 12 incumbent who is in LD 7 in Map 3A. As I explained in my January 5 Report, the changes necessary for Senator Hawkins to reside in LD 12 are reflected in Maps 2A, 4A, and 5A but not in 3A, which prioritizes other considerations such as limiting the number of trans-cascade districts. Document 254-1, ¶ 101.

VIII.   Conclusion

33.   I reserve the right to modify, update, or supplement my report as additional information is made available to me.

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[12] Neither of the two incumbent LD 15 House members are displaced in Map 3A.

34.   Pursuant to 28 U.S.C. § 1746, I, Kassra AR Oskooii, declare under penalty of perjury

that the foregoing is true and correct.

Executed by:

Dr. Kassra AR Oskooii
Dated: March 1, 2024

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Exhibit 1

Kassra A.R. Oskooii

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Academic Appointments

University of Delaware
Political Science & International Relations

Associate Professor	2021-Present
Assistant Professor	2016-2021
Provost Teaching Fellow	2022-Present

Current Faculty Affiliations:

Data Science Institute (DSI)	2023-Present
Master of Science in Data Science (MSDS)	2023-Present
Center for Political Communication (CPC)	2016-Present
Center for the Study of Diversity (CSD)	2016-Present

Former Faculty Affiliations:

Race, Justice, Policy Research Initiative (RJPRI)	2017-2023

Education

University of Washington — Ph.D., 2016
Department of Political Science

General Fields: American Politics & Political Methodology
Specialized Field: Minority and Race Politics

University of Washington — M.A., 2013
Department of Political Science

Center for Statistics & the Social Sciences (CSSS)
Political Methodology Field Certificate (2013)

University of Washington — B.A., 2008
Major: Political Science
Minors: Human Rights and Law, Societies, & Justice

Peer-Reviewed Journal Publications

"Anti-Muslim Policy Preferences and Boundaries of American Identity Across Partisanship." ***Journal of Public Policy***. w/ Lajevardi, N. (Forthcoming)

"In the Shadow of September 11: The Roots and Ramifications of Anti-Muslim Attitudes in the United States." ***Advances in Political Psychology***. w/ Lajevardi, N., Saleem, M., and Docherty, M. (Forthcoming)

"Social Mobility Through Immigrant Resentment: Explaining Latinx Support for Restrictive Immigration Policies and Anti-Immigrant Candidates." *Public Opinion Quarterly*. w/ Hickel, F., and Collingwood, L. (Forthcoming)

"The Participatory Implications of Racialized Policy Feedback." 2023. *Perspectives on Politics*, 21(3): 932-950. w/ Garcia-Rios, S., Lajevardi, N. and Walker, H.

"Undermining Sanctuary? When Local and National Partisan Cues Diverge." 2023. *Urban Affairs Review*, 59(1): 133-169. w/ Collingwood, L. & Martinez, G.

"Fight Not Flight: The Effects of Explicit Racism on Minority Political Engagement." 2022. *Electoral Studies*, 80: 102515. w/ Besco, R., Garcia-Rios, S., Lagodny, J., Lajevardi, N., Tolley, E.

"Hate, Amplified? Social Media News Consumption and Anti-Muslim Policy Support." 2022. *Journal of Public Policy*, 42: 656-683. w/ Lajevardi, N. and Walker, H. (FirstView)

"Estimating Candidate Support in Voting Rights Act Cases: Comparing Iterative EI and EI-RxC Methods." 2022. *Sociological Methods and Research*, 51(1): 271-304. w/ Barreto, M., Collingwood & Garcia-Rios, S.

"Beyond Generalized Ethnocentrism: Islam-Specific Beliefs and Prejudice toward Muslim Americans." 2021. *Politics, Groups, and Identities*, 9(3): 538-565. w/ Dana, K. & Barreto, M.

"Opinion Shift and Stability: The Information Environment and Long-Lasting Opposition to Trump's Muslim Ban." 2021. *Political Behavior*, 43: 301–337. w/Lajevardi, N. & Collingwood, L.

Covered in: *The Washington Post (Monkey Cage)*

"The Role of Identity Prioritization: Why Some Latinx Support Restrictionist Immigration Policies and Candidates." 2020. *Public Opinion Quarterly*, 84: 860–891. w/ Hickel, F., Alamillo, R. & Collingwood, L.

"Perceived Discrimination and Political Behavior." 2020. *British Journal of Political Science*, 50(3): 867-892.

"The Paradox Between Integration and Perceived Discrimination Among American Muslims." 2020. *Political Psychology*, 41(3): 587-606. w/ Lajevardi, N., Walker, H. & Westfall, A.

Winner of the 2019 American Political Science Association Race, Ethnicity, and Politics Section Best Paper Award.

"Veiled Politics: Experiences with Discrimination among Muslim Americans." 2019. *Politics and Religion*, 12(2): 629-677. w/ Dana, K., Lajevardi, N., & Walker, H.

"Partisan Attitudes toward Sanctuary Cities: The Asymmetrical Effects of Political Knowledge." 2018. *Politics and Policy*, 46 (6): 951-984. w/ Dreier, S. & Collingwood, L.

"A Change of Heart? Why Individual-Level Public Opinion Shifted against Trump's Muslim Ban." 2018. *Political Behavior*, 40: 1035-1072. w/ Collingwood, L. & Lajevardi, N.

Covered in: *The Washington Post (Monkey Cage), Vox, ThinkProgress, NPR, Al Jazeera, Middle East Eye, Psychology Today, & Social Psych Online*

"Old-Fashioned Racism, Contemporary Islamophobia, and the Political Isolation of Muslim Americans in the Age of Trump." 2018. *Journal of Race, Ethnicity, and Politics*, 3(1): 112-152. w/ Lajevardi, N.

"The Politics of Choice Reconsidered: Partisanship, Ideology, and Minority Politics in Washington's Charter School Initiative." 2018. *State Politics and Policy Quarterly*, 18(1): 61-92. w/ Collingwood, L. & Jochim, A.

"Muslims in Great Britain: The Impact of Mosque Attendance on Political Behaviour and Civic Engagement." 2018. *Journal of Ethnic and Migration Studies*, 44(9): 1479-1505. w/ Dana, K.

"eiCompare: Comparing Ecological Inference Estimates across EI and EI: RxC." 2016. *R Journal*, 8(2): 92-101. w/ Collingwood, L., Barreto, M. & Garcia-Rios, S.

"How Discrimination Impacts Sociopolitical Behavior: A Multidimensional Perspective." 2016. *Political Psychology*, 37(5): 613-640.

"Mosques as American Institutions: Mosque Attendance, Religiosity and Integration into the Political System among American Muslims." 2011. *Religions*, 2(4): 504-524. w/ Dana, K. & Barreto, M.

Book Chapters/ Encyclopedic Entries	"Discrimination." In *Edward Elgar Encyclopedia of Political Sociology* edited by Maria Grasso and Marco Giugni. (Forthcoming)
	"Race and Racism in U.S. Campaigns." 2020. In *Oxford Handbook on Electoral Persuasion* edited by Liz Suhay, Bernie Grofman, and Alex Trechsel, 15:278–295. w/ Christopher Parker, Christopher Towler, and Loren Collingwood.

Book Reviews	"Understanding Muslim Political Life in America: Contested Citizenship in the Twenty-First Century." Edited by Brian R. Calfano and Nazita Lajevardi. Philadelphia: Temple University Press, 2019. 248p. ***Perspectives on Politics***.

Public Writing	"Biden reverses Trump's 'Muslim Ban.' Americans support the decision." ***The Washington Post*** (*Monkey Cage*) (27 January, 2021). w/ Lajevardi, N. and Collingwood, L.
	"Targeted: Veiled Women Experience Significantly More Discrimination in the U.S." ***Religion in Public*** (21 January, 2020). w/ Dana, K., Lajevardi, N., and Walker, H.
	"Here's what the Democrats need to do to get the DREAM Act through Congress." ***LSE American Politics and Policy Blog*** (29 January, 2018). Also covered by Newsweek U.S. Edition. w/ Walker, H. and Garcia-Rios, S.
	"Why Individual-Level Opinion Rapidly Shifted Against Trump's 'Muslim Ban' Executive Order." ***Religion in Public*** (17 January, 2018). w/ Collingwood, L. and Lajevardi, N.
	"Allies in name only? Latino-only leadership on DACA may trigger implicit racial biases among White liberals." ***LSE American Politics and Policy Blog*** (28 September, 2017). w/ Garcia-Rios, S. and Walker, H.
	"Protests against Trump's immigration executive order may have helped shift public opinion against it" ***LSE American Politics and Policy Blog*** (12 February, 2017). w/ Collingwood, L. and Lajevardi, N.

Grants, Fellowships, & Awards	Nominee of UD's Excellence in Teaching Award	(2023)
	UD Provost Teaching Fellow	(2022-)
	APSA Race, Ethnicity, and Politics Best Paper Award	(2019)
	w/ N. Lajevardi, H. Walker and A. Westfall	
	AAPOR Student-Faculty Diversity Pipeline Award	(2019)
	CTAL Instructional Improvement Grant: Engaging Diversity	
	in Political Science w/ Kara Ellerby ($11,000)	(2018)
	POSCIR Seed Research Grant ($1,500)	(2018)
	DEL General University Research Grant ($7,500)	(2017)
	UW Political Science Research Fellowship (est. $13,000)	(2016)
	Dissertation Improvement Research Grant, UCLA ($3000)	(2015)
	Dean Recognition for Exceptional Pedagogical Contribution, UW	(2014)
	Best Graduate Paper in PoliSci (w/Hannah Walker), UW	(2014)
	UW Center for Democracy & VRA Research Fellowship ($5,000)	(2014)
	UW Center for Democracy & VRA Research Fellowship ($5,000)	(2013)
	Center for Statistics and the Social Sciences Grant ($1,000)	(2013)
	UW WISER Research Grant ($2500)	(2011-14)
	UW WISER Survey Research Fellowship ($20,000)	(2011-14)
	Grad. Opportunities & Minority Achievement Fellowship ($4,000)	(2010-11)

	Donald R. Matthews Graduate Fellowship ($40,000)	(2010-11)
	Jody Deering Nyguist Award for Excellence in Public Speaking	(2008)

Research Center Affiliations	Race, Justice, Policy Research Initiative, UD	(2017 -)
	Center for Political Communication, UD	(2016 -)
	Center for the Study of Diversity, UD	(2016 -)
	UW Center for Democracy and Voting Rights Research	(2013-14)
	Washington Institute for the Study of Race & Ethnicity (WISER)	(2010-16)
	Center for Social Science and Statistics (CSSS)	(2010-16)
	Washington Survey Research Center (WASRC)	(2010-15)

Teaching Experience

University of Delaware (2016 -)
    POSC 150: Intro to American Politics (x10)
    POSC 230: Intro to Politics and Social Justice (x2)
    POSC 413: Minority Politics, Representation, and Voting Rights (x4)
    POSC 867: Race, Ethnicity, and Politics (Graduate Seminar) (x3)
    POSC 807: American Political Behavior (Graduate Seminar) (x1)

University of Washington (2011-2016)
    POLS 202: Intro to American Politics (x2)
    POLS 357: Minority Representation and the Voting Rights Act (x1)
    POLS 205: Political Science as a Social Science (TA)
    POLS 317: US Race and Ethnic Politics (TA)
    POLS 353: US Congress (TA)
    POLS 503: Advanced Research Design and Analysis (TA)
    LAW E 558: Voting Rights Research and the Law (TA)

External Invited Talks/Panels

"Diversity and the State of Democratic Citizenship." Featured invited roundtable sponsored by the *Center for the Study of Democratic Citizenship*. April 23, 2021.

"Shocks to the System: Capturing Opinion Shift and Stability Toward Trump's Muslim Ban." Keynote Speaker at the Democracy and Diversity Triannual Conference at the *Center for the Study of Democratic Citizenship* in Montreal, Canada. April 24-25, 2020. [Cancelled Due to COVID-19]

"The New American Electorate." Panelist. *Princeton University*. Event sponsored by the Center for the Study of Democratic Politics. April 3, 2020. [Cancelled Due to COVID-19]

"Neighboring Identities: Psychological and Political Reactions to Generalized and Particularized Anti-Immigrant Appeals." w/Sergio Garcia-Rios. *University of Toronto*. Talk Sponsored by the Department of Political Science. March

6, 2020.

"History, Institutions, and Theory Research Coordination Network on Racial and Ethnic Politics." Panelist. *University of Pennsylvania*. Event sponsored by the American Political Science Association's Special Projects Fund and the Center for the Study of Ethnicity, Race and Immigration at Penn. February 28-29, 2020.

"Using Observational and Experimental Data to Examine the Sociopolitical Consequences of Perceived Discrimination." *Rutgers University*. Talk sponsored by the Emerging Trends Lecture Series & the Center for the Experimental Study of Politics and Psychology. April 27, 2018.

"A Change of Heart? Using Panel Designs to Establish Causality with Real Events." w/Loren Collingwood. *Princeton University*. Talk sponsored by the Center for the Study of Democratic Politics. April 26, 2018.

"Using Observational and Experimental Data to Examine the Sociopolitical Consequences of Perceived Discrimination." *University of California Los Angeles*. Talk sponsored by the Race, Ethnicity and Politics Workshop. March 5, 2018.

"Muslim-American Attitudes, Sociopolitical Behavior, and Identity." Panelist/Section Presenter. *University of California Los Angeles*. Event sponsored by the Luskin School of Public Affairs & the National Science Foundation. December 15, 2017.

"Muslim-American Political Behavior." Panelist/Section Presenter. *Menlo College*. Event sponsored by Menlo College & the National Science Foundation. December 16, 2016.

Internal or Public Invited Talks/Panels	"How Democratic is the U.S. Constitution, and to What Extent did the Founding Fathers Oppose Majority Rule?" Speaker. University Day Public Lecture. March 18, 2023. "Race, Ethnicity, and Gender in the 2020 Election." Speaker. Panel sponsored by the the University of Delaware POSCIR. December 14, 2020. "Building Community: Scholarship and Connection among Faculty of Color." Speaker. Panel sponsored by the Center for the Study of Diversity (CSD) at the University of Delaware. February 24, 2020. "Executive Power and the U.S. Democracy." Talk sponsored by the 2019 YALI Mandela Washington Fellows Program at the University of Delaware. July 2, 2019.

"Opinion Shift and Stability: Long-Lasting Opposition toward Trump's Muslim Ban." Talk sponsored by the Department of Sociology and Criminal Justice Colloquium Speaker Series at the University of Delaware. April 24, 2019.

"Old-Fashioned Racism and the Roots of Contemporary Islamophobia." Talk sponsored by the Center for the Study of Diversity (CSD) Colloquium Speaker Series at the University of Delaware. December 6, 2018.

"Understanding Executive Power in the United States." Talk sponsored by the 2018 YALI Mandela Washington Fellows Program at the University of Delaware. July 2, 2018.

"The Inclusion and Exclusion of Minority Groups in the United States." Talk sponsored by the 2017 YALI Mandela Washington Fellows Program at the University of Delaware. July 11, 2017.

"Inclusion and Exclusion: Perceptions of Discrimination in the Workplace." Diversity Summit Presenter. Talk sponsored by the Office of Equity and Inclusion at the University of Delaware. June 20, 2017.

"What Happens Now Part II? A Forum to Discuss Bigotry & Closed Borders in the Trump Era." Speaker. Panel sponsored by the Department of Women and Gender Studies, Sociology and Criminal Justice, Political Science and International Relations, & the College of Arts and Sciences at the University of Delaware. February 13, 2017.

"Forum on the Travel Ban Executive Order." Speaker. Panel sponsored by the University of Delaware Provost Office. February 7, 2017.

"What Happens Now Part I? Fear, Diversity, and Inclusion in Post-U.S. Election." Speaker. Panel sponsored by Women and Gender Studies, Sociology and Criminal Justice, Political Science and International Relations, History, & the College of Arts and Sciences at the University of Delaware. November 30, 2016.

"Race, Religion, and Gender." Election Central Panelist. Event sponsored by the Center for Political Communication at the University of Delaware. November 8, 2016.

Select Conference Presentations	2021

"Partisan Winners and Losers: Testing Alternative Frames of Congressional Election Results Among White and Latino Voters." Online Paper Presentation at the Annual American Political Science Association Conference (APSA).

"Kissing Up and Kicking Down: How Immigrant Resentment Impacts Latinx

Support for Donald Trump and Restrictive Immigration Policies." Online Paper Presentation at the Annual American Political Science Association Conference (APSA).

"How do Political Attacks Affect Racial and Ethnic Self-Identities?" Online Paper Presentation at the Annual Midwest Political Science Association Conference (MPSA).

"Kissing Up and Kicking Down: How Immigrant Resentment Impacts Latinx Support for Donald Trump and Restrictive Immigration Policies." Online Paper Presentation at the Annual Midwest Political Science Association Conference (MPSA).

2019

"The Significance of Politicized Group Identities: Re-examining the Relationship between Contact with Punitive Political Institutions and Political Participation." Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

"Threat or Reassurance? Framing Midterm results among Latinos and Whites." Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

"When American Identity Trumps Latinx Identity: Explaining Support for Restrictive Immigration Policies." Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

"Anti-Minority Politics and Political Participation: Evidence from Four Countries." Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

2018

"Assessing the Link between Interactions with Punitive Political Institutions and Political Behavior." Paper Presentation at the 2018 Symposium on the Politics of Immigration, Race, and Ethnicity (SPIRE) Meeting in Philadelphia, PA (University of Pennsylvania).

"Are Integrated Muslim Americans More Likely to Perceive Discrimination?" Paper Presentation at the Annual American Political Science Association Conference (APSA) in Boston, MA.

"Opinion Shift and Stability: Enduring Individual-Level Opposition to Trump's Muslim Ban." Paper Presentation at the Annual American Political Science Association Conference (APSA) in Boston, MA.

"Assessing the Link between Interactions with Punitive Political Institutions

and Political Behavior." Paper Presentation at the 2018 Collaborative Multiracial Post-Election Study (CMPS) Meeting in Los Angeles, CA (UCLA).

2017

"A Change of Heart? Why Individual-Level Public Opinion Shifted against Trump's Muslim Ban." Paper Presentation at the Annual American Political Science Association Conference (APSA) in San Francisco, CA.

"Veiled Politics: Experiences with Discrimination among American Muslims." Paper Presentation at the Annual American Political Science Association Conference (APSA) in San Francisco, CA.

"The Racial Shield as Racism Exoneration: Explaining White Racist Support for Conservative Minority Candidates." Paper Presentation at the Annual Western Political Science Association Conference (WPSA) in Vancouver BC, Canada.

2016

"Assessing the Mechanism Linking Discrimination to Democratic Engagement." Paper Presentation at the Annual American Political Science Association Conference (APSA) in Philadelphia, PA.

"Estimating Candidate Support: Comparing EI and EI-RxC." Paper Presentation at the Annual Midwest Political Science Association Conference (MPSA) in Chicago, Illinois.

Student Supervision	Sadie Ellington, Dissertation Committee Member (POSC)
	Enes Aksu, Dissertation Committee Member (POSC)
	Enes Tuzgen, Dissertation Committee Member (POSC)
	Olga Gerasimenko, Dissertation Committee Member (POSC)
	Furkan Karakayan, Dissertation Committee Member (POSC)
	Richard Takyi Amoah, Dissertation Committee Member (ECON)
	Sheila Afrakomah, Dissertation Committee Member (ECON)
	Ahmet Ates, Dissertation Committee Member (POSC)
	Charles Mays, Long Paper and Dissertation Chair (POSC)
	Ian Mumma, Long Paper Committee Member (POSC)
	Clark Shanahan, Long Paper Committee Member (POSC)
	Rachel Spruill, Undergraduate Honors Thesis Chair
	Jessica Sack, Undergraduate Honors Thesis Chair
	Jordan Spencer, Undergraduate Faculty Mentor for the McNair Program
	Lauren Turenchalk, Undergraduate Research Supervisor
Professional Service	**Editorial Board Member**

Politics and Religion (6/2018 - 12/2021)

Discipline Service

American Political Science Association (APSA) REP Section Chair (2021-2022)

Western Political Science Association (WPSA) Task Force on Equity, Inclusion, and Access in the Discipline (2020-2021)

APSA Race, Ethnicity, and Politics Best Paper Award Committee Member (2020)

University Service

2019 Summer Educational and Cultural Experience Program (SECEP) Lecturer of Politics and Justice in the United States. (July 27 - August 20, 2019)

Manuscript Reviewer/Referee

American Journal of Political Science, American Political Science Review, American Politics Research, British Journal of Political Science, Belgian Federal office for Science Policy, Behavioral Sciences of Terrorism and Political Aggression, Cambridge University Press, Electoral Studies, European Political Science Review, International Journal of Public Opinion, Journal of Elections, Public Opinion & Parties, Journal of Ethnic and Migration Studies, Journal of Public Policy, Journal of Politics, Journal of Race, Ethnicity and Politics, Migration Studies, Perspectives on Politics, Political Behavior, Politics, Groups, and Identities, Political Psychology, Political Research Quarterly, Politics and Religion, Public Opinion Quarterly, Social Science Quarterly, Time-Sharing Experiments for the Social Sciences

Conference Coordination

Politics of Race, Immigration, and Ethnicity Consortium (PRIEC) at the University of Delaware. (2020)

Politics of Race, Immigration, and Ethnicity Consortium (PRIEC) at the University of Washington. (2013)

Latinos and the Voting Rights Act. Center for Democracy and Voting Rights Research at the University of Washington Law School. (2013)

Islam in the Public Sphere Conference. Washington Institute for the Study of Race & Ethnicity (WISER). (2011)

Select Expert Consulting Experience

State of Maryland Attorney General's Office; 2021 MD Redistricting

Baltimore County Branch of the NAACP v. Baltimore County, Maryland, No. 1:21-cv-03232-LKG (D. Md. 2022)

Common Cause Florida v. Lee, 4:22-cv-109-AW-MAF (N.D. Fla.)

Common Cause Florida v. Byrd, No. 4:22-cv-00109-AW-MAF (N.D. Fla. 2022) [Deposed]

Dickinson Bay Area NAACP Branch v. Galveston County, Texas, No. 3:22-cv-117-JVB (S.D. Tex. 2023) [Deposed & Testified]

Reyes v. Chilton, 4:21-cv-05075-MKD (E.D. Wash. 2021) [Deposed]

Roswell Independent School District (RISD); 2022 Redistricting

Caroline County Branch of the NAACP v. Town of Federalsburg, Civ. Action No. 23-SAG-00484 (D.Md. 2023)

Cobb County Board of Elections and Registration, No. 1:22-cv-02300-ELR (N.D. Ga. 2022)

Coca v. City of Dodge City, et al. Case no. 6:22-cv-01274 (D Kan. 2022) [Deposed & Testified]

Soto Palmer v. Hobbs, No. 3:22-cv-05035-RSL (W. D. Wash. 2021)

Previous Research Positions	**Senior Researcher, Washington Poll** *Public Opinion Survey Design, Programming, and Analysis.*	2010-2014

Researcher, Center for Democracy & Voting Rights Research   2013-2014
Racially Polarized Voting (RPV) Analysis of jurisdictions in states such as: California, Florida, Texas, and Washington.

Investigator, Washington State Charter School Initiative   2013
Precinct and school district level data collection and analysis of the I-1240 Vote for S360 Polling Firm and Melinda & Gates Foundation.

Skills & Additional Information	**Software**: R, STATA, LaTeX, ESRI, DRA
	Languages: Farsi (Persian)–Native Speaker
	R Packages: eiCompare (contributor), eiExpand (contributor)

Pl.App.032

Exhibit 2

From:	Anthony Aronica
To:	Washines, Asa K. (ATG)
Cc:	Jeremy Takala; Deland Olney; Ruth Jim; Terry Goudy-Rambler; Gerald Lewis; George Meninick; Ethan Jones; Dawn Vyvyan; Willow Howard
Subject:	Re: Soto Palmer - proposed remedial redistricting maps
Date:	Friday, December 29, 2023 12:15:31 PM
Attachments:	Letter_YN_AGO_Redistricting (12.29.23).pdf WA_Map4.pdf WA_Map3.pdf

[EXTERNAL]

Dear Asa,

Attached is the Chairman's response to the AG's Office regarding your request for comment on the proposed remedial maps. Out of those proposed, maps 3 and 4 most closely resemble the current 14th Legislative District that the Yakama Nation consulted in advocacy for and include the most off-Reservation trust allotments.

Regards,
Tony

On Mon, Dec 18, 2023 at 3:23 PM Anthony Aronica <anthony@yakamanation-olc.org> wrote:

> Dear Asa,
>
> The referenced legal brief and 5 maps did not stay attached in the forward to me. Are you able to resend those?
>
> Thank you,
> Tony
>
> On Mon, Dec 11, 2023 at 3:53 PM Ethan Jones <Ethan@yakamanation-olc.org> wrote:
>> Dear Mr. Washines,
>>
>> Thank you for reaching out on this important issue, and I understand from your email that the deadline is December 22nd. We will discuss this and get back to you.
>>
>> Thanks,
>>
>> Ethan
>>
>> On Mon, Dec 11, 2023 at 3:49 PM Washines, Asa K. (ATG) <asa.washines@atg.wa.gov> wrote:
>>> Chairman Lewis & Councilman Takala,
>>> Below is the legal brief and 5 redistricting maps proposals from the plaintiffs in the Voting Rights Act case challenging the Legislative District 15.
>>> The plaintiffs say that their proposals 1 and 2 "keep[] the Yakama Nation Reservation intact in

Pl.App.034

one legislative district," now renamed LD 14, and contain "some of the Yakama Nation trust lands." They say that their proposals 3 and 4 "combine[] the Yakama Nation Reservation and all of the Yakama Nation trust lands and fishing villages in LD 14." Finally, they say that their proposal 5 "includes all of the Yakama Nation Reservation in LD 14 but not the off-reservation trust lands or fishing villages."

Our expert has not yet independently verified what the Plaintiffs say about inclusion of the Yakama reservation and trust lands. The deadline for the parties to comment on these proposals is December 22. In theory, the Yakama Nation could file an amicus brief before then, or they may be able to file a comment later after the Court appoints a special master to review the proposed maps (but we don't know yet what that process will look like)

Our office would like to get your thoughts on the proposals.

Let me know if you have any questions.

Asa K. Washines (Yakama)

Tribal Liaison

Office of the Washington State Attorney General

asa.washines@atg.wa.gov

360.878.0664

--

Ethan Jones, Lead Attorney

Yakama Nation Office of Legal Counsel
P.O. Box 151, 401 Fort Road
Toppenish, WA 98948
(509) 865-7268

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--

Anthony S. Aronica, Staff Attorney II
Yakama Nation Office of Legal Counsel

401 Fort Road/P.O. Box 150, Toppenish, WA 98948
Cell: (509) 833-9350 | anthony@yakamanation-olc.org

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--
Anthony S. Aronica, Staff Attorney II
Yakama Nation Office of Legal Counsel

_____

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Expert Report of Dr. Loren Collingwood

Loren Collingwood

2024-03-01

Executive Summary

I have been retained by plaintiffs as an expert, and have been asked to examine Dr. Sean Trende's expert report dated 2/23/2024. In particular, I was asked to compare demographic and political features of the plaintiffs' Map 3A against the intervenors' newly proposed map. Specifically, for both plaintiffs' Map 3A, as well as the intervenors' map, I examine 2022 CVAP demographic counts and electoral performance analysis.

Based on my analysis, I conclude the following:

- Map 3A has an estimated HCVAP of 51.04%, and a non-Hispanic white CVAP of 38.36%.
- Intervenors' map has an estimated HCVAP of 51.29%, and a non-Hispanic white CVAP of 42.95%.
- Based on contests between 2016-2020, the performance results for plaintiffs' map 3A are sufficient to provide Latino voters with an equal opportunity to elect candidates of their choice to the state legislature. The intervenors' proposed map shows that the Latino-preferred candidate does win in all the analyzed contests, but in several contests the Latino-preferred candidate nearly loses the election. Thus, there is a significantly greater risk that the Latino voters are unable to elect their preferred candidate in the intervenors' map relative to the plaintiffs' Map 3A.
- Further, voter turnout is often lower in legislative contests relative to top of the ticket (i.e., governor) contests. Given that turnout gaps tend to benefit whites over Latinos, this suggests that exogenous elections used for electoral performance likely slightly overstate Latino-preferred voters' ability to elect candidates of choice. Therefore, there is more doubt whether intervenors' map will perform for Latino-preferred legislative candidates in comparison to plaintiffs' Map 3A.

My opinions are based on the following data sources: 2020 US Census block data, 2022 American Community Survey (ACS) block group data, plaintiff 3A block assignment files, intervenor alternative map block assignment files, and precinct election results.

I am being compensated at a rate of $400/hour. My compensation is not contingent on the opinions expressed in this report, on my testimony, or on the outcome of this case.

Background and Qualifications

My qualifications were set forth in my last report dated 2/23/2024.

CVAP Comparisons Across Maps

To estimate CVAP demographics for each map, I used the recently released 2022 CVAP block group data taken from the U.S. Census.[1] I filter the block groups to those appearing in each respective map (i.e., LD-15 in the intervenors' map, or LD-14 in plaintiffs' map 3A), then sum the total counts for total population, non-Hispanic white alone, Hispanic, and several other minority groups. For block groups that split legislative district boundaries, I weight them by Voting Age Population (VAP) to estimate the share of the block group that is in vs. out of the district for just that split block group.

Table 1. Demographics 2022 CVAP. Intervenor and Plaintiff 3A maps.

Map	HCVAP	WCVAP	BCVAP	NCVAP	ACVAP
Intervenor D15	51.29	42.95	1.24	0.96	1.33
Map 3A D14	51.04	38.36	1.01	5.25	1.6

Electoral Performance

Figure 1 compares electoral performance across eight exogenous contests with precincts subset to the respective district maps. For precincts split across district lines, the vote is weighted by the proportion of the population of that precinct/VTD that is in vs. out of the district. Across every contest, the plaintiffs' map 3A outperforms the intervenors' map.

In all analyzed statewide elections, the Latino-preferred candidate wins by a sizeable margin in plaintiffs' Map 3A. In intervenors' late-proposed map, in many contests the Latino-preferred candidate nearly loses the election. As I noted in my initial remedial report, given that Latino-preferred state legislative candidates may receive a lower percentage than statewide candidates, there is some doubt whether intervenors' map would perform for legislative candidates. 12/1/23 Report, p. 3. On the other hand, the larger margin in plaintiffs' map 3A is sufficient to provide Latino voters with an equal opportunity to elect candidates to a state legislative district.

Figure 1. Electoral Performance analysis, Intervenors' Map District 15, Plaintiff Map 3A, 2016-2020 statewide general elections, paneled by map alternative.

---

[1] https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html

Washington LD-14 3A and LD-15 Intervenor Map
2016-2020 Elections

	Intervenor Map Mean Diff: 6.1	Map 3A Mean Diff: 13.6
2020 Attorney General	Larkin 46.6 / Ferguson 53.3	Larkin 42.6 / Ferguson 57.3
2020 Governor	Culp 48.5 / Inslee 51.2	Culp 44.8 / Inslee 55
2020 President	Trump 44.7 / Biden 52.8	Trump 41 / Biden 56.6
2020 Treasurer	Davidson 49.4 / Pellicciotti 50.6	Davidson 45.2 / Pellicciotti 54.7
2018 U.S. Senate	Hutchinson 49.6 / Cantwell 50.4	Hutchinson 45.5 / Cantwell 54.5
2016 Governor	Bryant 46.2 / Inslee 53.8	Bryant 42.7 / Inslee 57.3
2016 President	Trump 44 / Clinton 50.2	Trump 41 / Clinton 53.2
2016 US Senate	Vance 42.4 / Murray 57.6	Vance 38.6 / Murray 61.4

Vote Share (%)

Preferred Candidate: Latino White

Pursuant to 28 U.S.C. § 1746, I, Loren Collingwood, declare the foregoing is true and correct.

Dr. Loren Collingwood

Dated: March 1, 2024

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The Honorable Robert S. Lasnik

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8

9   SUSAN SOTO PALMER, et al.,   NO. 3:22-cv-5035-RSL

10   Plaintiffs,

                v.

11   STATEMENT BY INTERESTED
                                                PARTY YAKAMA NATION
    STEVEN HOBBS, et al.,

12
                   Defendants,
13   and

14 JOSE TREVINO, et al.,

15   Intervenor-Defendants.

16

17

18   Interested Party, the Confederated Tribes and Bands of the Yakama Nation ("Yakama

    Nation"), appreciates the opportunity to provide this statement in response to the Court's request

19 for information relating to the remedial legislative district mapping. All proposed maps include

20 the Yakama Reservation within a single district, so this response is narrowly tailored to address

21 the Yakama Nation's Public Domain Allotments, Treaty Fishing Access Sites ("TFAS"), and

22 TFAS shared-use sites in Klickitat County, Washington. These identified areas are displayed on

23 the Exhibit A map, dated February 23, 2024, including tables with accompanying coordinates,

24 section, township, range, description, and acreage. The Yakama Nation's usual and accustomed

25
    STATEMENT BY INTERESTED
    PARTY YAKAMA NATION
    3:22-CV-5035-RSL - 1

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1   areas to exercise the rights reserved under the Treaty with the Yakamas of June 9, 1855 are

2   ubiquitous in Klickitat County along the Columbia River and its tributary streams.[1]   Enrolled

3   members of the Yakama Nation reside on or within a proximal distance of many of the identified

4   parcels and sites on a year-round basis or during fishing seasons from March – October.

5   Klickitat County contains the Yakama Nation's communities of interest located in the

6   14th Legislative District as adopted by the Washington State Legislature on February 8, 2022

7   that is subject to remedial Legislative District mapping.

8

9   DATED this 23rd day of February, 2024.

10

                 Respectfully submitted,

11
                 /s/ Ethan Jones

12   Ethan Jones, WSBA #46911
                 Anthony S. Aronica, WSBA #54725

13   YAKAMA NATION
                 OFFICE OF LEGAL COUNSEL

14   P.O. Box 150 / 401 Fort Road
                 Toppenish, WA 98948

15   Telephone: (509) 865-7268
                 ethan@yakamanation-olc.org

16   anthony@yakamanation-olc.org

17   *Attorneys for the Confederated Tribes and*
                 Bands of the Yakama Nation

18

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24 _____
[1] *See* Treaty with the Yakamas, U.S. – Yakama Nation, June 9, 1855, 12 Stat. 951, art. III, cl. 2.

25
STATEMENT BY INTERESTED
PARTY YAKAMA NATION
3:22-CV-5035-RSL - 2

YAKAMA NATION
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Phone (509) 865-7268

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EXHIBIT A

YAKAMA NATION PUBLIC DOMAIN TRUST LANDS

IN KLICKITAT COUNTY

(PAGINATED SEPERATELY)

STATEMENT BY INTERESTED
PARTY YAKAMA NATION
3:22-CV-5035-RSL - 3

YAKAMA NATION
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Public Domain Trust Lands - Yakama Nation

Klickitat County, WA
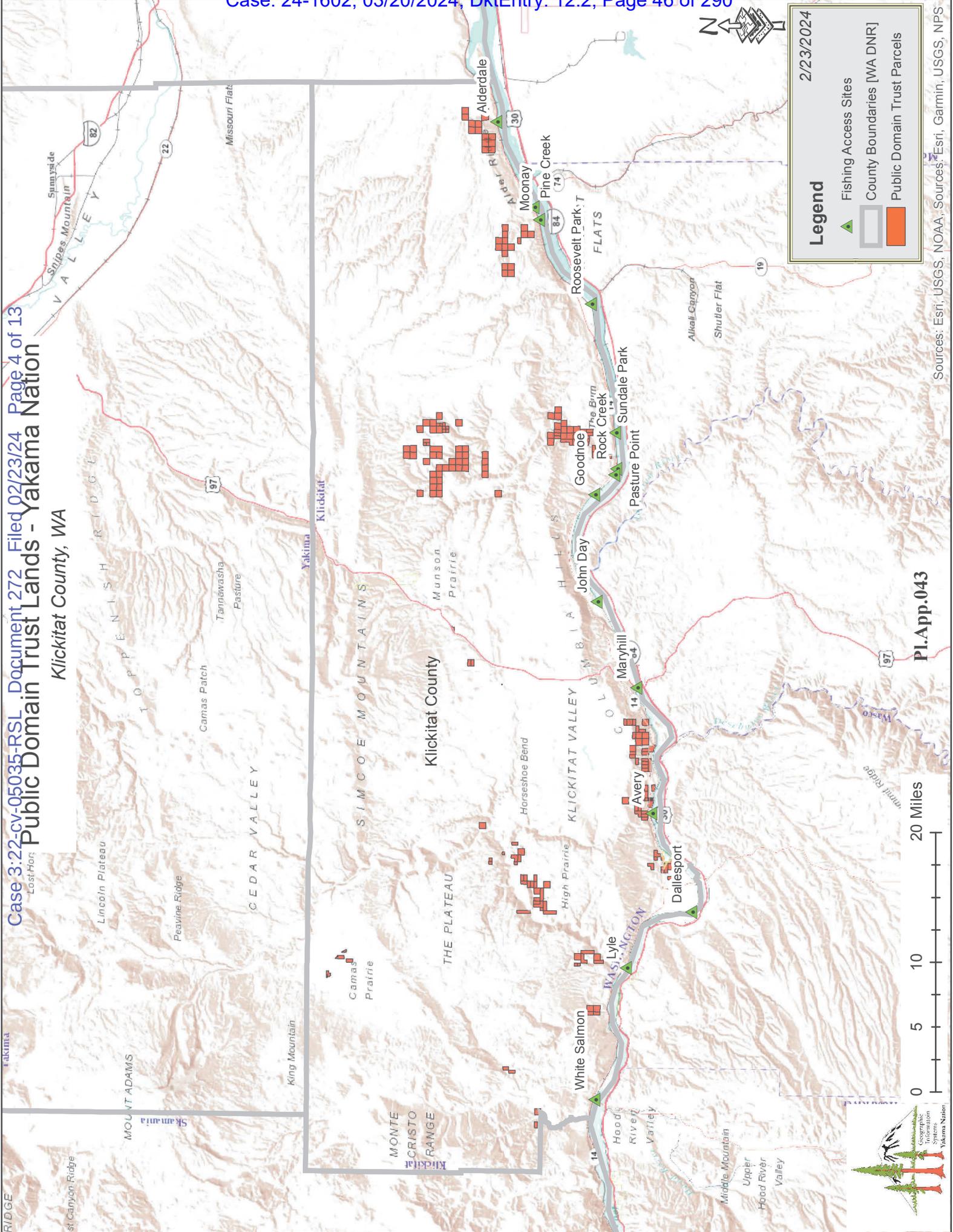
2/23/2024

Legend

△ Fishing Access Sites

☐ County Boundaries [WA DNR]

☐ Public Domain Trust Parcels
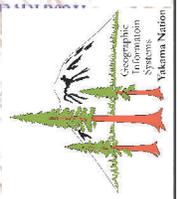
Sources: Esri, USGS, NOAA, Sources: Esri, Garmin, USGS, NPS

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0   5   10   20 Miles

Case 3:22-cv-05035-RSL   Document 272   Filed 02/23/24   Page 5 of 13

Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

LST	Acres	PubDomainN	Lat	Long_	TwnRngSec	SEC	TWP	RGE
V-1009	0	Vancouver Allotments	45.66331961	-120.9759512	2-15.18	18	2	15
V-105	160	Vancouver Allotments	45.90684063	-120.505602	5-18.24	24	5	18
VH-0544	81	Vancouver Allotments	45.84159607	-121.1108222	4-14.7	7	4	14
V-121	160	Vancouver Allotments	45.93608353	-120.4545651	5-19.8	8	5	19
V-114	160	Vancouver Allotments	45.89951156	-120.515815	5-18.23	23	5	18
VH-4728	160	Vancouver Allotments	45.85059602	-121.0563451	4-14.9	9	4	14
V-136	160	Vancouver Allotments	45.87784535	-120.4548792	5-19.32	32	5	19
V-84	160	Vancouver Allotments	45.74616901	-120.4240618	3-19.15	15	3	19
V-87	160	Vancouver Allotments	45.76767798	-120.3928615	3-19.2	2	3	19
V-51	80	Vancouver Allotments	45.79095202	-121.139481	4-13.35	35	4	13
V-115	160	Vancouver Allotments	45.89966413	-120.5261642	5-18.23	23	5	18
V-113	160	Vancouver Allotments	45.90703121	-120.5260731	5-18.23	23	5	18
V-1015	0	Vancouver Allotments	45.83033884	-120.8310375	4-16.17	17	4	16
WW-14	0	Walla Walla Allotments	45.82643297	-120.1429487	4-21.14	14	4	21
VH-02070	80	Vancouver Allotments	45.7891901	-121.1732985	4-13.34	34	4	13
VH-5519	0	Vancouver Allotments	45.72838253	-121.3468905	3-12.19	19	3	12
MTV-182	160	Vancouver Allotments Mineral Rights	45.7180581	-120.4645311	3-19.29	29	3	19
V-179 & V179 A-F	0	Vancouver Allotments	45.66466999	-121.0111184	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66444599	-121.01068	2-14.14	14	2	14
V-204	160	Vancouver Allotments	45.92141549	-120.5259668	5-18.14	14	5	18
V-112	160	Vancouver Allotments	45.90681218	-120.5157905	5-18.23	23	5	18
V-95	160	Vancouver Allotments	45.92158952	-120.4232988	5-19.15	15	5	19
V-119	160	Vancouver Allotments	45.91436519	-120.4749048	5-19.18	18	5	19
MV-120	0	Vancouver Allotments Mineral Rights	45.91623535	-120.4471321	5-19.16 NW1/4 SW1/4 Lot 3	16	5	19
V-122	160	Vancouver Allotments	45.92881268	-120.4545932	5-19.8	8	5	19
V-123	160	Vancouver Allotments	45.92886878	-120.4651933	5-19.8	8	5	19
MV-120	0	Vancouver Allotments Mineral Rights	45.91259445	-120.4471108	5-19.16 SW1/4 SW1/4 Lot 4	16	5	19
MV-120	0	Vancouver Allotments Mineral Rights	45.91445611	-120.4419455	5-19.16 E1/2 SW14	16	5	19
V-111	160	Vancouver Allotments	45.90711346	-120.4953033	5-18.24	24	5	18

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Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

V-118	80	Vancouver Allotments	45.89988548	-120.4851003	5-19.30	30	5	19
V-116	160	Vancouver Allotments	45.89953584	-120.5055192	5-18.24	24	5	18
V-110	160	Vancouver Allotments	45.89978407	-120.4953048	5-18.25	25	5	18
MV-120	160	Vancouver Allotments Mineral Rights	45.93615435	-120.4650086	5-19.8 NW 1/4	8	5	19
TV-100	160	Vancouver Allotments	45.89961949	-120.4023224	5-19.23	23	5	19
V-102	160	Vancouver Allotments	45.90704831	-120.4236951	5-19.22	22	5	19
V-141	160	Vancouver Allotments	45.89970163	-120.4237124	5-19.22	22	5	19
V-96	160	Vancouver Allotments	45.91444417	-120.4128868	5-19.15	15	5	19
MV-103	0	Vancouver Allotments Mineral Rights	45.89416164	-120.4259416	5-19.27 NW1/4 NW 1/4 Lot 3	27	5	19
MVH-243	0	Vancouver Allotments Mineral Rights	45.90144109	-120.4156327	5-19.22 NW1/4 SE1/4 Lot 5	22	0	0
MVH-243	0	Vancouver Allotments Mineral Rights	45.89775622	-120.4156519	5-19.22 NW1/4 SE1/4 Lot 5	22	0	0
1018 A-N & T-1018	0	Vancouver Allotments	45.88377	-120.7432532	5-16.25	25	5	16
VH-05684	0	Vancouver Allotments	45.90342822	-120.4549042	5-19.20	20	5	19
VH-5733 old VH-1014	0	Vancouver Allotments	45.89973425	-120.4650735	5-19.20	20	5	19
V-99	160	Vancouver Allotments	45.90695626	-120.4129582	5-19.22	22	5	19
V-101	160	Vancouver Allotments	45.87776718	-120.4129623	5-19.34	34	5	19
V-1020	0	Vancouver Allotments	45.88621436	-120.7387426	5-17.30	30	5	17
MV-103	0	Vancouver Allotments Mineral Rights	45.8905253	-120.4207963	5-19.27 SE1/4 NW1/4 Lot 5	27	5	19
VH-1013	160	Vancouver Allotments	45.90701623	-120.4647862	5-19.20	20	5	19
V-125	160	Vancouver Allotments	45.88518599	-120.4751054	5-19.30	30	5	19
V-128	160	Vancouver Allotments	45.87789865	-120.4751252	5-19.31	31	5	19
V-131	160	Vancouver Allotments	45.87788215	-120.4649092	5-19.32	32	5	19
TV-132	160	Vancouver Allotments Trust	45.87795894	-120.4853247	5-19.31	31	5	19
TWW-30	160	Walla Walla Allotments	45.84761432	-119.9142712	4-23.10	10	4	23
WW-32	160	Walla Walla Allotments	45.84768371	-119.9248848	4-23.10	10	4	23
V-109	160	Vancouver Allotments	45.89253293	-120.4851562	5-19.30	30	5	19
V-130	160	Vancouver Allotments	45.87064849	-120.46489	5-19.32	32	5	19
V-124	80	Vancouver Allotments	45.88522953	-120.4851801	5-19.30	30	5	19
WW-12	0	Walla Walla Allotments	45.82635658	-120.1326588	4-21.13	13	4	21
MWW-7	160	Walla Walla Allotments Mineral Rights	45.86938193	-119.924692	5-23.34	34	5	23

2

Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

ID	Acres	Allotment Type	Latitude	Longitude	Location			
V-199	80	Vancouver Allotments	45.86245237	-120.7966334	4-16.13	13	4	16
VH-0576	0	Vancouver Allotments	45.84920977	-120.4956653	4-18.12	12	4	18
V-133	160	Vancouver Allotments	45.8706682	-120.4752939	5-19.31	31	5	19
V-82	0	Vancouver Allotments Mineral Rights	45.7616277	-120.4417722	3-19.9	9	3	19
V-142	160	Vancouver Allotments	45.74643378	-120.4341179	3-19.16	16	3	19
V-104	160	Vabcouver Allotments	45.84897353	-120.4646473	4-19.8	8	4	19
TV-146-A	0	Vancouver Allotments	45.74098035	-120.4339097	3-19.16	16	3	19
V-202	160	Vancouver Allotments	45.83486891	-120.5264185	4-18.14	14	4	18
TV-1019	3	Vancouver Allotments	45.88549059	-120.7388083	5-17.30	30	5	17
TWW-21	80	Walla Walla Allotments	45.86220299	-119.9353371	4-23.4	4	4	23
WW-28	0	Walla Walla Allotments	45.86937896	-119.9143997	5-23.34	34	5	23
TWW-33	0	Walla Walla Allotments	45.85502749	-119.9357792	4-23.4	4	4	23
V-126	160	Vancouver Allotments	45.87061771	-120.4547713	5-19.32	32	5	19
TV-127	80	Vancouver Allotments	45.87072857	-120.4856098	5-19.31	31	5	19
TV-1022	0	Vancouver Allotments	45.86605748	-120.7966469	4-16.3	3	4	16
MWW-22	160	Walla Walla Allotments Mineral Rights	45.86219373	-119.9457835	4-23.4	4	4	23
WW-29	0	Walla Walla Allotments	45.84761585	-119.9767913	4-23.7	7	4	23
WW-15	0	Walla Walla Allotments	45.81908882	-120.1327129	4-21.24	24	4	21
WW-3	0	Walla Walla Allotments	45.80439575	-120.1125436	4-22.30	30	4	22
MV-47-A	0	Vancouver Allotments Mineral Rights	45.82210595	-121.4437554	4-11.21 S1/2 NW1/4	21	4	11
V-140	160	Vancouver Allotments	45.84902866	-120.4750712	4-19.7	7	4	19
TWW-24	0	Walla Walla Allotments	45.85498896	-119.9460562	4-23.4	4	4	23
VH-0544	81	Vancouver Allotments	45.84163768	-121.1159021	4-13.12	12	4	13
V-139	80	Vancouver Allotments	45.84919903	-120.485317	4-19.7	7	4	19
TWW-25	0	Walla Walla Allotments	45.84758822	-119.9665421	4-23.8	8	4	23
TWW-23	0	Walla Walla Allotments	45.84758959	-119.956362	4-23.8	8	4	23
V-21	80	Vancouver Allotments	45.82698152	-121.100324	4-14.18	18	4	14
WW-10	0	Walla Walla Allotments	45.83357088	-120.1325748	4-21.13	13	4	21
WW-9	0	Walla Walla Allotments	45.83334648	-120.122363	4-21.13	13	4	21
WW-5	0	Walla Walla Allotments	45.81912867	-120.1743344	4-21.22	22	4	21

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Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

ID	Acres	Type	Latitude	Longitude	Legal Description			
V-20	0	Vancouver Allotments	45.81416921	-121.0848791	2-14.11	20	4	14
MVH-303	0	Vancouver Allotments Mineral Rights	45.805547	-121.1394431	4-13.26 NE1/4 S1/2	26	0	0
MVH-303	0	Vancouver Allotments Mineral Rights	45.80188243	-121.1394701	4-13.26 SE1/4 N1/2	26	0	0
TWW-26	0	Walla Walla Allotments	45.84028465	-119.9665472	4-23.8	8	4	23
V-67	221	Vancouver Allotments	45.81377332	-121.1074443	4-14.19	19	4	14
MWWW-31	160	Walla Walla Allotments Mineral Rights	45.84046856	-119.976893	4-23.7	7	4	23
WW-19	160	Walla Walla Allotments	45.8260781	-120.1019428	4-22.18	18	4	22
TWW20	160	Walla Walla Allotments	45.84010359	-119.9563579	4-23.8	8	4	23
VT-28	160	Vancouver Allotments	45.79825967	-121.1498315	4-13.26	26	4	13
TWW-7	0	Walla Walla Allotments	45.82643382	-120.1638594	4-21.15	15	4	21
TWW-8	0	Walla Walla Allotments	45.8264272	-120.174307	4-21.15	15	4	21
1003	0	Vancouver Allotments	45.65667167	-121.1067496	2-14.18	18	2	14
MVH-832	0	Vancouver Allotments Mineral Rights	45.78570385	-121.512481	3-10.35 SE1/4	35	3	10
V-160	80	Vancouver Allotments	45.66900119	-120.9395609	2-15.9	9	2	15
V-148	0	Vancouver Allotments	45.72562055	-120.4650324	3-19.20	20	3	19
MV-158	40	Vancouver Allotments Mineral Rights	45.67100541	-121.0129107	2-14.11	11	2	14
MV-158	40	Vancouver Allotments Mineral Rights	45.6675293	-121.012848	2-14.11	11	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66534146	-121.0124611	2-14.14	14	2	14
V-38	0	Vancouver Allotments	45.64536253	-121.1133979	2-14.19	19	2	14
WW-11	0	Walla Walla Allotments	45.82621799	-120.1224943	4-21.13	13	4	21
WW-17	0	Walla Walla Allotments	45.82611566	-120.1122264	4-22.18	18	4	22
WW-4	0	Walla Walla Allotments	45.79699067	-120.1125574	4-22.30	30	4	22
VH-02070	80	Vancouver Allotments	45.78919972	-121.1784467	4-13.33	33	4	13
MV-47-A	0	Vancouver Allotments Mineral Rights	45.81487861	-121.4488819	4-11.20 E1/2 SE1/4	20	4	11
WW-16	80	Walla Walla Allotments	45.81005143	-120.1226713	4-21.24	24	4	21
WW-6	0	Walla Walla Allotments	45.8191356	-120.1639111	4-21.22	22	4	21
WW--1	160	Walla Walla Allotments	45.80427985	-120.1022065	4-22.30	30	4	22
V-67	221	Vancouver Allotments	45.81273383	-121.1161597	4-13.24	24	4	13
V-187	160	Vancouver Allotments	45.80386906	-121.1936349	4-13.28	28	4	13
V-70	160	Vancouver Allotments	45.80699145	-121.0977658	4-14.30	30	4	14

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Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

ID	Description	Acres	Latitude	Longitude	Section			
VH-572	Vancouver Allotments	160	45.77824508	-121.1498566	3-13.2	2	3	13
VH-3959	Vancouver Allotments	80	45.76856138	-120.4364587	3-19.4	4	3	19
V-195	Vancouver Allotments	160	45.73657442	-121.2683026	3-12.23	23	3	12
VH-954	Vancouver Allotments	0	45.78757909	-121.5333003	4-10.34	34	4	10
T-63	Vancouver Allotments	160	45.78912904	-121.1602196	4-13.34	34	4	13
V-68	Vancouver Allotments	80	45.80890404	-121.1083578	4-14.30	30	4	14
VT-62	Vancouver Allotments	160	45.78378652	-121.1654549	4-13.34	34	4	13
VH-1523	Vancouver Allotments	80	45.80369956	-121.1471484	4-13.26	26	4	13
VT-28	Vancouver Allotments	160	45.79457687	-121.1498313	4-13.35	35	4	13
TVH-6009	Vancouver Allotments	0	45.79094074	-121.1498552	4-13.35	35	4	13
V-69	Vancouver Allotments	0	45.78649428	-121.182309	4-13.33	33	4	13
V-80	Vancouver Allotments	160	45.75378473	-120.4433968	3-19.9	9	3	19
VH-0574	Vancouver Allotments	0	45.77598811	-120.4436349	3-19.4	4	3	19
V-77	Vancouver Allotments	160	45.7612429	-120.4344498	3-19.9	9	3	19
TV-66	Vancouver Allotments	160	45.78395188	-121.1888551	4-13.33	33	4	13
TV-66	Vancouver Allotments	160	45.78021207	-121.1837076	3-13.4	4	3	13
VH-498	Vancouver Allotments	160	45.7747765	-121.1940699	3-13.4	4	3	13
V-78	Vancouver Allotments	0	45.77546837	-120.4023834	3-19.2	2	3	19
MV-72	Vancouver Allotments Mineral Rights	160	45.74277216	-121.2643337	3-12.14	14	3	12
V-86	Vancouver Allotments	160	45.76792156	-120.4032003	3-19.2	2	3	19
VH-3960	Vancouver Allotments	0	45.77580759	-120.4333103	3-19.4	4	3	19
V-97	Vancouver Allotments	160	45.76839957	-120.4316389	3-19.4	4	3	19
V-147	Vancouver Allotments	80	45.73749897	-120.4338055	3-19.16	16	3	19
V-149	Vancouver Allotments	80	45.72737001	-120.4542668	3-19.20	20	3	19
V-98	Vancouver Allotments	0	45.76819457	-120.4187706	3-19.3	3	3	19
V-79	Vancouver Allotments	160	45.76093279	-120.4244485	3-19.10	10	3	19
V-83	Vancouver Allotments	160	45.76076509	-120.4141488	3-19.10	10	3	19
V-85	Vancouver Allotments	160	45.75360914	-120.424369	3-19.10	10	3	19
V-97	Vancouver Allotments	160	45.76831817	-120.4266859	3-19.3	3	3	19
V-81	Vancouver Allotments	160	45.75393855	-120.4344531	3-19.9	9	3	19

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ID	Acreage	Type	Latitude	Longitude	Ref			
VH-976	80	Vancouver Allotments	45.72112456	-121.3545458	3-12.30	30	3	12
V-50	160	Vancouver Allotments	45.72111758	-121.2646138	3-12.26	26	3	12
TH-402	160	Vancouver Allotments	45.73185493	-121.25674	3-12.24	24	3	12
V-91	0	Vancouver Allotments	45.73433307	-120.4413907	3-19.21	21	3	19
V-91	0	Vancouver Allotments	45.73406801	-120.436287	3-19.21	21	3	19
1026	40	Vancouver Allotments	45.7446768	-121.277043	3-12.14	14	3	12
V-91	0	Vancouver Allotments	45.73460633	-120.4465118	3-19.21	21	3	19
V-90	0	Vancouver Allotments	45.73178047	-120.426193	3-19.22	22	3	19
VH-976	0	Vancouver Allotments	45.72843373	-121.3544977	3-12.19	19	3	12
VH-403	120	Vancouver Allotments	45.71934078	-121.2722515	3-12.26	26	3	12
V-143	160	Vancouver Allotments	45.74707875	-120.4441033	3-19.16	16	3	19
V-145	80	Vancouver Allotments	45.74169224	-120.4440808	3-19.16	16	3	19
V-89	0	Vancouver Allotments	45.73887752	-120.4260496	3-19.15	15	3	19
V-88	80	Vancouver Allotments	45.73198488	-120.4313794	3-19.21	21	3	19
V-144	78	Vancouver Allotments	45.73807859	-120.4440038	3-19.16	16	3	19
V-179 & V179 A-F	0	Vancouver Allotments	45.66284671	-121.0128866	2-14.14	14	2	14
V-38	0	Vancouver Allotments	45.6497161	-121.1067634	2-14.19	19	2	14
V-1006	0	Vancouver Allotments	45.71248282	-121.4585922	3-11.23	23	3	11
MV-170	80	Vancouver Allotments Mineral Rights	45.68477929	-120.8903141	2-15.2	2	2	15
MV-172	80	Vancouver Allotments Mineral Rights	45.68132539	-120.8903393	2-15.2	2	2	15
V-8	0	Vancouver Allotments	45.69117946	-121.015368	2-14.2	2	2	14
MTV-181	80	Vancouver Allotments Mineral Rights	45.7111595	-120.4670328	3-19.29	29	3	19
V-34	160	Vancouver Allotments	45.66882272	-120.8904506	2-15.11	11	2	15
V-192	80	Vancouver Allotments	45.66928708	-121.0436379	2-14.10	10	2	14
V-157	80	Vancouver Allotmants	45.66928147	-121.0384597	2-14.10	10	2	14
V-155	80	Vancouver Allotments	45.68318625	-120.9393737	2-15.4	4	2	15
T9001 (TR1)	84	Vancouver Allotments	45.63933186	-121.1116395	2-14.19	19	2	14
TV-64	40	Vancouver Allotments	45.63441855	-121.117181	2-13.25	25	2	13
V-30	120	Vancouver Allotments	45.66155078	-121.1191033	2-13.13	13	2	13
V-166	80	Vancouver Allotments	45.69196435	-120.890258	2-15.2	2	2	15

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Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

ID	Acres	Type	Latitude	Longitude	Ref			
MV-151	160	Vancouver Allotments Mineral Rights	45.68317207	-120.9318312	2-15.4	4	2	15
MV-171	80		45.68830224	-120.8902877	2-15.3	3	2	15
V-167	80	Vancouver Allotments	45.67588864	-121.0352264	2-15.2	2	2	15
V-191	80	Vancouver Allotments	45.67783602	-120.9009428	2-14.10	10	2	14
MV-169	0	Vancouver Allotments Mineral Rights	45.67795892	-120.9526449	2-15.11	11	2	15
V-32	0	Vancouver Allotments	45.66909063	-120.9500776	2-15.8	8	2	15
V-162	80	Vancouver Allotments	45.66010177	-120.9948551	2-15.8	8	2	15
V-159	80	Vancouver Allotments	45.68321799	-120.9446249	2-14.13	13	2	14
V-161	80	Vancouver Allotments	45.66762371	-120.9949429	2-15.4	4	2	15
V-190	80	Vancouver Allotments	45.67836938	-121.0257303	2-14.12	12	2	14
V-200	80	Vancouver Allotments	45.66759298	-121.0050902	2-14.11	11	2	14
MVH-5523	80	Vancouver Allotments Mineral Rights	45.66929754	-121.0334194	2-14.12	12	2	14
V-164	0	Vancouver Allotments	45.67467226	-121.0256858	2-14.10	10	2	14
TV-193	80	Vancouver Allotments	45.66916888	-120.9604751	2-14.11	11	2	14
V-154	80	Vancouver Allotments	45.66890501	-120.9213254	2-15.8	8	2	15
MV-186	160	Vancouver Allotments Mineral Rights	45.67612266	-120.9214856	2-15.10	10	2	15
V-174	160	Vancouver Allotments	45.66179993	-120.9317848	2-15.10	10	2	15
MVH-5534	140	Vancouver Allotments Mineral Rights	45.66923855	-120.9659428	2-15.16	16	2	15
V-153	80	Vancouver Allotments	45.67606874	-120.9112577	2-15.8	8	2	15
V-175	160	Vancouver Allotments	45.66895217	-120.9344041	2-15.10	10	2	15
MV-165	80	Vancouver Allotments	45.67253653	-120.9036655	2-15.9	9	2	15
MV-168	80	Vancouver Allotments Mineral Rights	45.66915301	-120.9551753	2-15.11	11	2	15
MV-163	80	Vancouver Allotments Mineral Rights	45.66414671	-121.0117915	2-15.8	8	2	15
V-179 & V179 A-F	0	Vancouver Allotments	45.66396444	-120.958408	2-14.14	14	2	14
V-35	160	Vancouver Allotments	45.66437809	-121.0127457	2-15.17	17	2	15
V-179 & V179 A-F	0	Vancouver Allotments	45.66899343	-120.911125	2-14.14	14	2	14
MVH-5530	160	Vancouver Allotments Mineral Rights	45.65556008	-121.0997832	2-15.10	10	2	15
MV-29	125	Vancouver Allotments Mineral Rights	45.64630567	-121.1223575	2-14.18	18	2	14
VH-852	160	Vancouver Homestead Allotments	45.66399614	-120.975698	2-13.24	24	2	13
T-1010	0	Vancouver Allotments			2-15.18	18	2	15

Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

ID	Acres	Category	Latitude	Longitude	Legal			
V-179 & V179 A-F	0	Vancouver Allotments	45.66316357	-121.0110236	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66501137	-121.0140557	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66470499	-121.0135588	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66128518	-121.0112186	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.6639684	-121.012729	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66407431	-121.0108021	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66392796	-121.0143156	2-14.14	14	2	14
MV-61	80	Vancouver Allotments Mineral Rights	45.63992675	-121.1380502	2-13.23	23	2	13
MV-185	160	Vancouver Allotments Mineral Rights	45.63984595	-121.1199236	2-13.24	24	2	13
MV-45	40	Vancouver Allotments Mineral Rights	45.63444904	-121.122318	2-13.25	25	2	13
V-179 & V179 A-F	0	Vancouver Allotments	45.66339863	-121.0125756	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66439225	-121.0147783	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66245521	-121.014371	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.6604507	-121.0105019	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66124378	-121.0137333	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66209586	-121.0140187	2-14.14	14	2	14
TV-194	121	Vancouver Allotments	45.66269613	-121.0202642	2-14.14	14	2	14
T-1011	160	Vancouver Allotments	45.64910653	-121.1274632	2-13.24	24	2	13
V- 1005	0	Vancouver Allotments	45.61603819	-121.1826913	2-13.33	33	2	33
MV-43	40	Vancouver Allotments Mineral Rights	45.63081097	-121.1222883	2-13.25	25	2	13
V-179 & V179 A-F	0	Vancouver Allotments	45.65999751	-121.0129392	2-14.14	14	2	14
VH-400	160	Vancouver Allotments	45.72103256	-121.3468671	3-12.30	30	3	12
MVH-243	0	Vancouver Allotments Mineral Rights	45.89415843	-120.4156403	5-19.27 NW1/4 NE1/4 Lot 1	27	0	0
MV-103	0	Vancouver Allotments Mineral Rights	45.89052976	-120.4259043	5-19.27 SW1/4 NW 1/4 Lot4	27	5	19
MVH-243	0	Vancouver Allotments Mineral Rights	45.8941657	-120.4208393	5-19.27 NE1/4 NW1/4 Lot 2	27	0	0
1025	38	Vancouver Allotments	45.74114746	-121.2769134	3-12.14	14	3	12

Fishing Access Sites – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

Name	County	X_Coord	Y_Coord
Alderdale	Klickitat	1785068.917	183553.501
Pine Creek	Klickitat	1750318.06	168288.1123
Moonay	Klickitat	1745047.945	166194.6872
Roosevelt Park	Klickitat	1710984.208	145137.912
Sundale Park	Klickitat	1658549.024	135306.0252
Rock Creek	Klickitat	1643850.159	134807.4169
Pasture Point	Klickitat	1641401.135	135597.9745
Goodnoe	Klickitat	1633214.876	143704.2192
John Day	Klickitat	1589717.364	142739.9263
Maryhill	Klickitat	1554649.726	126645.9937
Avery	Klickitat	1503344.649	120530.7679
Dallesport	Klickitat	1463206.266	104213.9736
Lyle	Klickitat	1440409.125	130895.3218
White Salmon	Klickitat	1386879.115	143807.8443

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Expert Report of Dr. Loren Collingwood

Loren Collingwood

2024-02-23

Executive Summary

I have been retained by plaintiffs as an expert, and have been asked to examine the citizen voting age population (CVAP) of different racial/ethnic categories of the enacted LD-15 as well as several proposed LD-14 districts in 10 remedial maps (1-5, 1A-5A).

To estimate CVAP demographics for each map, I used the recently released 2022 CVAP block group data taken from the U.S. Census.[1] I filter the block groups to those appearing in each respective map (i.e., LD-15 in the enacted plan, or LD-14 in the alternative plans), then sum the total counts for total population, non-Hispanic white alone, Hispanic, and several other minority groups.

Based on my analysis, I conclude the following:

- The enacted plan has a Hispanic CVAP (HCVAP) population of 52.18%
- Maps 1, 1A, 2, 2A have an estimated HCVAP of 52.48%
- Maps 3, 3A, 4, 4A have an estimated HCVAP of 51.04%
- Maps 5, 5A have an estimated HCVAP of 47.96%.
- LD14 is the same in each "A" remedial proposal as the corresponding original proposal. As a result, the performance analysis for LD14 in each "A" map is the same as its corresponding original proposal.

My opinions are based on the following data sources: 2020 US Census block data, 2022 American Community Survey (ACS) block group data, and enacted and alternative Block Assignment files provided to me by counsel.

I am being compensated at a rate of $400/hour. My compensation is not contingent on the opinions expressed in this report, on my testimony, or on the outcome of this case.

Background and Qualifications

I am an associate professor of political science at the University of New Mexico. Previously, I was an associate professor of political science and co-director of civic engagement at the

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[1]The 2022 CVAP estimates were not available prior to January 23, 2024: https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html

Center for Social Innovation at the University of California, Riverside. I have published two books with *Oxford University Press*, 42 peer-reviewed journal articles, and nearly a dozen book chapters focusing on sanctuary cities, race/ethnic politics, election administration, and RPV. I received a Ph.D. in political science with a concentration in political methodology and applied statistics from the University of Washington in 2012 and a B.A. in psychology from the California State University, Chico, in 2002. I have attached my curriculum vitae, which includes an up-to-date list of publications, as Exhibit 1 to this report.

In between my B.A. and Ph.D., I spent 3-4 years working in private consulting for the survey research firm Greenberg Quinlan Rosner Research in Washington, D.C. I also founded the research firm Collingwood Research, which focuses primarily on the statistical and demographic analysis of political data for a wide array of clients, and lead redistricting and map-drawing and demographic analysis for the Inland Empire Funding Alliance in Southern California. I was the redistricting consultant for the West Contra Costa Unified School District, CA, independent redistricting commission in which I was charged with drawing court-ordered single member districts. I was the redistricting consulting with Roswell, NM, Independent School District to draw single member districts.

I served as a testifying expert for the plaintiff in the Voting Rights Act Section 2 case *NAACP v. East Ramapo Central School District*, No. 17 Civ. 8943 (S.D.N.Y.). I am the quantitative expert in *LULAC vs. Pate (Iowa)*, 2021, and have filed an expert report in that case. I am the BISG expert in *LULAC Texas et al. v. John Scott et al. (1:21-cv-0786-XR)*, 2022. I filed two reports and have been deposed in that case. I was the RPV expert for the plaintiff in *East St. Louis Branch NAACP, et al. vs. Illinois State Board of Elections, et al.*, having filed two reports in that case. I was the Senate Factors expert for plaintiff in *Pendergrass v. Raffensperger (N.D. Ga. 2021)*, where I filed two reports, was deposed, and testified at trial. I was the RPV expert for plaintiff in *Johnson, et al., v. WEC, et al., No. 2021AP1450-OA*, having filed three reports in that case. I was the RPV expert for plaintiff in *Faith Rivera, et al. v. Scott Schwab and Michael Abbott*. I filed a report, was deposed, and testified at trial. I served as the RPV expert for the intervenor in *Walen and Henderson v. Burgum and Jaeger No 1:22-cv-00031-PDW-CRH*, where I filed a report and testified at trial. I was the RPV expert in *Lower Brule Sioux Tribe v. Lyman County* where I filed a report. I was the RPV expert for plaintiff in *Soto Palmer et al. vs. Hobbs et al.*, where I filed two reports, was deposed, and testified at trial. I was the RPV expert for plaintiff in *IE United et al. v. Riverside County, CVRI2202423*, where I filed a report and was deposed. I was the RPV expert for plaintiff in *Paige Dixon v. Lewisville Independent School District, et al., Civil Action No. 4:22-cv-00304*, where I filed two expert reports. I was the RPV expert for plaintiff in *Turtle Mountain Band of Chippewa Indians v. Jaeger No. 3:22-cv-00022-PDW-ARS*, where I filed two reports, was deposed, and testified at trial.

Proposed Maps

Plaintiffs have proposed 10 maps, and in several LD-14 is the same. Each map's 2022 ACS Citizen Voting Age Population (CVAP) demographics are presented in Table 1 below.[2] I also include estimates for the enacted LD-15.[3]

Table 1. Demographics 2022 CVAP.

Map	HCVAP	WCVAP	BCVAP	NCVAP	ACVAP
Enacted D15	52.18	42.73	1	0.96	1.18
Map 1 D14	52.48	36.83	1.07	5.33	1.57
Map 1A D14	52.48	36.83	1.07	5.33	1.57
Map 2 D14	52.48	36.83	1.07	5.33	1.57
Map 2A D14	52.48	36.83	1.07	5.33	1.57
Map 3 D14	51.04	38.36	1.01	5.25	1.6
Map 3A D14	51.04	38.36	1.01	5.25	1.6
Map 4 D14	51.04	38.36	1.01	5.25	1.6
Map 4A D14	51.04	38.36	1.01	5.25	1.6
Map 5 D14	47.96	41.86	1.07	5.04	1.46
Map 5A D14	47.96	41.86	1.07	5.04	1.46

LD14 in each "A" remedial proposal is the same as in the corresponding original proposal. For example, LD14 is the same in Maps 1 and 1A, 2 and 2A, 3 and 3A, 4 and 4A, and 5 and 5A. Thus, the performance of LD14 in each "A" remedial proposal is also the same as in the corresponding original proposal, as reported in my December 1, 2023, report.

Pursuant to 28 U.S.C. § 1746, I, Loren Collingwood, declare the foregoing is true and correct.
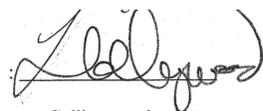
Dr. Loren Collingwood

Dated: February 23, 2024

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[2] Estimates for white, Black, Asian/Pacific Islander, and Native American are non-Hispanic single race.

[3] HCVAP = Hispanic CVAP, WCVAP = White CVAP, BCVAP = Black CVAP, NCVAP = Native American CVAP, ACVAP = Asian/Pacific Islander CVAP.

1   The Honorable Robert S. Lasnik

2

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5

6   **UNITED STATES DISTRICT COURT**

7   **WESTERN DISTRICT OF WASHINGTON**
                              AT SEATTLE

8

9   SUSAN SOTO PALMER et al.,

10   *Plaintiffs,*
                                                    Case No.: 3:22-cv-5035-RSL
11   v.

12   STEVEN HOBBS, in his official capacity   INTERVENOR-DEFENDANTS'
      as Secretary of State of Washington, et al., SUPPLEMENTAL FILING IDENTIFYING
13   YAKAMA NATION LANDS FILED AT
                  Defendants,   THE COURT'S REQUEST
14
          and
15
      JOSE TREVINO et al.,
16
                  Intervenor-Defendants.
17

18   On February 9, 2024, the Parties participated in a hearing related to the Court's ongoing

19   process of determining a remedial State Legislative map to address its prior finding of Hispanic

20   vote dilution in the Yakima Valley. At this hearing, the Court stated that the Parties should operate

21   under the presumption that it will adopt Plaintiffs' proposed Remedial Map 3A. Following the

22   hearing, the Court issued an Order scheduling an evidentiary hearing for the remedial process to

23   be held on March 8, 2024. *See* Dtk. # 266. The Court also ordered that the "Intervenor-Defendants

24   shall identify the usual and accustomed hunting and fishing grounds of the Yakama Nation, off-

25   reservation trust parcels, and/or traditional family homestead that they maintain are not included

26   in LD-14 in Remedial Map 3A." *Id.* The Court further ordered the Intervenors to disclose "the data

27   set from which the information is gleaned, screenshots of a map showing the excluded areas, and

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No. 3:22-cv-5035-RSL   Phone: (206) 207-3920

1   the number of people impacted." *Id.* What follows is Intervenors response to the Court's order

2   discussed above.

3   **REQUESTED INFORMATION**

4   **A. Introduction**

5   After having retained a Special Master for the purpose of crafting a remedial map, and after

6   the Plaintiffs created and submitted the proposed remedial maps, the Court now orders Intervenors

7   to show the remedial map drawers where the lines should be placed to incorporate the Yakama

8   Nation in the manner they have repeatedly and publicly requested. As disclosed by the State

9   following the remedial oral argument, the Yakama Nation opposes all of the maps proposed by

10   Plaintiffs as "[n]one of [Plaintiffs' proposed] remedial maps represent the Yakama Nation's

11   interests to the same degree as the current 14th Legislative District that was a product of the

12   Yakama Nation's active participation as a sovereign government in Consultative posture with the

13   Washington State Redistricting Commission." Letter from Gerald Lewis, Chairman, Yakima

14   Nation Tribal Council, to Bob Ferguson, Attorney General of Washington (Dec. 22, 2023) (Ex.

15   A). In responding to the State's blind support of Plaintiffs' proposed remedial maps, the Yakama

16   Nation added: "it is improper for Washington State's preferred solution to swap the injury through

17   revisions that dilute the Yakama voting population with the 14th Legislative District." *Id.*

18   During the original map-drawing process, and during discovery and trial in this matter, the

19   members of the Commission all stated that one of their priorities was a map that gave the Yakama

20   Nation a single district that encompassed all of the land they felt should be included therein. *See,*

21   *e.g.*, Trial Tr. 486:5-23 (Fain: explaining why he prioritized tribal government interests, including

22   Yakama Nation's "desire . . . to be consolidated" in a single legislative district); Trial Tr. 714:25-

23   715:16 (Graves: explaining that Commission's final "framework" agreement reflected the Yakama

24   Nation's "prefer[ence] to have both their reservation and their traditional hunting and fishing

25   lands[] be contained within one Legislative District"). The Yakama Nation had been very clear

26   with the Commission about what their tribe wanted. Under the Commission's first-ever formal

27   tribal consultation process, the Yakama Nation made it abundantly clear—through numerous

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1   letters, meetings, and presentations, all of which included maps and geographical descriptions—

2   how they viewed the legislative district boundaries should be drawn around their lands. *See* Dkt.

3   ## 252-4, 252-5, 252-6. All of these maps and presentations were produce to Plaintiffs during

4   discovery and are part of the record before the Court (organized and attached as exhibits in a recent

5   filing by Intervenors). *See id.* Despite the ample evidence on the record that shows *exactly* what

6   the Yakama Nation wanted, Plaintiffs are still unable to produce a remedial map that "represent[s]

7   the Yakama Nation's interests to the same degree as the current 14th Legislative District," Ex. A

8   at 2—one that "is consistent with the Yakama Reservation boundary; incorporates Yakama

9   members living in established tribal communities off-Reservation[1] and on federal trust property

10 along the Columbia River; includes the Yakama Nation's significant human service areas and

11 public safety districts adjacent to the Reservation; and includes critical natural resource

12 management areas for the protection of adjacent forests and rivers," Letter from Delano Saluskin,

13 Chairman, Yakama Nation Tribal Council, to Sarah Augustine, Chair, Washington State

14 Redistricting Commission (Nov. 4, 2021) (Dkt. # 252-6 at 7-8). The Commission had little trouble

15 understanding the Yakama's political and cultural priorities and incorporating those priorities into

16 the Enacted Plan, so it is troubling that Plaintiffs and the State have been unable to do the same,

17 or to survey public records to answer the questions the Court now places before Intervenors.

18 **B. Reservation Lands**

19   This data is publicly available via the U.S. Census Bureau and is provided in the files

20 transmitted to the Court.

21 **C. Usual and Accustomed Hunting and Fishing Grounds, Off-Reservation Trust Parcels, and Traditional Family Homestead Lands**

22

23   As stated above, the Yakama Nation, throughout the map drawing process, provided

24 numerous resources to assist the map drawers in crafting an appropriate district that encompassed

25

26 _____

[1] In an earlier letter to the Commission, the Yakama Nation wrote that "many enrolled members reside on off-Reservation trust parcels at traditional family homesteads, or in communities near the usual and accustom[ed] fishing sites along the Columbia River." Letter from Delano Saluskin, Chairman, Yakama Nation Tribal Council, to Sarah

27 Augustine, Chair, Washington State Redistricting Commission (Jun. 3, 2021) (Dkt. # 252-4 at 5).

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1   all of the lands that the tribe hoped to be contained in a single legislative district. *See* Dkt. ##

2   252-4, 252-5, 252-6.

3   Except for off-reservation trust lands (which are relatively easy to track, because they are

4   held in trust by the United States), there are not always clearly delineated maps or lists of exact

5   parcels that contain all culturally-important off-reservation lands. *See supra* note 1 (identifying the

6   kinds of off-reservation areas important to the Yakama Nation). "To determine the existence of

7   original Indian title to land, and the right to hunt and fish following from that title, courts have

8   generally required a showing of actual use and occupancy over an extended period of time."

9   *Washington v. Buchanan*, 978 P.2d 1070, 1079 (Wash. 1999). In fact, courts have not "provide[d]

10 a formal mechanism to evaluate and determine traditional hunting areas." Washington State

11 Department of Fish & Wildlife, Treaty History With the Northwest Tribes,

12 https://wdfw.wa.gov/hunting/management/tribal/history (last visited Feb. 15, 2024). As such, the

13 best source to begin looking for an understanding of these off-reservation lands is to defer to the

14 Yakama Nation itself.

15   In fact, the Supreme Court has considered the 1855 treaty between the United States and

16 the Yakama Nation five times, "and each time it has stressed that the language of the treaty should

17 be understood as bearing the meaning that the Yakamas understood it to have in 1855." *Wash.*

18 *State Dep't of Licensing v. Cougar Den, Inc.*, 139 S. Ct. 1000, 1011 (2019) (citing *United States*

19 *v. Winans*, 198 U.S. 371, 380-81 (1905), *Seufert Brothers Co. v. United States*, 249 U.S. 194,

20 196-98 (1919), *Tulee v. Washington*, 315 U.S. 681, 683-85 (1942), *Washington v. Wash. State*

21 *Commercial Passenger Fishing Vessel Ass'n*, 443 U.S. 658, 677-78 (1979); *see also Choctaw*

22 *Nation v. Oklahoma*, 397 U.S. 620, 630-31 ("The Indian Nations did not seek out the United States

23 and agree upon an exchange of lands in an arm's-length transaction. Rather, treaties were imposed

24 upon them and they had no choice but to consent. As a consequence, this Court has often held that

25 treaties with the Indians must be interpreted as they would have understood them.").

26   The Yakama's 1855 treaty ceded land extending westward "down the Columbia River to

27 midway between the mouths of White Salmon and Wind Rivers." Treaty of 1855 With the

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No. 3:22-cv-5035-RSL   Phone: (206) 207-3920

1   Yakama, Art. 1. Under the Enacted Plan, LD-14 extends down the Columbia to the White Salmon

2   River (which serves as the Klickitat-Skamania county line). Yet under Plaintiffs' proposal 3A,

3   LD-14 only extends downriver just past Lyle, well short of White Salmon.

4   In another example of the shortcomings of map 3A "Husum was a historic Yakama Nation

5   fishing village, and the Yakama Nation is highly involved in the protection and restoration of the

6   river." Wash. Dep't of Ecology, Quality Assurance Project Plan: White Salmon River Watershed

7   Bacteria Assessment, at 7 (https://apps.ecology.wa.gov/publications/documents/2303103.pdf).

8   The community of Husum is located in LD-14 under the Enacted Plan, but would be shifted to

9   LD-17, separate from the rest of the Yakama Nation, under Plaintiffs' proposal 3A.

10   In its various letters and presentations to the Commission, the Secretary of State and the

11   Attorney General of Washington, the Yakama Nation:

12   • Wrote that "many enrolled members reside on off-Reservation trust parcels, at

13   traditional family homesteads, or in communities near the usual and accustomed fishing

14   sites *along the Columbia River . . . .* [there is also] indigenous voting population located

15   *south of the Yakama Reservation in Klickitat and Skamania Counties*." Dkt. # 252-4 at

16   5.

17   • Presented historical and proposed legislative district maps to the Commission on

18   August 4, 2021. *See* Dkt. # 252-5 at 5, 7, 21.

19   • Supported Commissioner Graves's proposed legislative map because it "incorporates

20   Yakama members living in established tribal communities off-Reservation and on

21   federal trust property along the Columbia River; includes the Yakama Nation's

22   significant human service areas and public safety districts adjacent to the Reservation;

23   and includes critical natural resource management areas for the protection of adjacent

24   forests and rivers." Dkt. # 252-6 at 7-8.

25   Using the descriptions, comments, and maps provided by the Yakama Nation, Intervenors

26   have attempted to provide the information requested by the Court. The information will be

27   included in data files transmitted to the Court via email concurrent with this filing.

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FILED AT THE COURT'S REQUEST   **Pl.App.060**
No. 3:22-cv-5035-RSL

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CONCLUSION

2   Based on recent comments from the Yakama Nation, it is clear that the tribe's preference

3   is to simply maintain the current LD-14 District. None of Plaintiffs' proposed remedial maps

4   provide the Yakama Nation with what it has requested (which is what it negotiated with the

5   Commission as sovereigns, pursuant to the Commission's tribal consultation policy), including

6   Map 3A. Now that Intervenors are aware of the Yakama Nation's position on the proposed

7   remedial maps through the letter recently provided by the State, *see* Ex. A, Intervenors intend to

8   put forth a proposed map that will maintain Yakama Nation's position in the enacted LD-14 and

9   provide a majority-minority district for Latinos in the Yakama Valley that provides the opportunity

10 to regularly elect Democratic candidates. This map will be forthcoming with the remedial expert

11 filings and disclosures pursuant to the Order of the Court of February 9, 2024. *See* Dkt. # 266.

12 Here, there are few ways to create a map that contains a majority-minority Latino CVAP

13 that performs for Democratic-aligned candidates and gives the Yakama Nation everything they

14 requested. The Commission already dedicated several months' worth of work to creating such a

15 map—to completely disregard the Commission's work would be a travesty.

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FILED AT THE COURT'S REQUEST   **Pl.App.061**
No. 3:22-cv-5035-RSL

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1   DATED this 15th day of February, 2024.

2   Respectfully submitted,

3   s/ Andrew R. Stokesbary
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22   Counsel for Intervenor-Defendants

23   I certify that this memorandum contains 1,775
                                                     words, in compliance with the Local Civil Rules.
24
25
26
27

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1

CERTIFICATE OF SERVICE

2   I hereby certify that on this day I electronically filed the foregoing document with the Clerk

3   of the Court of the United States District Court for the Western District of Washington through the

4   Court's CM/ECF System, which will serve a copy of this document upon all counsel of record.

5   DATED this 15th day of February, 2024.

6   Respectfully submitted,

7   s/ Andrew R. Stokesbary

8   Andrew R. Stokesbary, WSBA No. 46097

9   Counsel for Intervenor-Defendants

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INTERVENOR-DEFENDANTS' SUPPLEMENTAL   6   **Chalmers, Adams, Backer & Kaufman, LLC**
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No. 3:22-cv-5035-RSL   Phone: (206) 207-3920

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                      UNITED STATES DISTRICT COURT
            WESTERN DISTRICT OF WASHINGTON AT SEATTLE
_____

SUSAN SOTO PALMER, et al.,         )
                                   ) CASE NO. C22-5035-RSL
                  Plaintiffs,      )
v.                                 ) Seattle, Washington
                                   )
STEVEN HOBBS, et al.,              ) February 9, 2024
                                   ) 9:30 a.m.
                  Defendants.      )
and                                ) ORAL ARGUMENT ON
                                   ) REMEDIAL ISSUES
JOSE TREVINO, et al.,              )
                                   )
        Intervenor-Defendants.     )
                                   )
_____

                VERBATIM REPORT OF PROCEEDINGS
          BEFORE THE HONORABLE ROBERT S. LASNIK
                UNITED STATES DISTRICT JUDGE
_____

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Proceedings recorded by mechanical stenography; transcript produced with aid of computer

February 9, 2024   2

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```

February 9, 2024   3

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 1                        PROCEEDINGS
 2    _____

 3            THE CLERK:  We are here in the matter of Soto Palmer,

 4   et al. versus Hobbs, et al. versus Trevino, et al.,

 5   Cause No. C22-5035, assigned to this court.

 6        Counsel, please make your appearances for the record.

 7            MS. WAKNIN:  Sonni Waknin on behalf of plaintiff, Your

 8   Honor.  With me is Chad Dunn, Aseem Mulji, Ernest Herrera, and

 9   Edwardo Morfin on behalf of plaintiff.

10            THE COURT:  Thank you.  Usually when it's "et al.," it

11   means other people.  This really means "all."

12            MR. HUGHES:  Good morning, Your Honor.  Andrew Hughes

13   on behalf of the State of Washington.  With me, as always, is

14   Cristina Sepe.

15            MR. STOKESBARY:  Andrew Stokesbary on behalf of

16   Intervenor-Defendants, and with me is Dallin Holt.

17            THE COURT:  Great.  Thank you very much.

18        And listening on the telephone is the court-appointed

19   expert, Karen McDonald.  You can hear us okay, Dr. McDonald?

20            THE CLERK:  She's muted, Your Honor.

21            THE COURT:  Just nod your head.  Yeah, we're doing

22   fine.

23        So we're here on the motion to stay proceedings from

24   intervenor, talk about that and the possible next steps.  So I

25   think I'll start with Mr. Stokesbary and have some oral
```

February 9, 2024   4

1   argument, some response from the plaintiffs and the State on

2   where we go from here.

3   MR. STOKESBARY: Thanks, Your Honor. May it please

4   the court. I'm Andrew Stokesbary on behalf of

5   Intervenor-Defendants, Alex Ybarra, Ismael Campos, and Jose

6   Trevino.

7   Your Honor, throughout this litigation, plaintiffs have

8   continually alleged that the enacted plan unlawfully dilutes

9   Hispanic voting strength in the Yakima Valley. But by their own

10 expert testimony, the five proposed remedial maps that they've

11 submitted to the court would all reduce the Hispanic citizen

12 voting age population in the challenged district and, in turn,

13 increase the amount -- the percentage of non-Hispanic voters.

14   Plaintiffs say that this is, sort of, acceptable, because

15 the remedial maps would now, quote/unquote, perform for Latino

16 voters. But intervenors, again, all of whom are Latino voters

17 themselves, Your Honor, categorically disagree that the only way

18 to give Latino voters a voice in the Yakima Valley is to reduce

19 the number of Latino voters in the district and replace them

20 with non-Latino voters.

21   This underscores one of intervenors' main arguments: That

22 this court has a continuous duty to affirm Article III standing,

23 and if a remedy is not possible, if there's no redressability,

24 the plaintiffs have no standing.

25   I'll also point out, Your Honor, that, in its memorandum of

1   decision, the court found that LD 15, as enacted, quote, results

2   in an inequality in the electoral opportunities enjoyed by the

3   white and Latino voters in the area, and directed the clerk to

4   enter judgment in favor of plaintiffs -- in plaintiffs' favor on

5   their Section 2 claim.

6   We assume this was their Section 2 results claim, and in

7   their amended complaint, plaintiffs have asked for the order and

8   implementation -- order the implementation and use of a valid

9   state legislative plan that includes a majority Latino state

10 legislative district in the Yakima Valley.

11   But by plaintiffs' own expert -- expert witness expert

12 report, Map 5 doesn't actually contain a majority-Hispanic CVAP

13 population.

14   Now, plaintiffs, in their reply brief, have, sort of, said

15 that intervenors' concern about reduction of Hispanic CVAP is

16 misplaced. I think the phrase they used was "wrong, as a matter

17 of law." But they only cite to cases that hold that a district

18 without a majority-minority CVAP may be a remedy in some cases.

19 There is no authority, to intervenors' counsels' knowledge, that

20 a single district that's been challenged and found to have a

21 minority vote dilution can be remedied by further vote dilution.

22   Plaintiffs failed to cite any Section 2 cases where that

23 was the case. One of the cases they cited was *Bartlett v.*

24 *Strickland*. That case challenged the district that started out

25 at 39 percent African American, and the question was by how much

1   to raise the African American percentage.

2   Another one of the cases cited was one of the Alabama

3   redistricting cases that just went through the U.S. Supreme

4   Court, and the challenge there was whether to add a second

5   African American-majority district. So that remedy resulted in

6   the creation of a second district, where the African American

7   voting percentage is increased.

8   Again, intervenors aren't aware of an instance where there

9   was already a majority-minority CVAP district, and the remedy is

10 to dilute the minority vote, even after there's been found to be

11 vote dilution.

12   I would also like to point out that plaintiffs have not,

13 actually, shown that any of their maps would perform for

14 Latino-preferred candidates in actual legislative elections,

15 which is the whole point of this exercise.

16   Dr. Trende, intervenors' expert, his report, in Appendix

17 II, measures the partisanship of the different districts. In

18 the last two columns for each map, he shows, sort of, the

19 average partisan tilt of the districts, and he shows that,

20 depending on which, sort of, metric you use, which elections you

21 average out, there's a between 1.8- and 2.2-point Republican

22 advantage in the current enacted 15th District.

23   This mirrors what we heard at trial, where the

24 commissioners thought that it would have a modest one- or

25 two-point Republican advantage, but Senator Nikki Torres won

 1   that election by 35 points, which shows that she outperformed

 2   that index by 33 points.

 3   Now, Dr. Trende's analysis shows that the remedial

 4   districts that are being proposed would have a Democratic

 5   advantage of, perhaps, 12 to 14 points, dependent on which

 6   configuration is used. If Nikki Torres outperformed that by 33

 7   points, she would still win by 20 points, but plaintiffs insist

 8   that Nikki Torres is not the Latinos' preferred candidate of

 9   choice.

10   Plaintiffs have, sort of, countered that you can fully

11   reconstruct legislative elections, because there's some areas

12   that are out of the district, some areas that remain in the

13   district. And while that's true, we think that plaintiffs

14   could, sort of, show redressability by doing a partial

15   reconstruction and augmenting the missing areas through some

16   sort of statistical or simulative model that would, kind of,

17   extrapolate results, but they haven't even attempted to do so,

18   they haven't even attempted to explain how the Latino-preferred

19   candidate of choice would be able to win in this district after

20   the only endogenous election that has been contested in the 15th

21   District resulted in a Republican, who is, according to

22   plaintiffs, not the Latino candidate of choice, beating the

23   partisan index by 33 points.

24   Sorry, Your Honor. I'm getting a little Marco Rubio dry

25   mouth.

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1   THE COURT: Okay. Do you have a cup of water there?

2   I haven't heard reference to that one in a while.

3   MR. STOKESBARY: I apologize, Your Honor.

4   THE COURT: No problem.

5   MR. STOKESBARY: And thank you for your indulgence.

6   THE COURT: Sure.

7   MR. STOKESBARY: If intervenors are wrong about this,

8   if plaintiffs don't have to show that the district would perform

9   for Nikki Torres, then intervenors would suggest that the

10   district doesn't need to be a 12- to 14-point Democrat

11   advantage.

12   As I noted a minute ago, Your Honor found that the

13   district, as enacted, resulted in unequal opportunities, not

14   unequal guarantees but unequal opportunities. We don't think

15   that a 12- to 14-point advantage is necessary to provide an

16   opportunity. We think that, perhaps, a three- or five-point

17   advantage would be more than sufficient to provide an

18   opportunity to elect candidates of choice.

19   And I'll also point out that this is one of several reasons

20   why an evidentiary hearing is still required, where our experts,

21   plaintiffs' experts, can testify and be subject to both direct

22   and cross-examination to, sort of, understand how they view

23   competitiveness, what margin they believe is necessary to ensure

24   opportunity versus certainty, and allow the court and Your Honor

25   to weigh the competing expert testimony.

1   And, again, while it's, obviously, no secret that

2   intervenors have disagreed with the court's decisions on the

3   merits, we still have significant problems with the proposed

4   remedies, even if they exist outside of the district that has

5   been challenged and the remedial district itself that has been

6   proposed by plaintiffs in their five maps.

7   The court has a duty to minimize changes beyond what's

8   strictly necessary to remedy the affected district. I want to

9   point to two cases, Your Honor. In *Upham v. Seamon*, which can

10 be found at 456 U.S. 37, the Supreme Court said that

11 court-ordered reapportionment plans are subject, in some

12 respects, to stricter standards than plans developed by state

13 legislature. In *Perry v. Perez*, which can be found at 565 U.S.

14 388, the Supreme Court said that a federal district court, in

15 the context of legislative reapportionment, should follow the

16 policies and preferences of the State as expressed in statutory

17 and constitutional provisions or in the reapportionment plans

18 provided by the state legislature, whenever adherence to state

19 policy does not detract from the requirements of the federal

20 Constitution.

21   So, Your Honor, we think that plaintiffs' maps as they

22 exist beyond the remedial district fail on this count for

23 several reasons.

24   The maps produce unnecessary shifts in partisan

25 performance. In Maps 1 and 3, Legislative District 12 goes from

1   a Republican advantage of about eight points to about four to

2   five points. In Maps 1 through 4, Legislative District 17 goes

3   from a district with about a one-point Republican advantage, on

4   average, to one-and-a-half- to two-point Democratic advantage,

5   on average.

6   And, again, this is another example of why we think that we

7   need an evidentiary hearing with expert testimony, so both

8   experts can explain the meaning of the shifts.

9   Intervenors contend that a two-point shift that takes the

10   district from plus one Republican to plus one Democrat, or vice

11   versa, is significantly more meaningful than a two-point shift

12   that takes a Democrat from plus 20 Republican to plus 18

13   Republican.

14   Our second concern is that the maps move far more voters

15   than are necessary. In their Maps 1 through 4, plaintiffs would

16   move about 500,000 Washingtonians into different districts. For

17   context, the average size of a legislative district is about

18   157,000 people. So in order to remedy one district, plaintiffs

19   would have less than -- in their first four maps, move three

20   districts' worth of people just to fix one district.

21   For further context, as I noted a second ago, the remedial

22   district, the partisan advantage would go from about plus two

23   Republican to about plus 12 or plus 14 Democratic. So if you,

24   sort of, run the numbers, looking at about how many people are

25   registered to vote, what average turnout is, you're talking

1   about a net shift of about 15,000 votes. So these maps would

2   move 500,000 voters just to achieve a net change in 15,000 or so

3   votes.

4   That's an enormous change that we think is unnecessary, and

5   plaintiffs' fifth map, sort of, shows that it is unnecessary.

6   We think that Map 5 still has too many changes, but, you know,

7   at least, has far fewer changes than Maps 1 through 4. Map 5

8   only moves about 190,000 people around the state.

9   Our third complaint is that the plaintiffs' maps wantonly

10 move Republican incumbents into either Democratic districts or

11 into districts with other Republican incumbents. Some of these

12 seemed a little gratuitous.

13   All three of the incumbents in the 14th Legislative

14 District were moved in, at least, one of the maps by between a

15 third of a mile and a mile and a half. The two House incumbents

16 in the 15th District in Map 5 were moved out of their district

17 by between 500 feet and half a mile.

18   And as plaintiffs state -- even Your Honor had noted -- I

19 have another job outside of the courtroom, representing

20 intervenors, and in one of the maps, they, actually, cut my

21 neighborhood in South Auburn in half and put me a half a mile

22 outside my district. They put me into a district that is

23 centered on Enumclaw, Snoqualmie, and North Bend.

24   So while plaintiffs proposed a set of five new alternative

25 maps, and we appreciate that, a few points on those:

1   First, they weren't timely. They weren't submitted by the

2 court's December 1st deadline, so intervenors' expert hadn't had

3 a chance to fully review them, we haven't had a chance to fully

4 brief them, and the maps still don't fix every issue.

5   The senator in the 12th District still remains about a half

6 mile outside of his district in two of the maps, and in Map 5,

7 the two Legislative District 15 incumbents still remain between

8 500 feet and half a mile outside of the 15th District.

9   Last point, Your Honor, and then I'll wrap up.

10   It's, sort of, clear, from all these geographical miscues,

11 that plaintiffs and their expert don't really understand

12 Washington geography. I think the most illustrative example is

13 the number of trans-Cascades districts included in their plan.

14 It's just simple math that there's always going to have to be

15 one district that is divided between Eastern and Western

16 Washington. Historically, that has always been done in Skamania

17 County, down along the Columbia Gorge.

18   In the enacted plan, for the first time, I think, in the

19 state's history, the trans-Cascade district was placed further

20 north, along Highway 2 at Stevens Pass. But plaintiffs' maps

21 would add a second trans-Cascade district in all their maps,

22 adding back in the Skamania County/Columbia Gorge trans-Cascade

23 district, and in two of their maps, which, what I think is

24 particularly egregious, would draw the 13th District -- which

25 already is pretty long, it stretches from Moses Lake to

1   Snoqualmie Pass -- would have it go from Ephrata in the east to

2   Enumclaw in the west. But it wouldn't even traverse I-90. It

3   would traverse Highway 410 at Chinook Pass, which any camper,

4   skier, or hiker knows is closed six months out of the year.

5   So we think that the court should take a little more

6   careful look at this, hopefully with the assistance of the

7   court-appointed expert.

8   Because plaintiffs' maps fall so far short on so many

9   counts, the court shouldn't adopt any of them, even with some

10   modest changes.

11   If the court does proceed with the remedy, it should not

12   order a map that reduces the Hispanic population, nor should it

13   change districts beyond what is absolutely necessary to address

14   the affected area.

15   Consistent with Supreme Court precedence here, the enacted

16   plan and state law regarding competitiveness of districts should

17   be taken into account.

18   And one last point, Your Honor, which I'm happy to address

19   further, if you're interested, but if there are going to be

20   significant changes to other districts besides 14 or 15, and,

21   sort of, by necessity, each of them will likely need to be

22   changed, if the court proceeds, we think that new senate

23   elections should be ordered in 2024 in both of those districts.

24   State law allows holdover senators, after they're

25   districted out, to remain until their next election, but we

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 1   think it would be wiser for the court to order new elections in

 2   both of those affected senate districts in 2024, if the court

 3   moves forward.

 4        But my last request, Your Honor, is that if the court does

 5   move forward with the remedial map, intervenors request that

 6   either the court stay implementation until the 2026 elections,

 7   or order the maps don't go into effect until the 2026 elections.

 8        THE COURT:  Okay.  Thanks, Mr. Stokesbary.

 9        I want you to know, my first legal job, in the summer of

10   1976, was as a deputy prosecuting attorney assigned to Aukeen

11   District Court, which doesn't exist anymore, but it was Auburn,

12   Kent, Enumclaw, A-u-k-e-e-n.  We were in a place in Auburn that

13   looked a little bit like a barn.  It was the courthouse.  And

14   once a month we would -- the judge, the public defender, and

15   I -- would drive out to Enumclaw and hold court out there.

16        It was very interesting for a kid from New York City to go

17   out there and prosecute my very first case, which was 17 cattle

18   trespassing on a neighbor's property.

19        MR. STOKESBARY:  We still have some problems with cows

20   out there, Your Honor.

21        THE COURT:  I want you to know I have some familiarity

22   with your district.

23        These were the days when the district court was not a court

24   of record, and you could get a complete trial de novo in

25   superior court.  So some of the hotshot lawyers, like Tony
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1   Savage, would come out to Auburn, sit there, and look totally

2   bored. We would convict the client, and then they'd just appeal

3   and get a new trial in superior court. But it was a great place

4   to learn a little bit about trial courts.

5   Okay. Thanks, Mr. Stokesbary.

6   Does the State want to speak, Mr. Hughes?

7   MR. HUGHES: I'm prepared to speak. I am also

8   prepared to let plaintiffs go first. Whatever Your Honor

9   prefers.

10   THE COURT: Okay. Let's hear from plaintiffs first,

11   and then we'll hear from you, and if Mr. Smith wants to say

12   something, too.

13   Ms. Waknin?

14   MS. WAKNIN: Good morning, Your Honor.

15   THE COURT: Good morning.

16   MS. WAKNIN: Your Honor, I'm also from New York,

17   Queens, and so I talk fast. If I talk a little too fast, let me

18   know.

19   THE COURT: I'm, actually, from Staten Island, which,

20   technically, is part of New York City, but anybody from any of

21   the other boroughs, it may as well be Auburn or somewhere.

22   MS. WAKNIN: Or, God forbid, New Jersey, where I'm

23   also from.

24   Your Honor, plaintiffs have provided this court ten

25   remedial mapping proposals. All of plaintiffs' plans remedy the

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1   Section 2 violations, providing Latino voters and white voters

2   in the Yakima Valley region with an opportunity to elect

3   candidates of choice. All of plaintiffs' plans comply with the

4   U.S. Constitution and with Washington's traditional

5   redistricting principles, and all of plaintiffs' plans were

6   drawn without the consideration of racial or political data by

7   our map drawer.

8   Intervenor-Defendants' arguments don't address the central

9   issue here at the remedial stage, and that issue is whether

10   there are remedies before the court that completely remedy the

11   prior dilution of minority voting screening and provide an equal

12   opportunity for voters to elect candidates of choice.

13   There are ten plans before you that do, though. The

14   Intervenor-Defendants have had the opportunity -- multiple

15   opportunities to develop mapping plans that address their

16   concerns, and they have not provided this court with a single

17   plan that does so.

18   Indeed, they could have taken any of plaintiffs' five

19   remedial proposals, or ten remedial proposals. We had suggested

20   changes they've asked for and provided to this court, and they

21   haven't done so.

22   I want to address, first, the argument regarding Hispanic

23   voting population.

24   Under Section 2 jurisprudence, there's, actually, no racial

25   demographic target that this court must hit for a remedial

1   district. What we're looking at at the remedial stage is

2   whether or not there are different proposals for remedial

3   districts that perform or provide an opportunity to elect

4   candidates of choice.

5   Indeed, Intervenor-Defendants' argument regarding CVAP are

6   interesting, considering before the Supreme Court, they told the

7   court that the district court has ordered a super majority

8   Hispanic district. They represent clients that say that the

9   enacted plan is a racial gerrymander, and now come before this

10   court and say that it's not enough Hispanic CVAP.

11   Regardless, there are plans before this court that has had

12   full testimony on the record during the liability stage,

13   Plaintiffs' Demonstrative 1 and 2, that provide higher CVAP in

14   the remedial district.

15   Regardless, there's, actually, no dispute here regarding

16   performance. Only one expert, Dr. Loren Collingwood, has

17   provided this court with evidence of performance of the remedial

18   district, and Dr. Collingwood shows that all ten plans, Remedial

19   District LD 14 provides an equal opportunity to elect candidates

20   of choice for Latino voters.

21   Next, I wanted to discuss Senator Torres.

22   As Intervenor-Defendants have conceded, it's, actually,

23   methodologically impossible to demonstrate that Senator Torres

24   is able to -- to use Senator Torres's race in a performance

25   analysis. Indeed, if there was any way to do such a performance

1   analysis, their expert could have demonstrated such --

2   Dr. Trende could have demonstrated such. He has made no

3   opinions, actually, on whether or not plaintiffs' maps provide

4   an equal opportunity. Again, the only expert that's done so is

5   Dr. Loren Collingwood, and I direct the court to his declaration

6   on December 1st.

7   Further, Senator Torres's election is not probative in this

8   case. As the court has heard testimony from Dr. Collingwood and

9   Dr. Barreto, Senator Torres was not the candidate of choice for

10 Hispanic voters, and in the 2022 election, the retirement of an

11 incumbent, the underfunded, Latino-preferred, white, write-in

12 candidate, and an abysmally low Latino turnout demonstrate that

13 the 2022 election was not probative, and this court found that,

14 actually, in your opinion.

15   I want to move on to the argument about too many changes.

16 That's a central issue here raised by the Intervenor-Defendants.

17   Well, first, it's untrue that there are too many changes to

18 the map. When courts are reviewing remedial proposals for

19 redistricting, the metric is core retention. What core

20 retention means is that the share of voters that were in their

21 district in an enacted or a benchmark plan, how many of those

22 voters actually stay in their district.

23   In all ten of plaintiffs' plans, the core retention rate is

24 anywhere from 94 to 97.5 percent. And I'd like to direct the

25 court to Dr. Oskooii's rebuttal report, which demonstrates that.

1   I believe it's Table 2, but don't quote me on that, Your Honor.

2   It is in there.

3   So as you can see from high core retention rates, it's the

4   case that there aren't too many changes. But even if it's the

5   case that there are some changes to the map, and, Your Honor,

6   there are, we're redistricting here, redistricting is like

7   throwing a rock in a lake. Where the rock lands, there's going

8   to be a lot of ripples, but further out, the ripples get smaller

9   and smaller, until they dissipate.

10   And, here, the affected district is in Eastern Washington,

11 LD 14. All of the surrounding districts are going to

12 necessarily be changed, impacted, and that's not for any

13 nefarious reason; it's because of population equalization. You

14 have to comply with one person, one vote.

15   Indeed, all of plaintiffs' plans either equalize a

16 population on par with the enacted plan and better than the

17 enacted plan, and, again, I direct you to Dr. Oskooii's rebuttal

18 report.

19   But because you're equalizing population, it's almost as if

20 you're going in a clockwise manner, when you're redistricting,

21 around the district, to grab different populations and to ensure

22 there is equalization.

23   But even if there are too many changes, and there are not,

24 again, the question here is whether there are proposals in front

25 of you, Your Honor, that remedy the harm. That is the central

1   question at the remedial stage. It's not whether there are too

2   many changes, it's not whether there is enough Hispanic CVAP,

3   it's not whether there are any partisan changes.

4   And on that point, that is also similarly untrue.

5   Plaintiffs' maps outside of the remedial district, LD 14, do not

6   change the overall partisan makeup of the map.

7   I'd direct the court to Dr. Oskooii's rebuttal that shows

8   that the affected districts that are not -- that are remedial

9   districts, the overall partisan performance doesn't change. So

10   there's no district, Your Honor, that's going from an electing

11   Democrat district to electing Republicans. That's just not the

12   case here, and, again, I'd direct the court to Dr. Oskooii's

13   rebuttal report on the map.

14   But it is a political reality of Eastern Washington, that

15   those districts surrounding the remedial district tend to elect

16   Republican legislators, and if the affected district was in

17   Seattle, it would be the case that all of the districts

18   surrounding the affected district would be Democrats that are

19   affected.

20   So on the point of partisanship, I'd also like to reiterate

21   that Dr. Oskooii did not look at any partisan or political data

22   when drawing their map.

23   There are other issues that are raised by

24   Intervenor-Defendants, including trans-Cascade crossings or

25   similar considerations regarding road passages. To the extent

1   that the court and a special master think that those concerns

2   have merit, we welcome changes to the surrounding districts

3   outside of LDs 14 and 15.

4   If this court would like to engage in its own map drawing,

5   the standard is that the court must apply one person, one vote

6   principles, abide by Washington traditional redistricting

7   principles as delineated in RCW 44.05.090, which instructs this

8   court to consider communities of interest.

9   Also, to look at the policy concerns by the State, which is

10 judged by core retention. You can -- and do all these things

11 while ensuring that there is a functional opportunity to elect

12 candidates of choice, and you would do that through a reviewing

13 performance. And if this court would like guidance, it would be

14 instructive to the court, if it chooses so, to look at the

15 *Singleton* remedial process, which is 2:21-UV-1291-AMM.

16   THE COURT: Counsel, I'm leaning towards Remedial Map

17 3A, and I'll give Mr. Stokesbary a chance to respond to that in

18 his rebuttal. But, you know, consistent -- it seems to me that

19 that one is consistent with traditional redistricting criteria.

20 It seems to remedy the Voting Rights Act violation, even with a

21 relatively low LCVAP. It keeps tribal lands together, although

22 there's one issue there that was raised by Intervenors, and it

23 avoids another cross-Cascade district.

24   Did you have any specific reaction to Remedial Map 3A, and

25 do you understand what it is that the Intervenors think is

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 1   not -- the part of the Yakima Indian Reservation or Indian lands

 2   that didn't end up in it?

 3            MS. WAKNIN:  Your Honor, plaintiffs would support this

 4   map, adopting 3A.

 5       With respect to the issue regarding off-reservation trust

 6   lands, I believe that the Intervenor-Defendants may be mistaken.

 7   The off-reservation trust lands are included in Map 3A, and

 8   Dr. Trende has not demonstrated that any off-reservation trust

 9   lands are not included in 3A.

10            THE COURT:  Have you been using the Dave's

11   Redistricting app to do your analysis?

12            MS. WAKNIN:  I would have to consult with our experts,

13   Your Honor.

14            THE COURT:  Okay.  Because it seems that different

15   redistricting maps, or apps to draw maps, have access to

16   different information, and that the Dave's may miss a little

17   piece of the Indian lands that maybe the intervenors, people who

18   paid for data, had access to.  So I'll ask Mr. Stokesbary about

19   that, too, but, okay.

20            MS. WAKNIN:  Your Honor, from our understanding,

21   Dr. Trende, their expert, has not demonstrated that there are --

22   there are off-reservation trust lands missing.

23       And to the extent that the special master has found some

24   using a different application, we welcome, at least, input in

25   whatever changes there may be.
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1   THE COURT: Okay. Great.

2   MS. WAKNIN: Your Honor, I'm going to wrap up here.

3   I think we understand that plaintiffs' maps address the

4 central issue in the remedial process. Any one of our

5 proposals, Your Honor, would fully remedy the harm here and

6 comply with the U.S. Constitution and traditional redistricting

7 principles.

8   Thank you so much.

9   THE COURT: Thank you, counsel.

10   All right. Mr. Hughes, and then Mr. Smith.

11   MR. HUGHES: Good morning, Your Honor. Andrew Hughes

12 on behalf of the State of Washington.

13   I thought I understood Your Honor to say that you first

14 wanted to hear argument on the jurisdictional point.

15   THE COURT: Plaintiffs, I think, made an unfortunate

16 argument that I didn't have jurisdiction, but I do. So I don't

17 need to hear any more about that.

18   MR. HUGHES: Perfect. I'll save everyone some time,

19 then.

20   So the bottom line here, then, as far as the remedial

21 portion goes, from the State's perspective, is that the maps by

22 plaintiffs and, presumably, any revisions or tweaks that the

23 special master may offer, do appear to remedy the VRA violation,

24 and that's what really matters, from the State's perspective.

25   So that being the case, the State does not take a position

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1   on which map this court should adopt or whether any revisions

2   are necessary or appropriate.

3   And there's just two points I want to make here by way of

4   explanation.

5   So the first is, as we said in our briefing, Washington's

6   Constitution and the redistricting statutes provide a single

7   means for the State of Washington to propose a redistricting

8   plan, and that's through the commission.

9   Here, the legislature opted not to reconvene the

10   commission, and so for that reason, the State of Washington, my

11   client, does not have its own plan to offer.

12   The second point I wanted to make, as Your Honor knows, as

13   just came up, one key concern throughout the process has been

14   respecting the wishes and sovereignty of the Yakima Nation,

15   since the district boundaries here have the potential to affect

16   the Nation's ability to exercise political power. And to that

17   end, the State has reached out to the Nation. They've had

18   opportunity, they've had time to weigh in, if they have

19   concerns. They have not raised any, as of this point.

20   So at this point, then, the State defers to the court and

21   the special master regarding the appropriate remedy.

22   THE COURT: Okay. Thanks very much.

23   And you also don't take a position on whether we should

24   defer to 2026, or do it in 2024?

25   MR. HUGHES: As far as I understand, this is a new

1   request. We would oppose any deferring of an election.

2   Plaintiffs have shown on the merits that the current maps dilute

3   Hispanic voting power in the Yakima Valley, and, you know, a

4   remedy deferred is a remedy denied with respect to the 2024

5   election.

6   THE COURT: Okay. Thank you.

7   All right. Mr. Smith?

8   MR. SMITH: Thank you, Your Honor. Carl Smith. Just

9   very briefly.

10   The Secretary recognizes the court's primary focus is in

11 adopting the remedial map that remedies the Voting Rights Act

12 violations, complies with the Constitution, and satisfies

13 relevant redistricting criteria.

14   To the extent the court identifies more than one map that

15 equally satisfy all of those requirements, the Secretary's

16 request would be that this court adopt the map that is least

17 disruptive, in the sense that it affects the fewest counties and

18 the fewest voters. But I do want to emphasize that is just a

19 tie-breaker, where more than one map equally satisfy all

20 criteria.

21   The only other piece I wanted to add was, there was a new

22 request I heard this morning that I had not previously heard

23 about holding a special election for state senate. We haven't

24 had a chance to weigh in on that. I don't know if my client has

25 a position on that. So if the court were inclined to consider

1   it, we'd request the opportunity to address the matter.

2   THE COURT: Okay. And do you have a position about

3   2024 versus delayed implementation?

4   MR. SMITH: The Secretary has no position on that,

5   Your Honor.

6   THE COURT: Thank you.

7   Okay. Mr. Stokesbary, then, you can respond to the court's

8   leaning towards Remedial Map 3A. Tell me about the Yakima

9   Reservation or the trust lands and why you feel an evidentiary

10   hearing is still important.

11   MR. STOKESBARY: Yeah. Thank you, Your Honor.

12   You know, I think the underlying issue the intervenors have

13   throughout all this is that it's not possible to draw a district

14   that both remedies the alleged dilution and also still comports

15   with all the other legal requirements.

16   You ask about having a hearing. I think several arguments

17   that plaintiffs made demonstrates exactly why we do need an

18   evidentiary hearing.

19   The plaintiffs' expert says that there's not too many

20   changes to the population outside the affected area.

21   Intervenors-Defendant says there are too many changes. This is

22   a factual dispute, disagreement between the experts that can be

23   resolved through an evidentiary hearing.

24   Likewise, plaintiffs said that their expert believes that

25   the maps do not change the overall partisan performance.

1   Plaintiffs' counsel even said that there isn't a district where

2   the shift goes from a district that prefers Republicans to

3   Democrats, or vice versa. Intervenors' expert says there is, in

4   the 17th District in two of the maps, and that even outside from

5   that change, there are other changes as well that are

6   significant.

7   So there is a disagreement between the experts for which an

8   evidentiary hearing could help the court determine which expert

9   is most reliable.

10   The plaintiffs also argued that intervenors haven't

11 presented any evidence showing that the new proposals would

12 perform for Latino legislative candidate of choice in the 15th

13 District, but this is not a burden for intervenors to disprove.

14 It is a burden for plaintiffs to prove that there is

15 redressability, and they haven't even attempted to do so.

16   Intervenors do think that it's possible to come up with

17 some sort of model that could, at least, attempt to do that; to

18 model results on factors, like demographics, education, race,

19 partisan votes in other races where there are commonalities,

20 like statewide races, other nonpartisan races; we absolutely do

21 think it's possible to model and predict performance in

22 nonoverlapping areas, and plaintiffs have not done that.

23   When it comes to the Yakima Reservation, Your Honor, the

24 U.S. Census provides extremely detailed maps of tribal

25 reservations that include not just reservation land but

1   off-reservation trust land, fee land owned by the tribe but not

2   held in trust, and, in some cases, depending on the tribe's

3   particular treaty rights, off-reservation usual and accustomed

4   treaty land.

5   In the case of the Yakima Nation, we heard at trial that

6   their request was not just for the reservation, not just for

7   off-reservation trust land, not just their U&A, but also for

8   their traditional hunting and fishing villages, which have

9   significant tribal populations, and for that, Your Honor, I

10   think we do need to hear directly from the Yakima Nation. I

11   appreciate the State has reached out to them, but I'd encourage

12   and request the court to reach out to the Yakima Nation and

13   invite them to submit their position on the record.

14   But looking at the very detailed census map that includes

15   U&A areas and other off-reservation trust land and fee land

16   owned by the tribes, there are some parcels that we've

17   identified that are not included in Legislative District 14,

18   which, again, is another reason why we should have an

19   evidentiary hearing, where we can compare maps and overlay the

20   plaintiffs' map with the census map of where the Yakima parcels

21   are.

22   And, lastly, Your Honor, with respect to Map 3A, I would

23   just repeat the issues that we raised in our response to

24   plaintiffs' maps and the issues I raised a minute ago. I think

25   there remain to be additional problems. It still changes. Too

1   many individuals beyond the 14th District result in too many

2   extraneous parcel changes. And I think, you know, many more

3   changes to Map 3A would be required at that point, if the court

4   wanted that to be the starting point.

5   And, you know, again, we'll reiterate, it gets a little bit

6   simpler to make some of these arguments if the court can, sort

7   of, narrow down what we're looking at.

8   But with respect to Map 3A, the incumbent senator in

9   Legislative District 14 would be drawn into Legislative District

10   15. Legislative 14 has a senate race in 2024. Legislative

11   District 15 doesn't have a senate race until 2026.

12   So if the court were to order Map 3A or some close variant

13   of that for 2024, and I'll repeat our request that we wish the

14   court to either delay implementation until 2026, or stay

15   implementation until 2026.

16   But if the court goes forward and orders implementation of

17   Map 3A or a version of that in 2024, we would request that the

18   court order a new election to fill the remainder of the current

19   LD 15 senate term in 2024 so that the ballot would have both

20   LDs' 14 and 15 senate races on the November ballot. The

21   Legislative District 14 senate race, that would be on a normal

22   schedule, that would be a normal, full election term. The LD 15

23   senate race would be for a partial two-year term. It would be,

24   sort of, what happens if a senator passes away or retires or

25   moves along in the middle of his or her term.

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1   I'm happy to answer any other questions, Your Honor.

2   THE COURT: So in terms of how you got the information

3   about the Yakima Indian other lands, was that using a different

4   redistricting application than the Dave's that gave you access

5   to other information?

6   MR. STOKESBARY: Correct, Your Honor. It was using

7   the census map obtained from the U.S. Census Bureau and the

8   shape file provided by plaintiffs --

9   THE COURT: Okay.

10   MR. STOKESBARY: -- that they submitted to the court

11   and provided to other counsel.

12   THE COURT: I mean, I've come to realize that there's

13   Dave's, which is free and available to everyone, but there's

14   others you pay for that incorporate broader government records,

15   land records, et cetera, et cetera. So I thought that might

16   have been where there was disconnect.

17   Okay. Thank you, counsel.

18   MR. STOKESBARY: Thanks, Your Honor.

19   THE COURT: Anyone want to say anything else? I don't

20   want to cut anyone off.

21   Okay. I don't think an evidentiary hearing is absolutely

22   required, but I think I will schedule one for Friday, March 8th,

23   at 1:30. We'll have the afternoon. Each side can present an

24   expert, and we'll have -- but I think we should approach it with

25   a presumption that the court is leaning towards Remedial Map 3A,

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1   and so the testimony about the problems or issues with 3A should

2   be a focal point of that evidentiary hearing.

3   I am going to deny the request for a stay. We're going to

4   go forward on the remedial side of things.

5   Is that acceptable, counsel?

6   MS. WAKNIN: Your Honor, yes, except plaintiffs would

7   like to ask if we could present both of our experts.

8   THE COURT: Oh, sure, that's fine. And you can

9   present more than one expert, if you want to, also.

10   MS. WAKNIN: Would you like any prehearing

11 disclosures?

12   THE COURT: Yes.

13   MS. WAKNIN: You would like prehearing disclosures?

14   THE COURT: Yes, please. The more stuff you can get

15 me ahead of time, the fewer surprises at the evidentiary

16 hearing, so much the better.

17   And keep in touch with each other, talk to each other about

18 where is this piece of land on the reservation, and things like

19 that.

20   I'll think about reaching out to the Yakima Nation to see

21 if they want a more formal response.

22   MS. WAKNIN: Your Honor, plaintiffs would request that

23 there is a schedule set for any expert disclosures before the

24 hearing.

25   THE COURT: Yeah, we'll do one.

1   MS. WAKNIN: Okay. Thank you.

2   We just had a technology question. Can we bring technology

3   before the court?

4   THE COURT: Technology? We love technology.

5   MS. WAKNIN: Thank you, Your Honor.

6   THE COURT: Mr. Stokesbary, any questions?

7   MR. STOKESBARY: Thank you for March 8th. That's the

8   date my other job ends for the year.

9   Our request, you know, is that, since the court has,

10   essentially, ruled against plaintiffs on their intent claim,

11   which was the only claim to which the State was adverse, it's

12   now clear the State and plaintiffs are aligned, so we'd request

13   that time be split evenly between intervenors on one hand, and

14   plaintiffs, the State, on the other.

15   THE COURT: That's fine.

16   MR. STOKESBARY: Thank you.

17   THE COURT: The State is not going to need a lot of

18   time.

19   MR. HUGHES: No, we're not going to have any experts.

20   Can I just address two points?

21   THE COURT: Please.

22   MR. HUGHES: First, I don't need to say this, but I

23   am.

24   March 25th is the deadline, so March 8th is fine, but

25   that's the deadline, you know -- I trust the court is going to

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 1   hold that in mind.

 2        The other point I want to make is -- I'll try to put this

 3   delicately -- at the end of this, plaintiffs are going to ask

 4   someone else to pay their legal fees, and it's not the State

 5   that's racking up fees at this point.  So I hope Your Honor will

 6   consider that, down the road, when it comes time to think about

 7   fees and how those ought to be split up.

 8             THE COURT:  Okay.

 9             MR. HUGHES:  Thank you, Your Honor.

10             THE COURT:  Mr. Smith, anything?

11             MR. SMITH:  No.

12             THE COURT:  Great.  We will issue a scheduling order

13   for the March 8th hearing and a brief order denying the motion

14   for a stay.

15        LB, anything else?

16             THE LAW CLERK:  No.

17             THE COURT:  Thanks very much.  We are adjourned.

18                  (Proceedings concluded at 10:36 a.m.)

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February 9, 2024   34

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 1                      C E R T I F I C A T E

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 4              I, Nancy L. Bauer, CCR, RPR, Court Reporter for

 5    the United States District Court in the Western District of

 6    Washington at Seattle, do hereby certify that I was present in

 7    court during the foregoing matter and reported said proceedings

 8    stenographically.

 9              I further certify that thereafter, I have caused

10    said stenographic notes to be transcribed under my direction and

11    that the foregoing pages are a true and accurate transcription

12    to the best of my ability.

13

14

15              Dated this 29th day of February 2024.

16

17                          /S/  Nancy L. Bauer

18                          Nancy L. Bauer, CCR, RPR
                            Official Court Reporter
19

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EXHIBIT 1

January 5, 2024 Rebuttal Expert Report
of Dr. Oskooii

Rebuttal Expert Report Submitted on Behalf of Plaintiffs

in *Soto Palmer, et al. v. Hobbs, et al.*

Kassra AR Oskooii, Ph.D.

University of Delaware

January 5, 2024

1

I.   **Background and Qualifications**

1.   I, Kassra AR Oskooii, am over 18 years of age and am competent to testify.

2.   My background and qualifications are set forth in my expert report dated and submitted on December 1, 2023.

3.   I have reviewed the report of Dr. Sean Trende and now offer this rebuttal.

II.   **Executive Summary**

4.   There are fundamental problems with Dr. Trende's report and analysis.

5.   First, Dr. Trende draws incorrect conclusions about the Remedial Maps, including the remedial district Legislative District 14 ("LD 14"), because he does not consider Washington's redistricting criteria. In fact, at no point throughout his lengthy report does he discuss what principles mapmakers must follow in the State of Washington.

6.   Second, Dr. Trende's claims about the nature and magnitude of changes to surrounding districts are misleading and, at times, wholly inaccurate. His characterization of changes to surrounding districts, which were necessary to draw a remedial district while respecting Washington's and traditional redistricting criteria, disregards the realities of redistricting, especially in sparsely populated areas.

7.   Third, Dr. Trende's own visuals and data belie his suggestion that LD 14 across the remedial plans was drawn to achieve a particular racial target. In fact, I did not consider any racial demographic or political data in drawing the Remedial Maps. Instead, I drew a district that unites the communities in East Yakima, the Lower Yakima Valley, and Pasco that the court identified as forming a community of interest, while respecting other redistricting criteria.

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8.   Fourth, Dr. Trende's suggestion that the Remedial Maps make changes to surrounding districts that favor Republicans more than Democrats is simply incorrect. Again, I did not consider any partisan or electoral data in drawing these maps. And, Dr. Trende's own data points show that the incidental changes in partisan composition of the districts surrounding LDs 14 and 15 were very slight and not substantial enough to change the partisan performance of those districts. Prevailing measures of partisan bias (the efficiency gap and declination scores) further confirm that the Remedial Maps do not meaningfully shift the partisan balance as compared to the Enacted Plan. The fact that the boundaries of more Republican performing districts were impacted than Democratic performing districts in the Remedial Maps is simply a function of geography: the region where the VRA violation occurred happens to have many more Republican districts than Democratic districts. Naturally, then, the boundaries of Republican districts will be impacted as a consequence of remedying the violation in that region. However, any alterations to the surrounding districts did not substantively diminish Republican performance in those districts.

9.   Fifth, I have provided five new Remedial Maps 1A-5A that address, to the extent possible, the incumbent displacements in Remedial Maps 1-5 identified by Dr. Trende and Mr. Pharris at the Secretary of State's office.

10. Finally, Intervenors claim that LD 14 in Remedial Maps 3 and 4 exclude some Yakama Nation off-Reservation trust land but provide no data or boundary files to support their claim. I have verified that based on tribal land boundaries provided by the U.S. Census

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and available on Dave's Redistricting App,[1] LD 14 in Maps 3 and 4 include the Yakama Nation's off-Reservation trust land.

III.   **Dr. Trende's Analysis Lacks a Serious Consideration of Washington's Redistricting Criteria**

11.   In evaluating the Remedial Maps, Dr. Trende's report does not address the extent to which districts follow the boundaries of political subdivisions and communities of interest, avoid splitting counties, municipalities, and precincts, and are comprised of traversable territory in light of natural boundaries, waterways, and islands in Washington State.

12.   As I emphasized in my report, and which Dr. Trende's report overlooks, my decisions were guided by Washington State's redistricting criteria, including that districts shall have a population as nearly equal as is practicable and should, insofar as practical: follow boundaries of political subdivisions and communities of interest; minimize the number of county, municipality, and precinct splits; and be drawn with convenient, contiguous, and compact territory.

13.   In accordance with Washington's requirement that no district be drawn purposely to favor or discriminate against any political party or group, I did **not** consider, view, or otherwise consult any racial/ethnic demographic data, election results, or any partisan metrics while drawing districts. To the extent practicable and based solely on publicly available data, I also considered limiting the pairing of incumbents.

14.   In general, I also tried to minimize changes to other districts in the Enacted Plan, but with a recognition that altering other districts is an unavoidable byproduct of remedying

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[1] For more details, see here: https://medium.com/dra-2020/tribal-lands-on-daves-redistricting-d3dbbc7ed840.

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the violation of federal law. Thus, while some comparison to the Enacted Plan can provide context, overly focusing on it as Dr. Trende does is misplaced.

IV. **The Remedial Maps Minimize Changes to Surrounding Districts and Such Changes Are a Natural Consequence of Complying with Redistricting Criteria**

15. Dr. Trende makes false claims about the extent of changes to district boundaries across the state. For example, on page 9 of his report he writes: "Finally, the changes take place over much of the state, with blocks being shifted in 28 of the state's 39 counties, including several in western Washington." Similar unsubstantiated claims are made on pages 14, 45, and 49. First, *precincts* are the building blocks of the changes I implemented, with blocks only being selected in rare cases of having to split precincts. Second, various maps in Dr. Trende's report, such as Figures 3, 6, 21, 24, and 31, which aim to highlight affected areas of the state, directly contradict his assertions regarding the number of counties impacted. Third, as Mr. Nicholas Pharris of the Secretary of State's office correctly points out, the Remedial Maps affected anywhere between 3 to 13 (nowhere near 28) counties depending on the map in question (see paragraph 7, page 2 of Nicholas Pharris Declaration), which were the byproduct of abiding by and balancing traditional redistricting criteria.

16. Furthermore, Dr. Trende describes the changes made to the districts surrounding the remedial district (LD 14) as if they are somehow unexpected or inconsistent with the realities of redistricting.

17. It is well understood that altering the boundary of one district will inevitably impact surrounding districts due to the necessity of maintaining equal population distribution. This is particularly true in regions, like Central and Eastern Washington, which contain wide swathes of sparsely populated land. Even counties that have a population size that

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exceeds the ideal population of a legislative district (157,251), have large unpopulated areas.

18.   This principle is perhaps best illustrated by Dr. Trende's own visuals, such as his Figure 12 on page 32, pasted below. As can be seen, many areas within Yakima County, which has an adjusted population of 257,518, are, as Dr. Trende put it, "largely uninhabited."

Figure 1: Dr. Trende's Figure 12 as represented on page 32 of his report
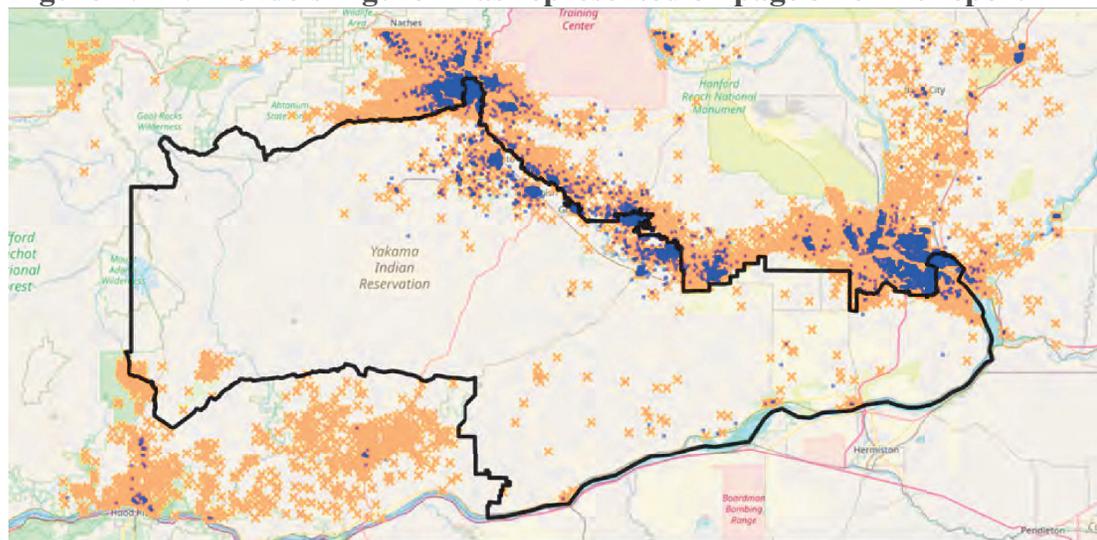
19.   Furthermore, many counties in Central and Eastern Washington have an adjusted population (2020 U.S. Census) that is far below the target population of a single legislative district, while others are vastly overpopulated, as illustrated in Table 1.

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Table 1: 2020 US Census Adjusted Population of Counties (compared to ideal legislative district population of 157,251)

County	Adjusted Population
Garfield	2,288
Columbia	3,964
Skamania	12,050
Adams	20,638
Asotin	22,357
Klickitat	22,789
Douglas	43,002
Kittitas	44,393
Whitman	47,991
Walla Walla	60,706
Chelan	79,229
Lewis	82,337
Franklin	94,918
Grant	99,342
Cowlitz	111,152
Benton	207,278
Yakima	257,518
Clark	503,829
Spokane	538,615
Pierce	922,415
King	2,272,501

20.   As such, redrawing legislative maps to equalize district populations is not a simple process. When one district boundary is altered, that district either gains or loses population, which directly impacts adjacent districts, which will also either gain or lose population. This in turn will cause ripple effects throughout the map, which naturally lowers the overall core retention of the comparison plan.

21.   None of this is acknowledged or considered by Dr. Trende. However, mapmakers and political scientists with expertise in this subject matter know very well that even small changes to existing district boundaries can cause many changes throughout the map. Political scientist and redistricting expert Dr. Kenneth Mayer described it elegantly:

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Redrawing a statewide legislative map to equalize populations is not a straightforward process. When an existing district is underpopulated, map drawers must add populations from surrounding districts. Unless adjacent districts are overpopulated by the same amount, the process requires surrounding districts to expand outward as well. If the surrounding districts are also underpopulated, they become even more so after part of their populations are moved to the first district, and they must be modified to bring in population from other districts, and so on. As a rule, these changes propagate outward (analogous to a ripple spreading out when a rock is tossed into a lake) until an underpopulated region can be balanced with an overpopulated region or the effects dampen as population effects are spread out among more and more districts.

These changes can have large effects that propagate throughout a map, particularly if map drawers are taking other factors into account, such as keeping municipalities together or drawing compact districts.

"Ripple" effects from changes can be severe. Even a small shift in one district can result in the need for dramatic changes in other districts if there are strict population constraints (as there are for congressional districting) or if other constraints are in place such as preserving municipal and county boundaries, or avoiding vote dilution issues (Miller and Grofman 2018, 29).

- *Johnson, et al., v. WEC, et al.*, No. 2021AP1450-OA (Wis. Dec. 15, 2021), Appendix to Merits Brief of Intervenor-Petitioners at 121 (Expert Report of Dr. Kenneth R. Mayer).

22. A mapmaker not only needs to pay critical attention to population disparities across the districts, but, where feasible, also avoid splitting municipalities, communities of interest, and precincts, and address issues of road connectivity to ensure that constituents and representatives can traverse from one side of the district to the other. This process becomes particularly challenging in areas where municipalities are irregularly shaped or when precincts are large and oddly shaped, as is often the case in areas near the Cascades and throughout Central and Eastern Washington. These factors will expectedly require boundary changes that extend beyond the borders of LD 14.

23. Additionally, Dr. Trende's tables showing the number of people "moved" between districts (on pages 9, 14, 45, and 49) are misleading, inaccurate, and use inappropriate metrics to assess core population retention.

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24.   Dr. Trende's method is flawed in part because he reports absolute numbers, which fail to account for the magnitude of population shifts as a percent of the total population of each district (approx. 157,251). While some of the districts surrounding LD 14 must, of course, be reworked to accommodate drawing a new LD 14 that remedies the VRA violation, the core retention metrics I present below show that the Remedial Maps, as a whole, retained the population of districts in the Enacted Plan at very high rates.

25.   In addition, Dr. Trende's account of people "moved" between districts misunderstands the purpose of assessing core retention, which is to see the extent to which populations in a district in the Enacted Plan were kept together in *a* district, regardless of whether that district's label number has changed. Dr. Trende's reported "movements" of people between LD 14 and 15 misses this point and fails to account for the fact that LD 14 and 15 were relabeled in the Remedial Maps. For example, he reports that in Remedial Map 1, 97,346 people from Enacted LD 15 (who comprised 60% of that district) were "moved" to Remedial LD 14 (in which they still comprise 62% of the district). This means that Remedial LD 14 in Map 1 largely *retains* the core of Enacted District 15, and the reported "movement" of population was simply the result of renumbering the district.

26.   Table 2 presents core population retention scores for each Remedial Map, which is reported as the percentage of a pre-existing (e.g., enacted) district's population that is kept intact in a new district (e.g. remedial).

Table 2: Core Population Retention Percentages, Remedial Maps 1-5

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District	Remedial Map 1	Remedial Map 2	Remedial Map 3	Remedial Map 4	Remedial Map 5
1	100.0%	100.0%	100.0%	100.0%	100.0%
2	86.6%	86.6%	90.1%	90.1%	100.0%
3	100.0%	100.0%	100.0%	100.0%	100.0%
4	100.0%	100.0%	100.0%	100.0%	100.0%
5	86.7%	100.0%	90.1%	100.0%	100.0%
6	100.0%	100.0%	100.0%	100.0%	100.0%
7	86.7%	100.0%	90.1%	100.0%	100.0%
8	61.9%	61.9%	59.3%	59.3%	100.0%
9	95.2%	98.0%	95.2%	98.0%	100.0%
10	100.0%	100.0%	100.0%	100.0%	100.0%
11	100.0%	100.0%	100.0%	100.0%	100.0%
12	86.8%	100.0%	90.1%	100.0%	100.0%
13	80.5%	86.5%	80.4%	85.1%	90.0%
14	62.2%	62.2%	60.5%	60.5%	51.3%
15	56.5%	56.6%	55.8%	55.9%	51.3%
16	46.5%	39.3%	46.8%	43.4%	86.0%
17	86.5%	86.5%	90.0%	90.0%	100.0%
18	100.0%	100.0%	100.0%	100.0%	100.0%
19	100.0%	100.0%	100.0%	100.0%	100.0%
20	86.5%	86.5%	90.0%	90.0%	100.0%
21	100.0%	100.0%	100.0%	100.0%	100.0%
22	100.0%	100.0%	100.0%	100.0%	100.0%
23	100.0%	100.0%	100.0%	100.0%	100.0%
24	100.0%	100.0%	100.0%	100.0%	100.0%
25	100.0%	100.0%	100.0%	100.0%	100.0%
26	100.0%	100.0%	100.0%	100.0%	100.0%
27	100.0%	100.0%	100.0%	100.0%	100.0%
28	100.0%	100.0%	100.0%	100.0%	100.0%
29	100.0%	100.0%	100.0%	100.0%	100.0%
30	100.0%	100.0%	100.0%	100.0%	100.0%
31	86.6%	86.6%	90.1%	90.1%	100.0%
32	100.0%	100.0%	100.0%	100.0%	100.0%
33	100.0%	100.0%	100.0%	100.0%	100.0%
34	100.0%	100.0%	100.0%	100.0%	100.0%
35	100.0%	100.0%	100.0%	100.0%	100.0%
36	100.0%	100.0%	100.0%	100.0%	100.0%
37	100.0%	100.0%	100.0%	100.0%	100.0%
38	100.0%	100.0%	100.0%	100.0%	100.0%
39	100.0%	100.0%	100.0%	100.0%	100.0%
40	100.0%	100.0%	100.0%	100.0%	100.0%
41	100.0%	100.0%	100.0%	100.0%	100.0%
42	100.0%	100.0%	100.0%	100.0%	100.0%
43	100.0%	100.0%	100.0%	100.0%	100.0%
44	100.0%	100.0%	100.0%	100.0%	100.0%
45	100.0%	100.0%	100.0%	100.0%	100.0%
46	100.0%	100.0%	100.0%	100.0%	100.0%
47	100.0%	100.0%	100.0%	100.0%	100.0%
48	100.0%	100.0%	100.0%	100.0%	100.0%
49	100.0%	100.0%	100.0%	100.0%	100.0%
Plan Average	94.10%	94.9%	94.5%	95.2%	97.5%

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27.   Looking first at plan-wide averages, Remedial Maps 1-3 retain more than 94% of the population intact within the Enacted Plan's district boundaries. Stated differently, only up to 6% of the population is impacted by changes that the Remedial Maps necessitated. For Remedial Map 4, the plan-wide core retention score is 95.2%, and for Remedial Map 5, it is 97.5%.

28.   As previously described, the creation of a remedial district will naturally have a greater impact on the immediately adjacent districts. This is particularly the case in the subject jurisdiction since the surrounding areas include many sparsely populated regions and geographic features. Not surprisingly, then, LDs 14, 15, 8, and 16 generally retain less people than other impacted districts farther away from remedial LD 14, such as LDs 5, 7, 9, 12, 17, 20, and 31. This "ripple" effect is because changes to pre-existing district boundaries generally decrease as one moves farther away and outward from the remedial LD 14, thereby increasing the core retention of the aforementioned districts.

29.   Thus, the ultimately necessary boundary changes beyond the remedial district itself are simply a natural consequence of balancing Washington's redistricting criteria and other traditional redistricting criteria.

30.   Also, because balancing redistricting criteria presents inherent tradeoffs, I offered the Court multiple configurations of remedial LD 14 and surrounding districts, each reflecting a different and reasonable way of balancing redistricting criteria. As a result, some proposed Remedial Maps required different changes to surrounding districts than others. For example, in Remedial Maps 2 and 4, LD 13 crosses the Cascades, but in Remedial Maps 1, 3, and 5, it does not.

V.   **Districts in the Remedial Maps are Reasonably Compact**

31.   Dr. Trende does not dispute that the compactness of every Remedial Map is nearly
        identical to the compactness of the Enacted Plan. And he does not dispute my conclusion
        that the Remedial Maps are reasonably compact, especially in light of the often irregular
        physical and political subdivision boundaries in Washington State.

32.   Dr. Trende instead focuses on individual district compactness scores. He notes that some
        districts that were altered in the Remedial Maps perform worse on compactness scores
        while others perform better. He does not dispute that, with the exception of LD 16 in
        Remedial Map 5,[2] districts in the Remedial Maps are all within the range of individual-
        district compactness scores in the Enacted Plan

33.   Individual district compactness scores can be misleading because a single district's
        compactness score depends on the shape of whatever underlying features the district's
        boundaries follow. In Washington, district boundaries must account for irregular
        geographic features like mountains, roads, and waterways and must follow irregular
        boundaries of counties, municipalities, and precincts to the extent possible. Precincts are
        often large and strangely shaped, especially in sparsely populated areas. Following these
        subdivision boundaries, as I took great care to do, will reduce an individual district's
        compactness score in some areas.

34.   As indicated by his discussion of LD 49 on page 18, Dr. Trende seems to agree that when
        a district's "shape is largely dictated by" the irregular shape of other political subdivision

_____

[2] Although LD 16 has a new shape in Remedial Map 5, it still retains 86% of the population in
Enacted Plan's LD 16, as shown in Table 2 above.

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boundaries (a county in the case of LD 49), it is "unsurprising" that the district will have numerically lower compactness scores.

35.   Dr. Trende's report does contain one notable inaccuracy with respect to individual compactness scores. He states on pages 18-19 of his report that Remedial Maps 1 and 2 make LD 49 less compact but this is incorrect as LD 49 was not changed in any Remedial Map.

VI.   **The Proposed Remedial Districts Do Not "Stitch Together Far-Flung Hispanic Populations"**

36.   Dr. Trende incorrectly claims that the Remedial districts in Remedial Maps 1-4 "stitch[] together district clusters of minority groups to achieve [a] 50% + 1 threshold."

37.   As I have stated, I did not view any racial demographic data while drawing the Remedial Maps and did not draw any district to achieve any particular numerical target with respect to race. The various HCVAP figures Dr. Trende reports for each remedial district (LD 14) confirm this.

38.   What appears to Dr. Trende as the "stich[ing] together [of] far-flung Hispanic populations" is simply the unification of population centers from East Yakima to Pasco that form a community of interest identified by the Court, including cities in the Lower Yakima Valley that I kept whole in the Remedial Maps.

39.   Likewise, what appear to Dr. Trende as "appendages" that apparently "wrap into heavily Hispanic and Democratic areas," are in reality the natural effect of keeping municipalities along the Yakima Valley region whole, while also meeting all the other applicable redistricting criteria such as the equal population requirement and ensuring that districts are contiguous and can be traversed by road.

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40.   For instance, the boundary lines of LD 14 that connect Yakima and Pasco largely
        follow highways I-82 and I-182 to connect the two communities and other
        municipalities in between. These considerations—which Dr. Trende's analysis does not
        account for—dictate, to a large degree, where lines can be drawn.

41.   In addition, Figures 2-4 show that LD 14 lines were drawn to connect communities of
        interest while following city boundaries (shown in red). The so-called appendages in this
        area are just oddly shaped city boundaries (e.g., see Sunnyside). These visuals also
        demonstrate that Wapato, Toppenish, Granger, Sunnyside, Mabton, and Grandview
        along the Yakima Valley were consistently kept whole across all five Remedial Maps.
        Only Yakima and Pasco were split, as is also the case in the Enacted Map.[3]

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[3] I updated all the interactive, html maps submitted with my initial report and included city limit
boundaries downloaded from the Washington State's Geospatial Open Data Portal
(https://geo.wa.gov/datasets/WSDOT::wsdot-city-limits/explore). These updated interactive maps
are submitted along with my response report.

Figure 2: Remedial Map 1 & 2 LD14 Boundaries Respecting COI City Boundaries Along Yakima Valley
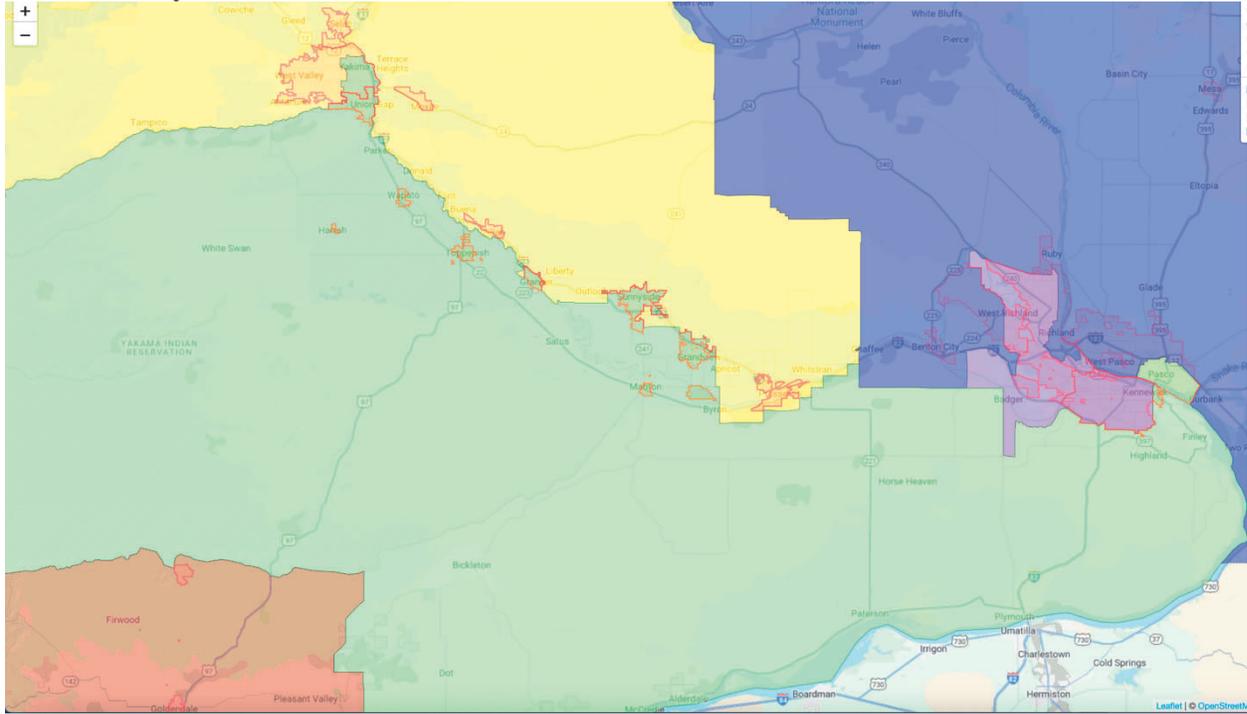
Figure 3: Remedial Map 3 & 4 LD14 Boundaries Respecting COI City Boundaries Along Yakima Valley

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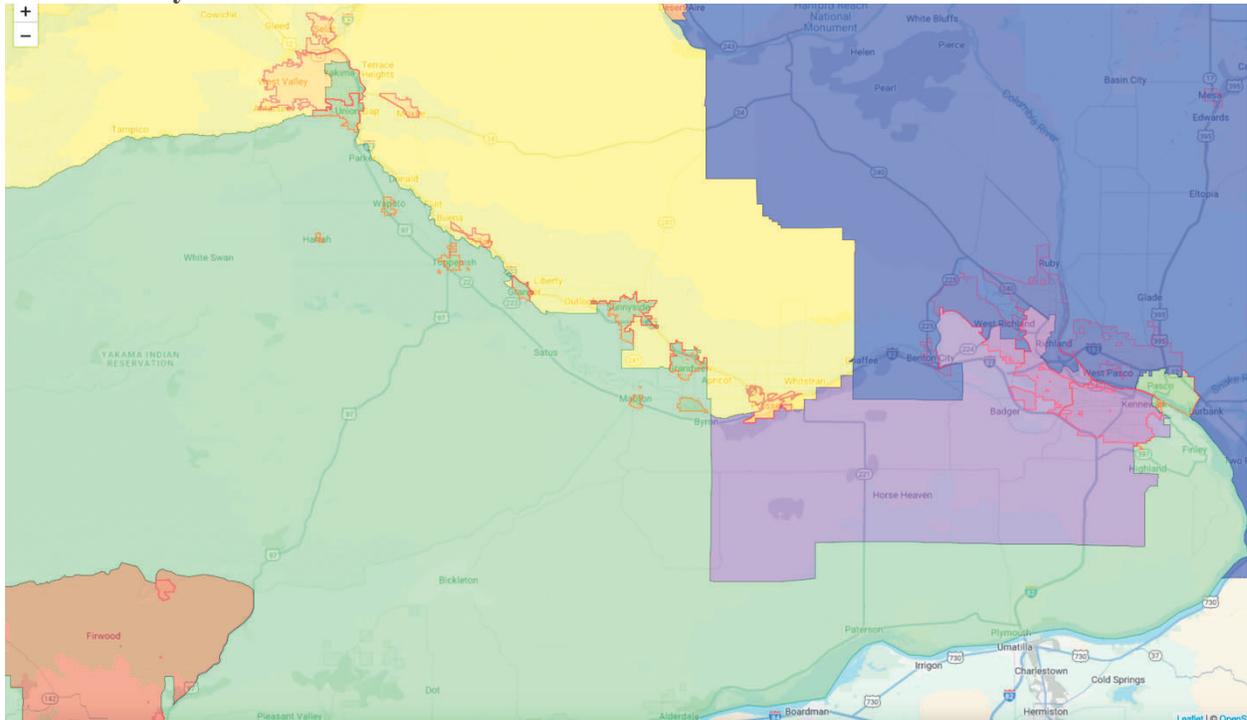
Figure 4: Remedial Map 5 LD14 Boundaries Respecting COI City Boundaries Along Yakima Valley
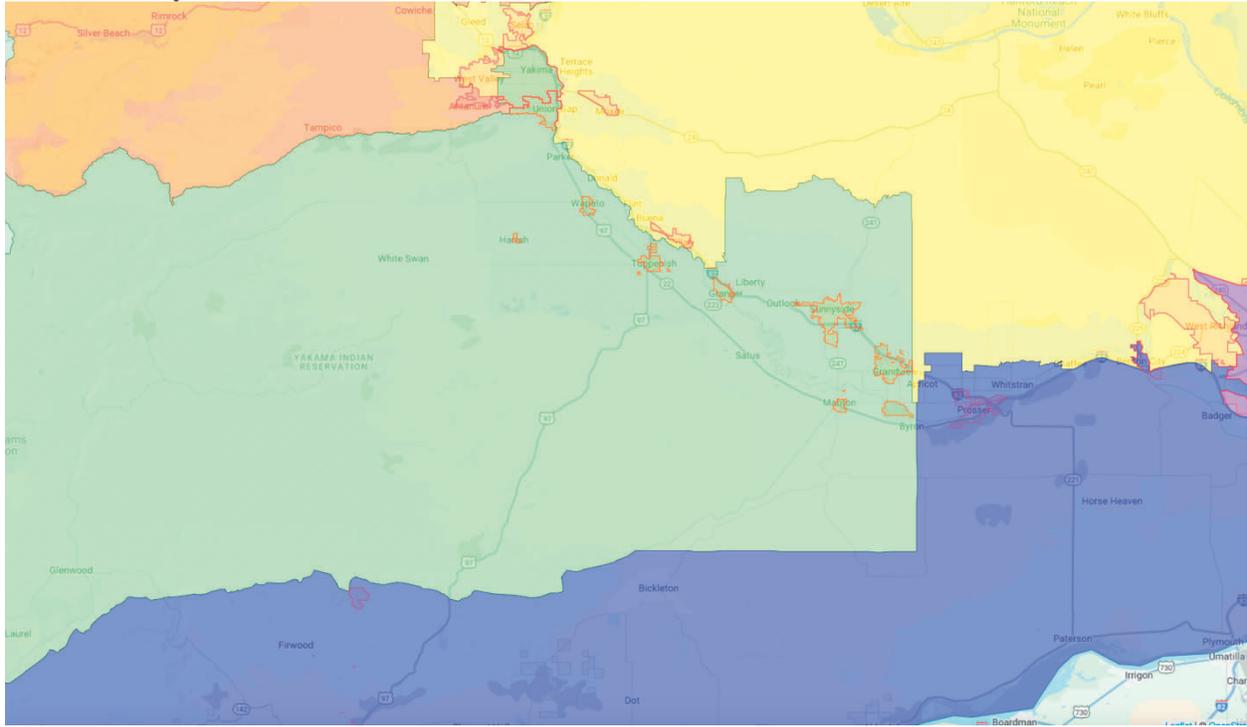
42.   Finally, Dr. Trende's own visuals undermine the claim that Hispanic areas were carved out while white areas were excluded. For illustrative purposes, I have pasted his first two dot plots below and added red arrows in all the areas in which Hispanic areas (blue dots) were *not* included in LD14 and white areas (orange Xs) *were* included in LD 14. There are over a dozen examples of Hispanic areas being excluded, while white areas were included as a byproduct of uniting communities of interest and respecting other applicable redistricting criteria.

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Figure 5: Dr. Trende's Figure 12, Page 32
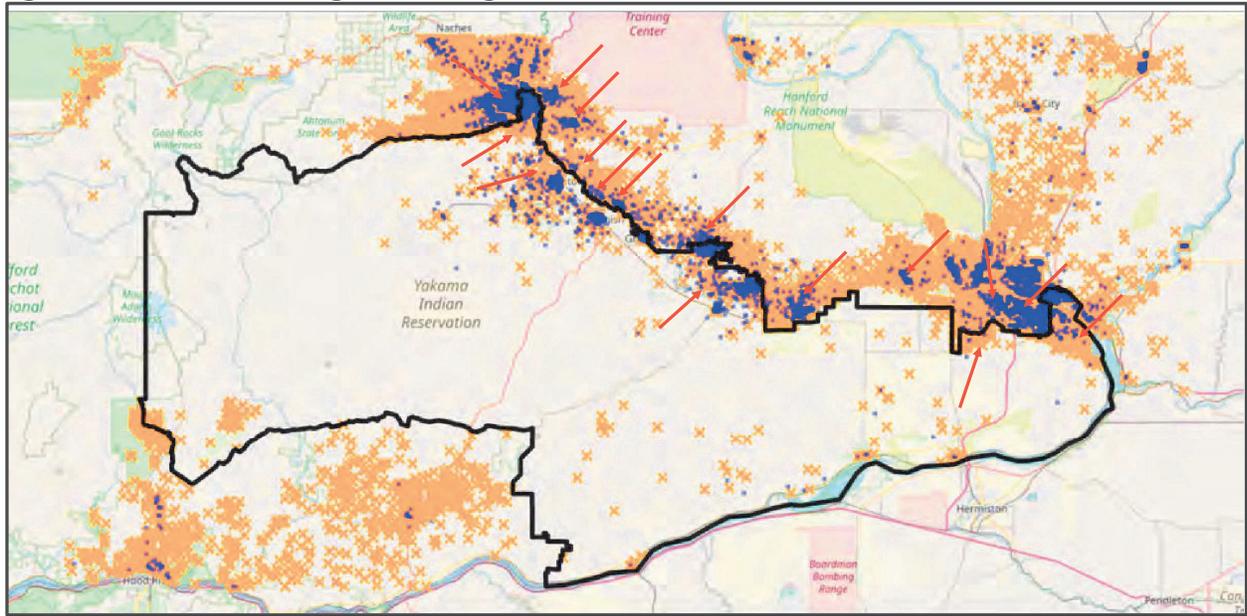
Figure 6: Dr. Trende's Figure 13, Page 33

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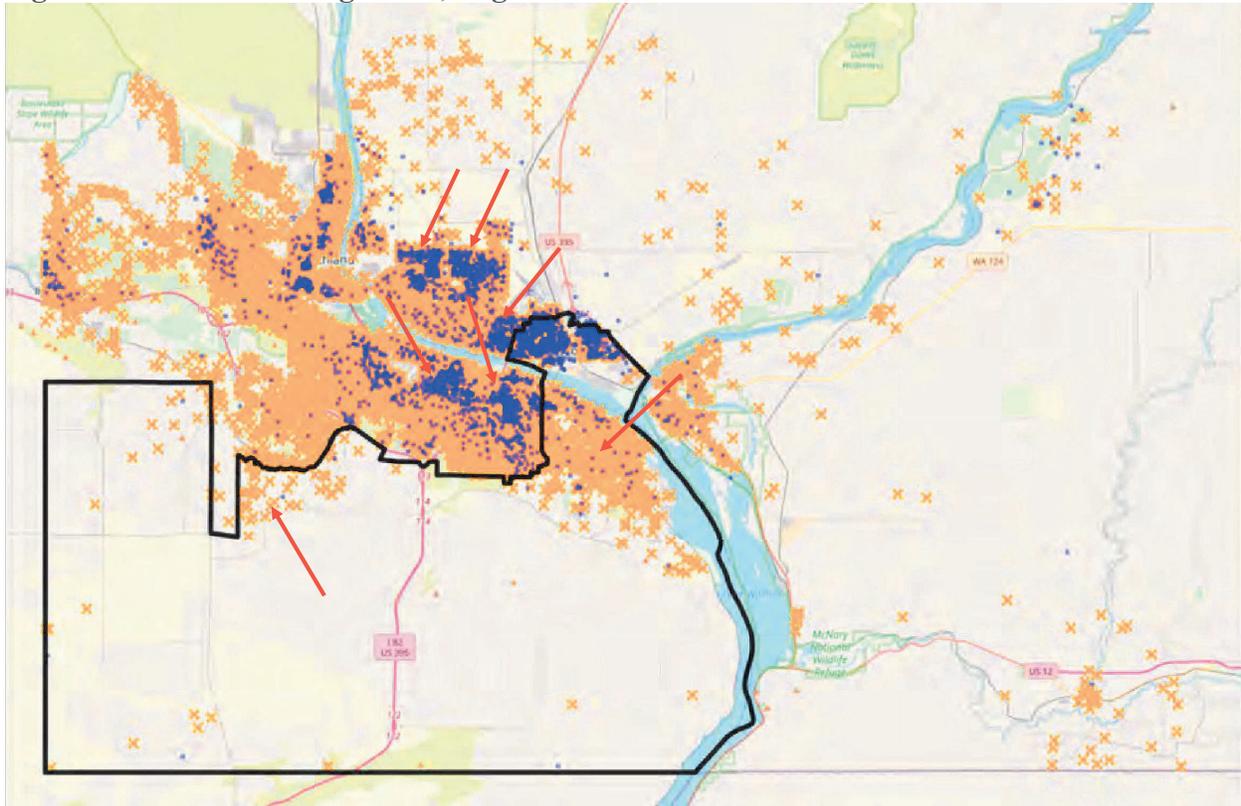
VII. **The Proposed Remedial Plans Were Not Drawn to Favor or Disfavor Any Political Party and Do Not Have That Effect**

43. Dr. Trende suggests that changes made to districts beyond LDs 14 and 15 in Remedial Maps 1-4 have "meaningful" political impact. However, the metrics Dr. Trende references show no substantive partisan swing of districts in any district beyond LDs 14 and 15. Common metrics of partisan bias, which Dr. Trende does not consider, also confirm that Remedial Maps do not meaningfully shift the partisan balance as compared to the Enacted Plan.

44. First, it is important to note that Washington law forbids drawing redistricting plans "purposely to favor or discriminate against any political party." RCW 44.05.090. For this reason, I did not consider any partisan or election data while drawing the proposed Remedial Maps. Any changes to the partisan makeup of districts are incidental to following the redistricting criteria set out in Washington law and traditional redistricting criteria.

45. Second, upon reviewing the metrics used by Dr. Trende, I find that none of the districts in the Remedial Maps, aside from LD 14 and 15, exhibit any meaningful change in partisan performance, and the changes to the district boundaries do not substantively advantage or disadvantage either party.

46. This is apparent, for example, from the composite election results and individual election results Dr. Trende references in his tables on pages 33, 37, 55, and 58.

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47.   In Table 3, I present the 2016-2020 DRA composite vote share[4] for Republicans and Democrats for the districts other than LDs 14 and 15 in each Remedial Map and the Enacted Plan to evaluate Dr. Trende's claim that the changes to these districts meaningfully changed their partisan performance. I exclude District 49 from the table because it is unclear why Dr. Trende used this district in his analysis when none of the Remedial Maps introduced any changes to its boundaries.

Table 3: Partisan Performance by District and Plan

District	Enacted Map		Remedial Map 1		Remedial Map 2		Remedial Map 3		Remedial Map 4		Remedial Map 5	
	Dem	Rep	Dem	Rep	Dem	Rep	Dem	Rep	Dem	Rep	Dem	Rep
2	40.62%	57.43%	40.28%	57.76%	40.28%	57.76%	40.79%	57.24%	40.79%	57.24%	40.62%	57.43%
5	56.73%	41.48%	55.71%	42.52%	56.73%	41.48%	55.90%	42.31%	56.73%	41.48%	56.73%	41.48%
7	33.65%	65.30%	34.65%	64.25%	33.65%	65.30%	34.33%	64.57%	33.65%	65.30%	33.65%	65.30%
8	39.79%	58.39%	37.99%	60.16%	37.99%	60.16%	37.31%	60.88%	37.31%	60.88%	39.79%	58.39%
9	40.35%	58.10%	40.94%	57.51%	40.57%	57.88%	40.94%	57.51%	40.57%	57.88%	40.35%	58.10%
12	45.61%	52.82%	47.87%	50.48%	45.61%	52.82%	47.55%	50.83%	45.61%	52.82%	45.61%	52.82%
13	34.96%	63.85%	35.54%	63.32%	35.68%	63.07%	35.67%	63.21%	36.35%	62.42%	34.25%	64.57%
16	38.49%	59.92%	40.10%	58.34%	41.33%	57.15%	40.39%	58.03%	41.22%	57.20%	40.64%	57.95%
17	49.36%	49.08%	50.52%	47.96%	50.52%	47.96%	50.83%	47.63%	50.83%	47.63%	49.36%	49.08%
20	35.17%	63.44%	35.46%	63.22%	35.46%	63.22%	35.12%	63.55%	35.12%	63.55%	35.17%	63.44%
31	44.13%	54.16%	42.57%	55.70%	43.98%	54.24%	42.74%	55.54%	43.43%	54.82%	44.13%	54.16%
# R/D Performing Districts	1	8	1	8	1	8	1	8	1	8	1	8

48.   For ease of comparison across the plans, I report all affected districts across the maps even though some districts were not altered in certain Remedial Maps (e.g., Remedial Maps 2, 4, and 5 do not make any changes to the boundaries of the Enacted District 7).

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[4] Dr. Trende appears to have made errors in his report in describing which specific elections the 2016-2020 DRA composite score includes. On Page 33 of his report, Dr. Trende claims that the DRA composite includes: "the 2020 and 2016 presidential elections, the 2018 and 2020 senate elections, the 2016 gubernatorial election, and the 2020 attorney general election." That is factually inaccurate because Washington State did not hold a Senatorial election in 2020. The actual 2016-2020 DRA composite score includes the following contests: the 2016 and 2020 Presidential elections, the 2016 and 2018 Senatorial elections, the 2020 Gubernatorial election, and the 2020 election for Attorney General.

49.   The colors in the table correspond to how the districts performed using the 2016-2020

        DRA composite. A district is considered to perform (also referred to as "lean" or

        "reliable" in political science) in favor of one party over the other when the difference

        between the party vote shares of that district is 10% or higher (e.g., 45%-55%).

        Democratic performing districts are color-coded in blue and Republican performing

        districts are color-coded in red. Conversely, a district is considered "competitive" or

        "toss-up" if the difference between the party votes shares of that district is less than 10%,

        which suggests that the district is more likely than a reliable district to swing back and

        forth depending on the political currents of the year. This competitive threshold is

        routinely considered and is also utilized by DRA.

50.   Table 3 shows that in the Enacted Plan, one district (LD 5) reliably elects Democratic

        candidates while eight districts (LDs 2, 7, 8, 9, 13, 16, 20, and 31) reliably elect

        Republican candidates. The outcome in every one of the Remedial Maps is the same.

        The slight reduction in Republican vote share across the Remedial Maps has no

        substantive impact on whether a Republican is likely to carry LDs 2, 7, 8, 9, 13, 16, 20,

        and 31—Republicans maintain reliable margins in those districts.[5] In fact, the

        Republican vote shares also marginally increase in some districts, such as LD 8 Remedial

        Maps 1-4 and LD 31 in Remedial Maps 1 and 3.

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[5] On page 33, Dr. Trende writes: "Determining whether a change is electorally meaningful is a tricky endeavor, but in general if a district sees movement in a result within the +/- 10% mark, it is potentially noteworthy." I suspect Dr. Trende made another error in his report because "within" +/-10% suggests that if a district sees a movement of one tenth of a percentage point it would be considered as "potentially noteworthy" per his analysis and interpretation of the results. Political scientists do not consider such minor changes as politically meaningful when determining the partisan makeup of a district.

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51.   Similarly, the slight reduction in Democratic vote share in LD 5 in Remedial Maps 1 and

3 has no substantive impact on whether a Democrat is likely to prevail by a comfortable

margin in that district. On page 36, Dr. Trende appears to suggest, incorrectly, that LD 5

in Remedial Map 1 was "shifted leftward." But as shown in Table 3, the changes made

to LD 5 resulted in a slight *decrease* in Democratic performance in both Remedial Maps

1 and 3.

52.   LDs 12 and 17 are toss-up districts in the Enacted Plan and both remain so in Remedial

Plans 1 and 3, the only plans in which those districts were altered. Dr. Trende's

suggestion that these districts should be further altered to restore their precise vote shares

in the Enacted Plan has two problems. First, his suggestion to place parts of southeastern

Vancouver into LD 49 rather than LD 17 would require altering an additional district that

is otherwise untouched in every Remedial Map. More fundamentally, the alterations Dr.

Trende suggests amount to partisan gerrymandering, which is expressly prohibited in

Washington State, and which I avoided by not utilizing any political data when drawing

district lines.

53.   Substantively, then, the changes to districts other than LDs 14 and 15 in the Remedial

Maps neither advantage nor disadvantage Democrats or Republicans as neither party

gains or loses reliable seats in these districts relative to the Enacted Map. And the notion

that Republicans are meaningfully affected by changes to these districts compared to the

Enacted Plan is plainly incorrect.

54.   Third, prevailing measures of partisan bias in redistricting plans confirm that the

Remedial Maps do not meaningfully shift the partisan balance as compared to the

Enacted Plan.

55.   I examine two popular metrics that measure partisan skew to compare the Enacted Plan

       to the Remedial Maps.

56.   The first metric I consider is called the "Efficiency Gap" (EG), which considers

       inefficient or "wasted" votes to evaluate the extent to which a party's voters are cracked

       or packed across districts to produce an advantage for one party over another.[6]

57.   A positive efficiency gap indicates more Democratic wasted votes (i.e., a pro-Republican

       bias), while a negative efficiency gap indicates more Republican wasted votes (i.e., a

       pro-Democratic bias). As a general rule, an EG score closer to zero indicates a fairer

       map.

58.   The second metric I rely on is called "Declination," which considers threshold-related

       asymmetry in the distribution of votes across districts to evaluate possible partisan

       gerrymandering. A declination value near 0 is indicative of a fair map, and the greater

       the declination value, the greater likelihood that the map is a partisan gerrymander. Once

       again, positive values indicate a pro-Republican tilt, while negative values indicate a pro-

       Democratic tilt.[7]

59.   Table 4 shows the results of EG and Declination scores using the most up-to-date

       methodology outlined by the publicly available tool PlanScore.[8]

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[6] PlanScore, "Efficiency Gap," https://planscore.org/metrics/efficiencygap/.
[7] PlanScore, "Declination," https://planscore.org/metrics/declination/.
[8] PlanScore, "Unified District Model," https://planscore.org/models/data/2022F/.

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Table 4: Comparison of Partisan Bias Metrics Across Plans

Plans	*Efficiency Gap*	*Declination*
Enacted Map	3.2% R	0.07 R
Remedial Map 1	2.0% R	0.01 R
Remedial Map 2	2.2% R	0.02 R
Remedial Map 3	2.0% R	0.01 R
Remedial Map 4	2.2% R	0.02 R
Remedial Map 5	2.2% R	0.02 R

60.   The EG and Declination scores in Table 4 for the Remedial Maps are slightly closer to 0 but do not meaningfully diverge from the scores for the Enacted Plan. They show that the Remedial Maps are, like the Enacted Plan, close to fair and maintain the very slight Republican bias found in the Enacted Plan. The same is true for the adjusted Remedial Maps 1A-5A (see Part VIII and Appendix Table 4).

VIII.   Incumbent Displacement and Adjusted Remedial Maps

61.   It is important to note that Washington's redistricting criteria do not include protecting incumbents. For this reason, I attempted to address incumbent-pairing, where possible, only after ensuring the Remedial Maps abided by Washington's redistricting criteria and minimally impacted surrounding districts.

62.   As I stated in my initial report, I did this based on the publicly accessible data available to me at that time. It has since become clear, based on the filings from the Secretary of State and the declaration of Mr. Pharris, that some of the addresses I had for incumbents were out of date or inaccurate. Based upon updated address data provided by the Secretary of State, I have made small adjustments that resolve many of the incumbent pairings identified by Mr. Pharris and Dr. Trende while still adhering to Washington's redistricting criteria.

63. Using the updated data provided by the Secretary of State's office, I have drawn five new Remedial Maps (Remedial Maps 1A-5A), each a slight variation on Remedial Maps 1-5, to address, to the extent possible, the incumbent displacements in those maps.

64. Because LDs 14 and 15 must be redrawn substantially to comply with the Court's order, federal law, and Washington redistricting criteria, displacement of incumbents from these districts is to be expected.

65. The displaced incumbents outside LDs 14 and 15 were largely a product of incorrect or out-of-date address data, and I have adjusted the maps to correct for these changes. Any additional incumbent displacements outside of LDs 14 and 15 are the result of very specific mapping considerations, which I explain below.

66. In Map 5A, I was able to make a very minor adjustment to the boundary between LD 13 and LD 15 to resolve Intervenor LD 13 Representative Alex Ybarra's particular concern about being paired with another House incumbent in LD 13.

67. As also indicated in further detail below, I conclude that all five additional Remedial Maps abide by Washington's redistricting criteria and other traditional redistricting criteria. Furthermore, I did not rely on any political, partisan, or racial demographic data while making changes to any district boundaries.

A. **Plaintiffs' Remedial Map 1A**

68. Figure 7 provides a visual depiction of Remedial Map 1A.

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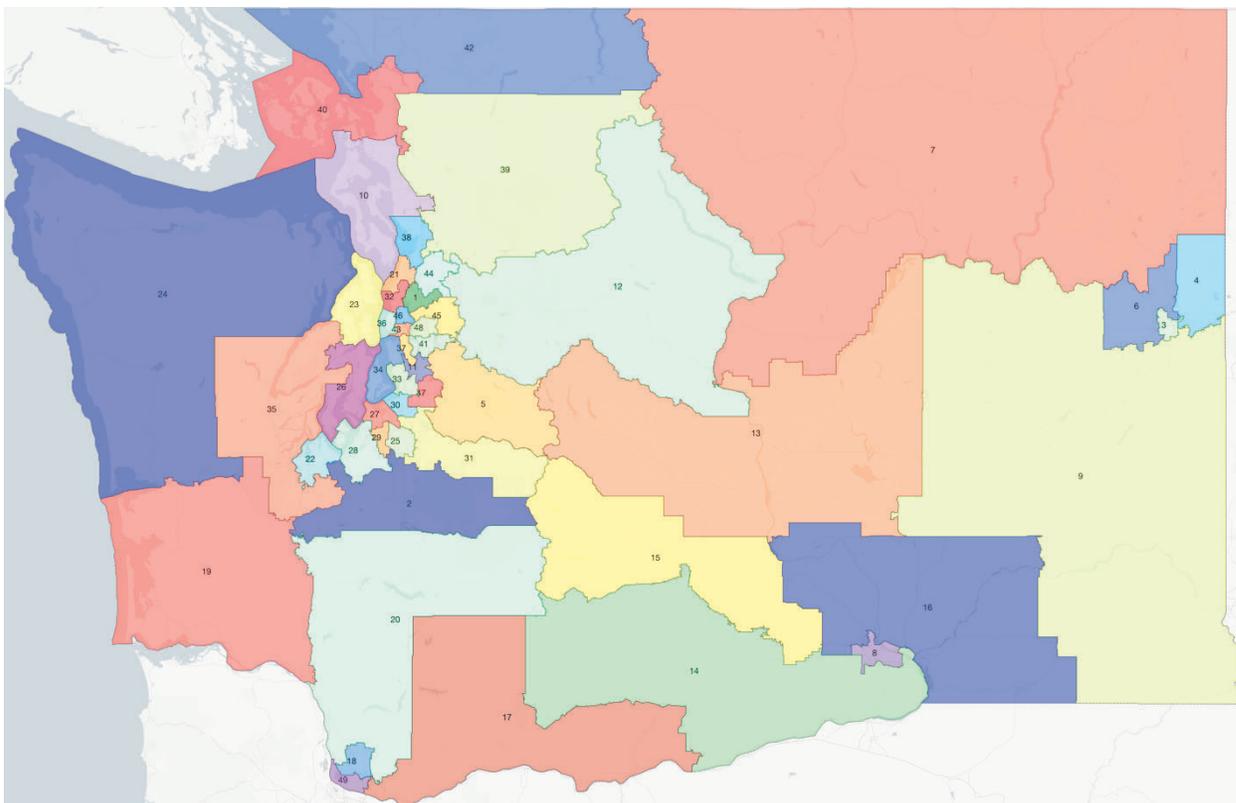
Figure 7: Remedial Map 1A

69. Remedial Map 1A is a variation on Remedial Map 1 that displaces fewer incumbents.

70. Aside from the legislators in enacted LDs 14 and 15, Mr. Pharris and Dr. Trende identified four incumbents displaced in Remedial Map 1: the LD 8 Representative, Position 1, the LD 31 Senator, the LD 31 Representative, Position 1, and the LD 12 Senator.

71. I have adjusted the boundary lines so that the LD 8 Representative, Position 1 now resides in LD 8, and the LD 31 Senator and the LD 31 Representative, Position 1 now reside in LD 31.

72. To accomplish this change, boundary changes were made to LDs 8, 16, 5, and 31. Remedial Map 1A is otherwise identical to Map 1.

73.   Remedial Map 1A still keeps the LD 12 Senator in LD 7. The changes necessary for the LD 12 Senator to be in LD 12 are reflected in Remedial Maps 2A and 4A, and in Remedial Map 5A.[9]

74.   As noted above, the displacement of any LD 14 and 15 Senators and Representatives were a byproduct of relying on the applicable redistricting criteria to draw Remedial LD 14 that unites the population centers forming a community of interest between East Yakima and Pasco, while keeping the Yakama Nation Reservation whole, along with some off-reservation trust lands and fishing villages.

75.   **Appendix Table 1**, located at the end of this document provides total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 1A has a negligible total population deviation[10] of 0.23%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

76.   **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 1A, which are largely on par with the compactness scores for the Enacted Plan.

77.   Remedial Map 1A's districts are comprised of convenient, contiguous territory and are traversable.

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[9] Upon inspection, it appears that the Redistricting Commission drew part of the boundary between LD 12 and LD 7 in the Enacted Plan solely to protect LD 12's incumbent senator. Indeed, a small part of LD 12 crosses the Columbia River from Chelan County into Douglas County and a small part of East Wenatchee, for no apparent purpose other than keeping the LD 12 senator in that district.

[10] Total population deviation for a redistricting plan is calculated by taking the difference between the population deviation in the least and most populous districts.

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78.   **Appendix Table 3** provides statistics regarding county splits for Remedial Map 1A, including county-district splits and district-county splits.[11] Remedial Map 1A performs about the same on county split metrics as compared to the Enacted Plan.

79.   **Appendix Table 4** provides the district and plan partisan performance composite scores (2016-2020), which were compiled and calculated only after the drawing of Remedial Map 1A was finalized. The results show that neither Democrats nor Republicans were substantively advantaged or disadvantaged by any boundary changes.

80.   **Appendix Table 5** provides EG and Declination scores, which show that Remedial Map 1A, like the Enacted Plan, is close to fair and maintains the very slight Republican bias found in the Enacted Plan.

81.   **Appendix Table 6** provides the core retention metrics for Remedial Map 1A.

82.   In summary, Remedial Map 1A is compliant with all relevant redistricting criteria and does not introduce any other boundary changes outside of the boundaries of LD 8, 16, 5, and 31.

B.   **Plaintiffs' Remedial Map 2A**

83.   Figure 8 provides a visual depiction of Remedial Map 2A.

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[11] The county-district split metric measures the extent to which the plan splits counties across districts. The district-county split metric measures the extent to which districts are split across counties.

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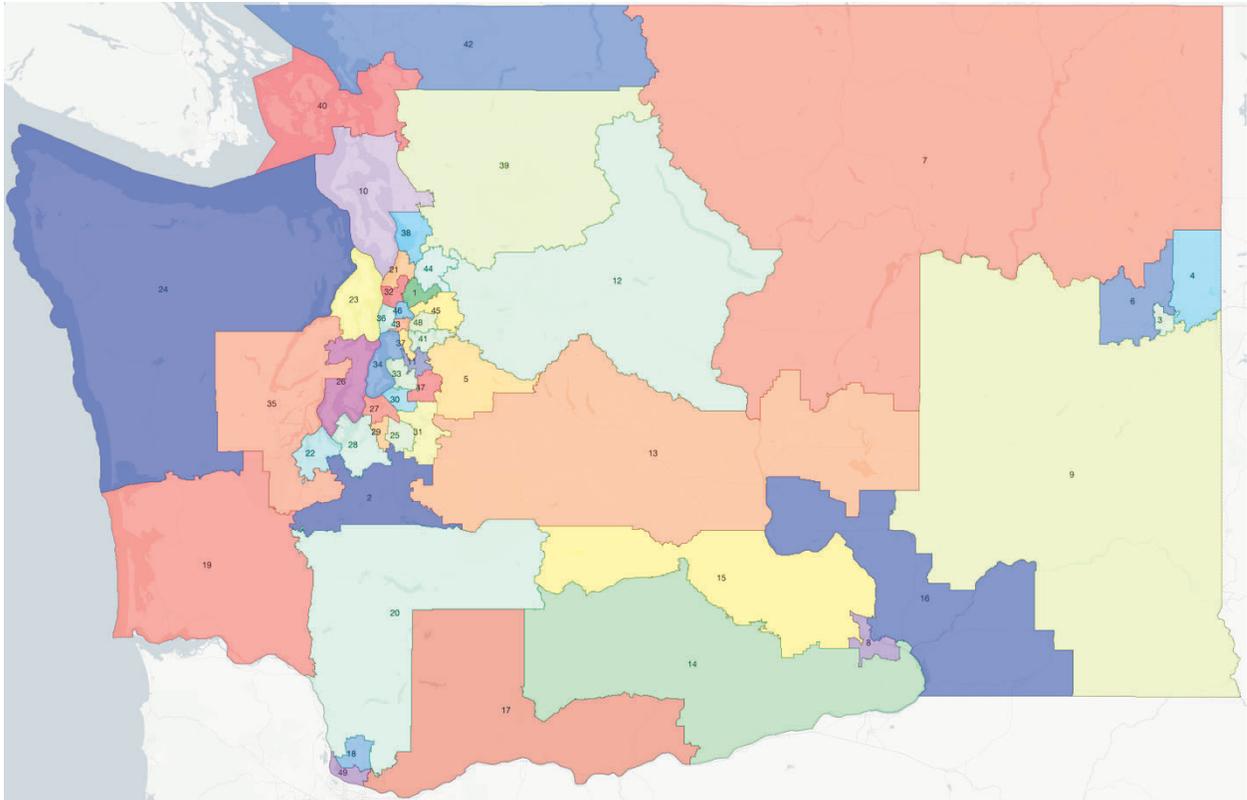
Figure 8: Remedial Map 2A

84.   Remedial Map 2A is a variation on Remedial Map 2 that displaces fewer incumbents.

85.   Aside from the legislators in enacted LDs 14 and 15, Mr. Pharris and Dr. Trende identified only one incumbent displaced in Remedial Map 2: the LD 8 Representative, Position 1.

86.   Boundary changes were made to LDs 8 and 16 so that the current LD 8 Representative, Position 1 now resides in LD 8. Remedial Map 2A is otherwise identical to Map 2.

87.   As noted above, the displacement of any LD 14 and 15 Senators and Representatives were a byproduct of relying on the applicable redistricting criteria to draw Remedial LD 14 that unites the population centers forming a community of interest between East Yakima and Pasco, while keeping the Yakama Nation Reservation whole, along with some off-reservation trust lands and fishing villages.

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88. **Appendix Table 1**, located at the end of this document provides total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 2A has a negligible total population deviation of 0.22%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

89. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 2A, which are largely on par with the compactness scores for the Enacted Plan.

90. Remedial Map 2A's districts are comprised of convenient, contiguous territory and are traversable.

91. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 2A, including county-district splits and district-county splits. Remedial Map 2A performs about the same on county split metrics as compared to the Enacted Plan.

92. **Appendix Table 4** provides the district and plan partisan performance composite scores (2016-2020), which were compiled and calculated only after the drawing of Remedial Map 2A was finalized. The results show that neither Democrats nor Republicans were substantively advantaged or disadvantaged by any boundary changes.

93. **Appendix Table 5** provides EG and Declination scores, which show that Remedial Map 2A, like the Enacted Plan, is close to fair and maintains the very slight Republican bias found in the Enacted Plan.

94. **Appendix Table 6** provides the core retention metrics for Remedial Map 2A.

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95.   In summary, Remedial Map 2A is compliant with all relevant redistricting criteria and

does not introduce any other boundary changes outside of the boundaries of LD 8 and

16.

C. **Plaintiffs' Remedial Map 3A**

96.   Figure 9 provides a visual depiction of Remedial Map 3A.
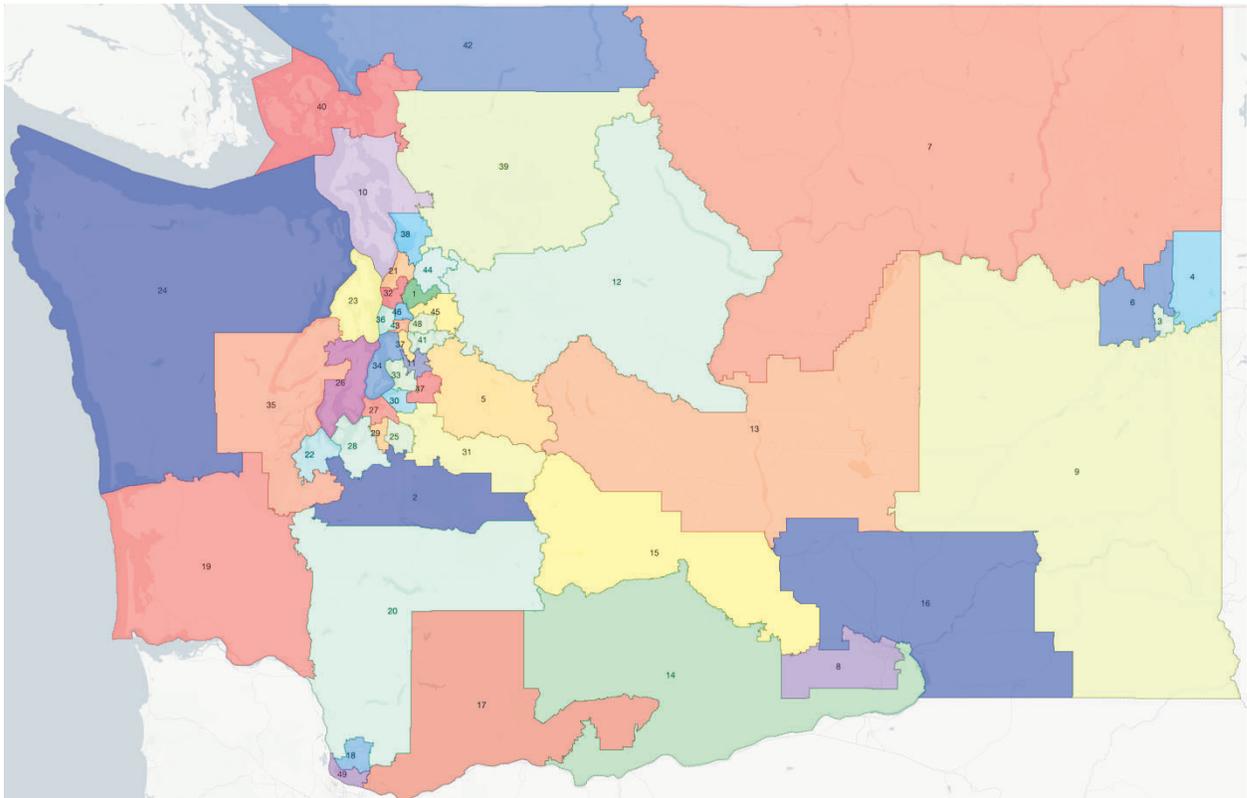
Figure 9: Remedial Map 3A

97.   Remedial Map 3A is a variation on Remedial Map 3 that displaces fewer incumbents.

98.   Aside from the legislators in enacted LDs 14 and 15, Mr. Pharris and Dr. Trende

identified three incumbents displaced in Remedial Map 3: the LD 8 Representative,

Position 1, the LD 31 Senator, and the LD 12 Senator.

99.   I have adjusted the boundary lines so that the LD 8 Representative, Position 1 now

resides in LD 8, and the LD 31 Senator now resides in LD 31.

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100. To accomplish this change, boundary changes were made to LDs 8, 16, 5, and 31. Remedial Map 3A is otherwise identical to Map 3.

101. Remedial Map 3A still keeps the LD 12 Senator in LD 7. The changes necessary for the LD 12 Senator to be in LD 12 are reflected in Remedial Maps 2A and 4A, and in Remedial Map 5A.

102. As noted above, the displacement of any LD 14 and 15 Senators and Representatives were a byproduct of relying on the applicable redistricting criteria to draw Remedial LD 14 that unites the population centers forming a community of interest between East Yakima and Pasco, while keeping the Yakama Nation Reservation and all off-reservation trust lands and fishing villages within LD 14.

103. **Appendix Table 1**, located at the end of this document provides total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 3A has a negligible total population deviation of 0.24%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

104. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 3A, which are largely on par with the compactness scores for the Enacted Plan.

105. Remedial Map 3A's districts are comprised of convenient, contiguous territory and are traversable.

106. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 3A, including county-district splits and district-county splits. Remedial Map 3A performs about the same on county split metrics as compared to the Enacted Plan.

107. **Appendix Table 4** provides the district and plan partisan lean composite scores (2016-2020), which were compiled and calculated only after the drawing of Remedial Map 3A was finalized. The results show that neither Democrats nor Republicans were substantively advantaged or disadvantaged by any boundary changes.

108. **Appendix Table 5** provides EG and Declination scores, which show that Remedial Map 3A, like the Enacted Plan, is close to fair and maintains the very slight Republican bias found in the Enacted Plan.

109. **Appendix Table 6** provides the core retention metrics for Remedial Map 3A.

110. In summary, Remedial Map 3A is compliant with all relevant redistricting criteria and does not introduce any other boundary changes outside of the boundaries of LD 8, 16, 5, and 31.

D. Plaintiffs' Remedial Map 4A

111. Figure 10 provides a visual depiction of Remedial Map 4A.
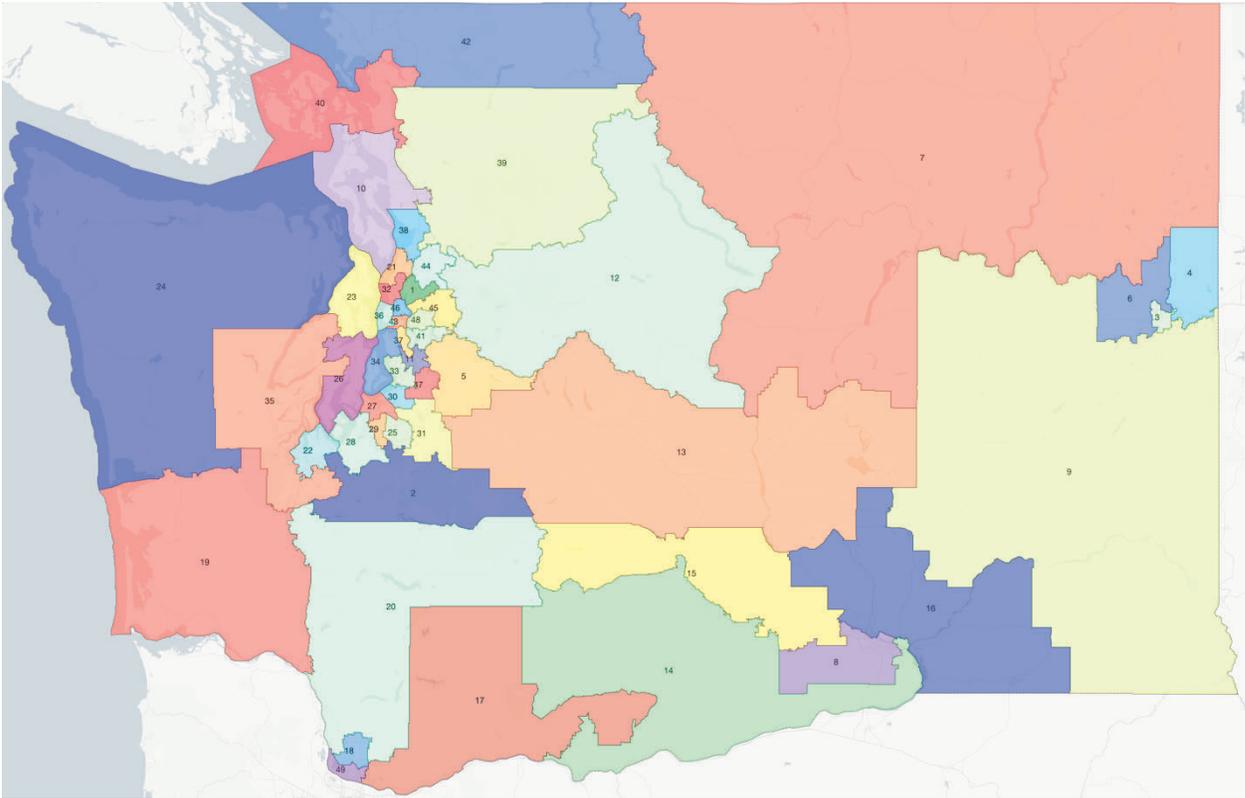
Figure 10: Remedial Map 4A

112. Remedial Map 4A is a variation on Remedial Map 4 that displaces fewer incumbents.

113. Aside from the legislators in enacted LDs 14 and 15, Mr. Pharris and Dr. Trende identified only one incumbent displaced in Remedial Map 4: the LD 8 Representative, Position 1.

114. Boundary changes were made to LDs 8 and 16 so that the current LD 8 Representative, Position 1 now resides in LD 8. Remedial Map 4A is otherwise identical to Map 4.

115. As noted above, the displacement of any LD 14 and 15 Senators and Representatives were a byproduct of relying on the applicable redistricting criteria to draw Remedial LD 14 that unites the population centers forming a community of interest between East Yakima and Pasco, while keeping the Yakama Nation Reservation whole, along with some off-reservation trust lands and fishing villages.

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116. **Appendix Table 1**, located at the end of this document provides total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 4A has a negligible total population deviation of 0.24%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

117. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 4A, which are largely on par with the compactness scores for the Enacted Plan.

118. Remedial Map 4A's districts are comprised of convenient, contiguous territory and are traversable.

119. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 4A, including county-district splits and district-county splits. Remedial Map 4A performs about the same on county split metrics as compared to the Enacted Plan.

120. **Appendix Table 4** provides the district and plan partisan lean composite scores (2016-2020), which were compiled and calculated only after the drawing of Remedial Map 4A was finalized. The results show that neither Democrats nor Republicans were substantively advantaged or disadvantaged by any boundary changes.

121. **Appendix Table 5** provides EG and Declination scores, which show that Remedial Map 4A, like the Enacted Plan, is close to fair and maintains the very slight Republican bias found in the Enacted Plan.

122. **Appendix Table 6** provides the core retention metrics for Remedial Map 4A.

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123. In summary, Remedial Map 4A is compliant with all relevant redistricting criteria and does not introduce any other boundary changes outside of the boundaries of LD 8 and 16.

E. Plaintiffs' Remedial Map 5A

124. Figure 11 provides a visual depiction of Remedial Map 5A.
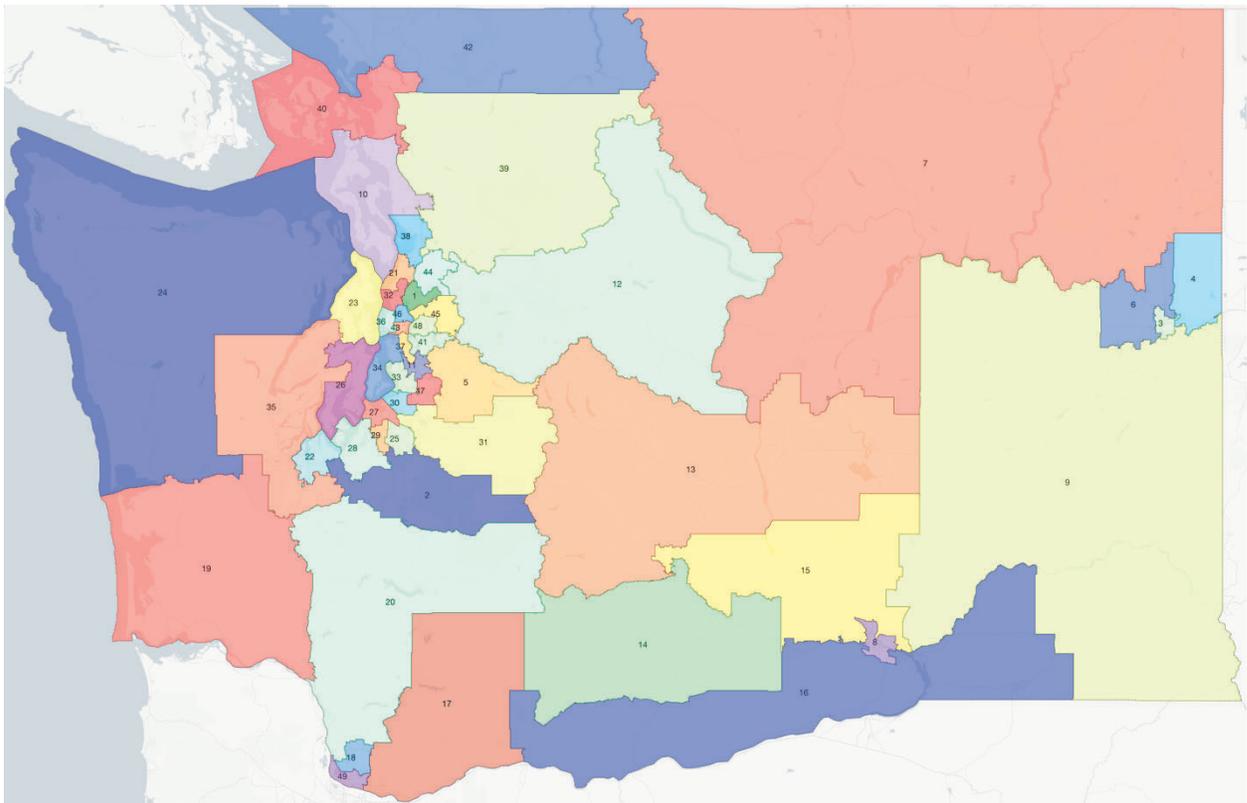
Figure 11: Remedial Map 5A

125. Remedial Map 5A is a variation on Remedial Map 5 that addresses Intervenor Alex Ybarra's concern about being paired with another house incumbent in LD 13 (only in Map 5). Very limited boundary changes, involving no more than a few precincts, were made to LDs 13 and 15 to address his concern. Remedial Map 5A is otherwise identical to Map 5. With this fix, no remedial proposal pairs Rep. Ybarra.

126. **Appendix Table 1**, located at the end of this document provides total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 5A has a negligible total population deviation of 0.25%, which is the same as the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

127. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 5A, which are largely on par with the compactness scores for the Enacted Plan.

128. Remedial Map 5A's districts are comprised of convenient, contiguous territory and are traversable.

129. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 5A, including county-district splits and district-county splits. Remedial Map 5A performs about the same on county split metrics as compared to the Enacted Plan.

130. **Appendix Table 4** provides the district and plan partisan lean composite scores (2016-2020), which were compiled and calculated only after the drawing of Remedial Map 5A was finalized. The results show that neither Democrats nor Republicans were substantively advantaged or disadvantaged by any boundary changes.

131. **Appendix Table 5** provides EG and Declination scores, which show that Remedial Map 5A, like the Enacted Plan, is close to fair and maintains the very slight Republican bias found in the Enacted Plan.

132. **Appendix Table 6** provides the core retention metrics for Remedial Map 5A.

133. In summary, Remedial Map 5A is compliant with all relevant redistricting criteria and does not introduce any other boundary changes outside of the boundaries of LD 13 and 15.

IX.   Yakama Nation Off-Reservation Trust Lands

134. As I stated in my December 1, 2023 declaration, I drew LD 14 in Remedial Maps 3 and 4 to include the Yakama Nation Reservation and the off-reservation trust lands and fishing villages. To do so, I inspected the U.S. Census boundary file "Yakama Nation and Off-Reservation Trust Land" available on Dave's Redistricting App and made sure every parcel of off-Reservation trust land was included in LD 14.

135. On page 12 of their response brief, Intervenors claim, without support, that LD 14 in Remedial Maps 3 and 4 excludes "several off-Reservation trust parcels and traditional family homesteads in a separate legislative district from the Yakama Reservation."

136. They have provided no data showing the geographic locations of the off-Reservation trust parcels and traditional family homesteads supposedly excluded from the remedial district in Remedial Maps 3 and 4. Dr. Trende similarly offers no data to support this claim, nor does he opine on this issue. I am therefore unable to evaluate their claims.

X.   Conclusion

137. I reserve the right to modify, update, or supplement my report as additional information is made available to me.

138. Pursuant to 28 U.S.C. § 1746, I, Kassra AR Oskooii, declare under penalty of perjury that the foregoing is true and correct.

Executed by:

Dr. Kassra AR Oskooii

Dated: January 5, 2024

Appendix

Table 1 – Population Deviation, Remedial Maps 1A-5A

District	Enacted Map			Remedial Map 1A			Remedial Map 2A			Remedial Map 3A			Remedial Map 4A			Remedial Map 5A		
	Total Pop	Deviation	%	Total Pop	Deviation	%	Total Pop	Deviation	%	Total Pop	Deviation	%	Total Pop	Deviation	%	Total Pop	Deviation	%
1	157284	33	0.021%	157284	33	0.021%	157284	33	0.021%	157284	33	0.021%	157284	33	0.021%	157284	33	0.021%
2	157441	190	0.121%	157371	120	0.076%	157244	-7	-0.004%	157429	178	0.113%	157429	178	0.113%	157441	190	0.121%
3	157244	-7	-0.004%	157244	-7	-0.004%	157244	-7	-0.004%	157244	-7	-0.004%	157244	-7	-0.004%	157244	-7	-0.004%
4	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%
5	157289	38	0.024%	157361	110	0.070%	157289	38	0.024%	157378	127	0.081%	157289	38	0.024%	157289	38	0.024%
6	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%
7	157250	-1	-0.001%	157248	-3	-0.002%	157250	-1	-0.001%	157313	62	0.039%	157250	-1	-0.001%	157250	-1	-0.001%
8	157266	15	0.010%	157120	-131	-0.083%	157319	68	0.043%	157198	-53	-0.034%	157198	-53	-0.034%	157266	15	0.010%
9	157247	-4	-0.003%	157125	-126	-0.080%	157156	-95	-0.060%	157125	-126	-0.080%	157156	-95	-0.060%	157247	-4	-0.003%
10	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%
11	157228	-23	-0.015%	157228	-23	-0.015%	157228	-23	-0.015%	157228	-23	-0.015%	157228	-23	-0.015%	157228	-23	-0.015%
12	157247	-4	-0.003%	157175	-76	-0.048%	157247	-4	-0.003%	157096	-155	-0.099%	157247	-4	-0.003%	157247	-4	-0.003%
13	157248	-3	-0.002%	157145	-106	-0.067%	157250	-1	-0.001%	157360	109	0.069%	157312	61	0.039%	157259	8	0.005%
14	157253	2	0.001%	157166	-85	-0.054%	157166	-85	-0.054%	157318	67	0.043%	157318	67	0.043%	157377	126	0.080%
15	157231	-20	-0.013%	157409	158	0.100%	157203	-48	-0.031%	157122	-129	-0.082%	157070	-181	-0.115%	157108	-143	-0.091%
16	157254	3	0.002%	157159	-92	-0.059%	157197	-54	-0.034%	157182	-69	-0.044%	157221	-30	-0.019%	157242	-9	-0.006%
17	157239	-12	-0.008%	157405	154	0.098%	157405	154	0.098%	157346	95	0.060%	157346	95	0.060%	157239	-12	-0.008%
18	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%
19	157236	-15	-0.010%	157236	-15	-0.010%	157236	-15	-0.010%	157236	-15	-0.010%	157236	-15	-0.010%	157236	-15	-0.010%
20	157243	-8	-0.005%	157401	150	0.095%	157401	150	0.095%	157353	102	0.065%	157353	102	0.065%	157243	-8	-0.005%
21	157212	-39	-0.025%	157212	-39	-0.025%	157212	-39	-0.025%	157212	-39	-0.025%	157212	-39	-0.025%	157212	-39	-0.025%
22	157257	6	0.004%	157257	6	0.004%	157257	6	0.004%	157257	6	0.004%	157257	6	0.004%	157257	6	0.004%
23	157258	7	0.004%	157258	7	0.004%	157258	7	0.004%	157258	7	0.004%	157258	7	0.004%	157258	7	0.004%
24	157233	-18	-0.011%	157233	-18	-0.011%	157233	-18	-0.011%	157233	-18	-0.011%	157233	-18	-0.011%	157233	-18	-0.011%
25	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%
26	157227	-24	-0.015%	157227	-24	-0.015%	157227	-24	-0.015%	157227	-24	-0.015%	157227	-24	-0.015%	157227	-24	-0.015%
27	157239	-12	-0.008%	157239	-12	-0.008%	157239	-12	-0.008%	157239	-12	-0.008%	157239	-12	-0.008%	157239	-12	-0.008%
28	157289	38	0.024%	157289	38	0.024%	157289	38	0.024%	157289	38	0.024%	157289	38	0.024%	157289	38	0.024%
29	157054	-197	-0.125%	157054	-197	-0.125%	157054	-197	-0.125%	157054	-197	-0.125%	157054	-197	-0.125%	157054	-197	-0.125%
30	157277	26	0.017%	157277	26	0.017%	157277	26	0.017%	157277	26	0.017%	157277	26	0.017%	157277	26	0.017%
31	157223	-28	-0.018%	157346	95	0.060%	157304	53	0.034%	157211	-40	-0.025%	157242	-9	-0.006%	157223	-28	-0.018%
32	157211	-40	-0.025%	157211	-40	-0.025%	157211	-40	-0.025%	157211	-40	-0.025%	157211	-40	-0.025%	157211	-40	-0.025%
33	157256	5	0.003%	157256	5	0.003%	157256	5	0.003%	157256	5	0.003%	157256	5	0.003%	157256	5	0.003%
34	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%
35	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%
36	157250	-1	-0.001%	157250	-1	-0.001%	157250	-1	-0.001%	157250	-1	-0.001%	157250	-1	-0.001%	157250	-1	-0.001%
37	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%
38	157215	-36	-0.023%	157215	-36	-0.023%	157215	-36	-0.023%	157215	-36	-0.023%	157215	-36	-0.023%	157215	-36	-0.023%
39	157306	55	0.035%	157306	55	0.035%	157306	55	0.035%	157306	55	0.035%	157306	55	0.035%	157306	55	0.035%
40	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%
41	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%
42	157263	12	0.008%	157263	12	0.008%	157263	12	0.008%	157263	12	0.008%	157263	12	0.008%	157263	12	0.008%
43	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%
44	157248	-3	-0.002%	157248	-3	-0.002%	157248	-3	-0.002%	157248	-3	-0.002%	157248	-3	-0.002%	157248	-3	-0.002%
45	157270	19	0.012%	157270	19	0.012%	157270	19	0.012%	157270	19	0.012%	157270	19	0.012%	157270	19	0.012%
46	157255	4	0.003%	157255	4	0.003%	157255	4	0.003%	157255	4	0.003%	157255	4	0.003%	157255	4	0.003%
47	157240	-11	-0.007%	157240	-11	-0.007%	157240	-11	-0.007%	157240	-11	-0.007%	157240	-11	-0.007%	157240	-11	-0.007%
48	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%
49	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%
Total Deviation	-	-	0.25%	-	-	0.23%	-	-	0.22%	-	-	0.24%	-	-	0.24%	-	-	0.25%

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Table 2 – Compactness Scores, Remedial Maps 1A-5A

	Enacted Map	**Remedial Map 1A**	**Remedial Map 2A**	**Remedial Map 3A**	**Remedial Map 4A**	**Remedial Map 5A**
Reock	0.44	0.42	0.42	0.43	0.42	0.43
Polsby-Popper	0.33	0.32	0.31	0.32	0.32	0.32

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Table 3 – County Split Metrics, Remedial Maps 1A-5A

	Enacted Map	**Remedial Map 1A**	**Remedial Map 2A**	**Remedial Map 3A**	**Remedial Map 4A**	**Remedial Map 5A**
Number of Counties Split	18	20	19	20	19	19
County-District Splitting	1.61	1.61	1.65	1.61	1.64	1.62
District-County Splitting	1.25	1.25	1.27	1.25	1.26	1.26

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Table 4 – Partisan Performance by District and Plan, Remedial Maps 1A-5A

District	Enacted Map		Remedial Map 1A		Remedial Map 2A		Remedial Map 3A		Remedial Map 4A		Remedial Map 5A	
	Dem	*Rep*	*Dem*	*Rep*	*Dem*	*Rep*	*Dem*	*Rep*	*Dem*	*Rep*	*Dem*	*Rep*
2	40.62%	57.43%	40.28%	57.76%	40.28%	57.76%	40.79%	57.24%	40.79%	57.24%	40.62%	57.43%
5	56.73%	41.48%	54.58%	43.67%	56.73%	41.48%	54.98%	43.26%	56.73%	41.48%	56.73%	41.48%
7	33.65%	65.30%	34.65%	64.25%	33.65%	65.30%	34.33%	64.57%	33.65%	65.30%	33.65%	65.30%
8	39.79%	58.39%	38.10%	60.19%	37.32%	60.96%	36.87%	61.49%	36.87%	61.49%	39.79%	58.39%
9	40.35%	58.10%	40.94%	57.51%	40.57%	57.88%	40.94%	57.51%	40.57%	57.88%	40.35%	58.10%
12	45.61%	52.82%	47.87%	50.48%	45.61%	52.82%	47.55%	50.83%	45.61%	52.82%	45.61%	52.82%
13	34.96%	63.85%	35.54%	63.32%	35.68%	63.07%	35.67%	63.21%	36.35%	62.42%	34.25%	64.66%
16	38.49%	59.92%	39.92%	58.37%	42.15%	56.18%	40.76%	57.47%	41.59%	56.64%	40.64%	57.95%
17	49.36%	49.08%	50.52%	47.96%	50.52%	47.96%	50.83%	47.63%	50.83%	47.63%	49.36%	49.08%
20	35.17%	63.44%	35.46%	63.22%	35.46%	63.22%	35.12%	63.55%	35.12%	63.55%	35.17%	63.44%
31	44.13%	54.16%	43.59%	54.66%	43.98%	54.24%	43.49%	54.76%	43.43%	54.82%	44.13%	54.16%
# R/D Performing Districts	1	8	1	8	1	8	1	8	1	8	1	8

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Table 5 – Comparison of Partisan Bias Metrics Across Plans, Remedial Maps 1A-5A

Plans	*Efficiency Gap*	*Declination*
Enacted Map	3.2% R	0.07 R
Remedial Map 1A	2.1% R	0.02 R
Remedial Map 2A	2.2% R	0.02 R
Remedial Map 3A	2.0% R	0.02 R
Remedial Map 4A	2.2% R	0.01 R
Remedial Map 5A	2.2% R	0.02 R

Table 6 – Core Population Retention Percentages, Remedial Maps 1A-5A

District	Remedial Map 1A	Remedial Map 2A	Remedial Map 3A	Remedial Map 4A	Remedial Map 5A
1	100.0%	100.0%	100.0%	100.0%	100.0%
2	86.6%	86.6%	90.1%	90.1%	100.0%
3	100.0%	100.0%	100.0%	100.0%	100.0%
4	100.0%	100.0%	100.0%	100.0%	100.0%
5	86.7%	100.0%	90.0%	100.0%	100.0%
6	100.0%	100.0%	100.0%	100.0%	100.0%
7	86.7%	100.0%	90.1%	100.0%	100.0%
8	71.0%	62.0%	60.3%	60.3%	100.0%
9	95.2%	98.0%	95.2%	98.0%	100.0%
10	100.0%	100.0%	100.0%	100.0%	100.0%
11	100.0%	100.0%	100.0%	100.0%	100.0%
12	86.8%	100.0%	90.1%	100.0%	100.0%
13	80.5%	86.5%	80.4%	85.1%	90.0%
14	62.2%	62.2%	60.5%	60.5%	51.3%
15	56.5%	56.6%	55.8%	55.9%	51.3%
16	55.3%	39.4%	47.8%	44.4%	86.0%
17	86.5%	86.5%	90.0%	90.0%	100.0%
18	100.0%	100.0%	100.0%	100.0%	100.0%
19	100.0%	100.0%	100.0%	100.0%	100.0%
20	86.5%	86.5%	90.0%	90.0%	100.0%
21	100.0%	100.0%	100.0%	100.0%	100.0%
22	100.0%	100.0%	100.0%	100.0%	100.0%
23	100.0%	100.0%	100.0%	100.0%	100.0%
24	100.0%	100.0%	100.0%	100.0%	100.0%
25	100.0%	100.0%	100.0%	100.0%	100.0%
26	100.0%	100.0%	100.0%	100.0%	100.0%
27	100.0%	100.0%	100.0%	100.0%	100.0%
28	100.0%	100.0%	100.0%	100.0%	100.0%
29	100.0%	100.0%	100.0%	100.0%	100.0%
30	100.0%	100.0%	100.0%	100.0%	100.0%
31	86.6%	86.6%	90.1%	90.1%	100.0%
32	100.0%	100.0%	100.0%	100.0%	100.0%
33	100.0%	100.0%	100.0%	100.0%	100.0%
34	100.0%	100.0%	100.0%	100.0%	100.0%
35	100.0%	100.0%	100.0%	100.0%	100.0%
36	100.0%	100.0%	100.0%	100.0%	100.0%
37	100.0%	100.0%	100.0%	100.0%	100.0%
38	100.0%	100.0%	100.0%	100.0%	100.0%
39	100.0%	100.0%	100.0%	100.0%	100.0%
40	100.0%	100.0%	100.0%	100.0%	100.0%
41	100.0%	100.0%	100.0%	100.0%	100.0%
42	100.0%	100.0%	100.0%	100.0%	100.0%
43	100.0%	100.0%	100.0%	100.0%	100.0%
44	100.0%	100.0%	100.0%	100.0%	100.0%
45	100.0%	100.0%	100.0%	100.0%	100.0%
46	100.0%	100.0%	100.0%	100.0%	100.0%
47	100.0%	100.0%	100.0%	100.0%	100.0%
48	100.0%	100.0%	100.0%	100.0%	100.0%
49	100.0%	100.0%	100.0%	100.0%	100.0%
Plan Average	94.10%	94.9%	94.5%	95.2%	97.5%

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Pl.App.142

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

SUSAN SOTO PALMER, et al.,
 	
                           Plaintiffs,
 	
   v.
 	
STEVEN HOBBS, et al.,
 	
                        Defendants.
 	
JOSE TREVINO, et al.
 	
              Intervenor-Defendants.
	NO. 3:22-cv-05035-RSL
	
	DEFENDANT SECRETARY OF STATE STEVEN HOBBS'S RESPONSE TO PLAINTIFFS' BRIEF IN SUPPORT OF REMEDIAL PROPOSALS

Secretary Hobbs takes no position on whether to adopt any of Plaintiffs' proposed remedial maps. Secretary Hobbs submits this brief for the purpose of providing information about the proposals and defers to the Court regarding whether and how the information should be utilized by the Court in selecting a remedial map. Specifically, this brief provides two pieces of information regarding each remedial map: (1) the counties affected; and (2) the districts in which incumbents would be displaced. This information was identified through an analysis performed by the Office of the Secretary of State. Decl. of Nick Pharris.

DEFENDANT SECRETARY OF STATE
STEVEN HOBBS'S RESPONSE TO
PLAINTIFFS' BRIEF IN SUPPORT OF
REMEDIAL PROPOSALS
NO. 3:22-cv-05035-RSL

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Pl.App.143

1

Plaintiffs' Remedial Proposal 1

2   Plaintiffs' first remedial proposal would affect 13 counties: Adams, Benton, Chelan,

3   Clark, Douglas, Franklin, Grant, King, Klickitat, Lewis, Pierce, Thurston, and Yakima. Pharris

4   Decl., ¶ 5.

5   Plaintiffs' first remedial proposal would displace 8 incumbents in the following

6   positions, Pharris Decl., ¶ 7:

7   LD 8 Representative, Position 1

8   LD 12 Senator

9   LD 14 Representative, Position 1

10   LD 14 Representative, Position 2

11   LD 14 Senator

12   LD 15 Senator

13   LD 31 Representative, Position 1

14   LD 31 Senator

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16

Plaintiffs' Remedial Proposal 2

17   Plaintiffs' second remedial proposal would affect 11 counties: Adams, Benton, Clark,

18   Franklin, Grant, King, Klickitat, Lewis, Pierce, Thurston, and Yakima. Pharris Decl., ¶ 5.

19   Plaintiffs' second remedial proposal would displace 5 incumbents in the following

20   positions, Pharris Decl., ¶ 8:

21   LD 8 Representative, Position 1

22   LD 14 Representative, Position 1

23   LD 14 Representative, Position 2

24   LD 14 Senator

25   LD 15 Senator

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DEFENDANT SECRETARY OF STATE STEVEN HOBBS'S RESPONSE TO PLAINTIFFS' BRIEF IN SUPPORT OF REMEDIAL PROPOSALS NO. 3:22-cv-05035-RSL	2 **Pl.App.144**	ATTORNEY GENERAL OF WASHINGTON 1125 Washington Street SE PO Box 40100 Olympia, WA 98504-0100 (360) 753-6200

1   ***Plaintiffs' Remedial Proposal 3***

2   Plaintiffs' third remedial proposal would affect 12 counties: Adams, Benton, Chelan,

3 Clark, Douglas, Franklin, Grant, King, Klickitat, Pierce, Thurston, and Yakima. Pharris

4 Decl., ¶ 5.

5   Plaintiffs' third remedial proposal would displace 7 incumbents in the following

6 positions, Pharris Decl., ¶ 9:

7   LD 8 Representative, Position 1

8   LD 12 Senator

9   LD 14 Representative, Position 1

10   LD 14 Representative, Position 2

11   LD 14 Senator

12   LD 15 Senator

13   LD 31 Senator

14

15   ***Plaintiffs' Remedial Proposal 4***

16   Plaintiffs' fourth remedial proposal would affect 10 counties: Adams, Benton, Clark,

17 Franklin, Grant, King, Klickitat, Pierce, Thurston, and Yakima. Pharris Decl., ¶ 5.

18   Plaintiffs' fourth remedial proposal would displace 5 incumbents in the following

19 positions, Pharris Decl., ¶ 10:

20   LD 8 Representative, Position 1

21   LD 14 Representative, Position 1

22   LD 14 Representative, Position 2

23   LD 14 Senator

24   LD 15 Senator

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DEFENDANT SECRETARY OF STATE
STEVEN HOBBS'S RESPONSE TO
PLAINTIFFS' BRIEF IN SUPPORT OF
REMEDIAL PROPOSALS
NO. 3:22-cv-05035-RSL

3

Pl.App.145

1   ***Plaintiffs' Remedial Proposal 5***

2   Plaintiffs' fifth remedial proposal would affect 3 counties: Benton, Klickitat, and

3   Yakima. Pharris Decl., ¶ 5.

4   Plaintiffs' fifth remedial proposal would displace 4 incumbents in the following

5   positions, Pharris Decl., ¶ 11:

6   LD 14 Representative, Position 1

7   LD 14 Representative, Position 2

8   LD 15 Representative, Position 1

9   LD 15 Representative, Position 2

10

11   RESPECTFULLY SUBMITTED this 22nd day of December, 2023.

12   ROBERT W. FERGUSON
                                      Attorney General
13
                                       s/ Karl D. Smith
14   KARL D. SMITH, WSBA 41988
                                       Deputy Solicitor General
15   KATE S. WORTHINGTON, WSBA 47556
                                       Assistant Attorney General
16   1125 Washington Street SE
                                      PO Box 40100
17   Olympia, WA 98504-0100
                                      (360) 753-6200
18   Karl.Smith@atg.wa.gov
                                      Kate.Worthington@atg.wa.gov
19
                                      Attorneys for Defendant Steven Hobbs
20

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| DEFENDANT SECRETARY OF STATE STEVEN HOBBS'S RESPONSE TO PLAINTIFFS' BRIEF IN SUPPORT OF REMEDIAL PROPOSALS NO. 3:22-cv-05035-RSL | 4 **Pl.App.146** | ATTORNEY GENERAL OF WASHINGTON 1125 Washington Street SE PO Box 40100 Olympia, WA 98504-0100 (360) 753-6200 |

1   **DECLARATION OF SERVICE**

2   I hereby declare that on this day I caused the foregoing document to be electronically

3 filed with the Clerk of the Court using the Court's CM/ECF System which will serve a copy of

4 this document upon all counsel of record.

5   DATED this 22nd day of December 2023, at Olympia, Washington.

6

7   *s/ Leena Vanderwood*
                      Leena Vanderwood

8   *Paralegal*
                      1125 Washington Street SE
                      PO Box 40100

9   Olympia, WA 98504-0100
                      (360) 753-6200

10   Leena.Vanderwood@atg.wa.gov

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DEFENDANT SECRETARY OF STATE
STEVEN HOBBS'S RESPONSE TO
PLAINTIFFS' BRIEF IN SUPPORT OF
REMEDIAL PROPOSALS
NO. 3:22-cv-05035-RSL

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Pl.App.147

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The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

9 SUSAN SOTO PALMER, et al.,	NO. 3:22-cv-05035-RSL
10 Plaintiffs,	DECLARATION OF NICHOLAS PHARRIS IN SUPPORT OF DEFENDANT
11 v.	SECRETARY OF STATE STEVEN HOBBS'S RESPONSE TO PLAINTIFFS'
12 STEVEN HOBBS, et al.,	BRIEF IN SUPPORT OF REMEDIAL PROPOSALS
13 Defendants.	
14 JOSE TREVINO, et al.	
15 Intervenor-Defendants.	

16

17   I, Nicholas Pharris, declare as follows:

18   1.   I am over the age of 18, competent to testify as to the matters herein, and make

19   this declaration based on my personal knowledge. I am currently employed as the Support Lead

20   for the VoteWA/TotalAddress election management system in the Elections Division of the Office

21   of the Secretary of State, a position I have held since 2019.

22   2.   In 2011 and 2012, I worked for the Washington State Redistricting Commission

23   as a GIS and data analyst.

24   3.   I served as Washington's designated Redistricting Data Liaison for the 2020

25   Census.

26

DECLARATION OF NICHOLAS PHARRIS
IN SUPPORT OF DEFENDANT STEVEN
HOBBS'S RESPONSE TO PLAINTIFFS'
BRIEF IN SUPPORT OF REMEDIAL
PROPOSALS
NO. 3:22-cv-05035-RSL

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Pl.App.148

1   5.   Following the adoption of the 2021 Redistricting Commission's final plan, I

2   worked with county election administrators to review the proposed redistricting changes and

3   identify technical fixes to district lines necessary for effective election administration.

4   6.   I have reviewed and analyzed the block assignment and geojson files of Plaintiffs'

5   remedial proposals, which Plaintiffs made available on December 1, 2023.

6   7.   As part of my review of Plaintiffs' remedial maps, I identified the counties

7   affected by each proposal. Plaintiffs' Remedial Proposal 1 affects the following counties:

8   Adams, Benton, Chelan, Clark, Douglas, Franklin, Grant, King, Klickitat, Lewis, Pierce,

9   Thurston, and Yakima. Plaintiffs' Remedial Proposal 2 affects the following counties: Adams,

10   Benton, Clark, Franklin, Grant, King, Klickitat, Lewis, Pierce, Thurston, and Yakima. Plaintiffs'

11   Remedial Proposal 3 affects the following counties: Adams, Benton, Chelan, Clark, Douglas,

12   Franklin, Grant, King, Klickitat, Pierce, Thurston, and Yakima. Plaintiffs' Remedial Proposal 4

13   affects the following counties: Adams, Benton, Clark, Franklin, Grant, King, Klickitat, Pierce,

14   Thurston, and Yakima. Plaintiffs' Remedial Proposal 5 affects the following counties: Benton,

15   Klickitat, and Yakima.

16   8.   As part of my review of Plaintiffs' proposed remedial maps, I also identified

17   positions for which incumbents would be displaced (i.e., under which the incumbent would no

18   longer live in the district that the incumbent currently represents). I made this determination

19   using the same method that the Office of the Secretary of State uses to determine a candidate's

20   eligibility to hold office, which relies on the candidate or officeholder's residential address in

21   the voter registration database.

22   9.   Plaintiffs' Remedial Proposal 1 would have the following impacts on incumbent

23   officeholders: The current LD 8 Representative, Position 1 would reside in LD 16; the current

24   LD 12 Senator would reside in LD 7; the current LD 14 Senator and Representative, Position 1

25   would reside in LD 15; the current LD 14 Representative, Position 2 would reside in LD 17; the

26

DECLARATION OF NICHOLAS PHARRIS   2   ATTORNEY GENERAL OF WASHINGTON
IN SUPPORT OF DEFENDANT STEVEN   1125 Washington Street SE
HOBBS'S RESPONSE TO PLAINTIFFS'   PO Box 40100
BRIEF IN SUPPORT OF REMEDIAL   Olympia, WA 98504-0100
PROPOSALS   **Pl.App.149**   (360) 753-6200
NO. 3:22-cv-05035-RSL

1   current LD 15 Senator would reside in LD 16; and the current LD 31 Senator and Representative,

2   Position 1 would reside in LD 5.

3   10.   Plaintiffs' Remedial Proposal 2 would have the following impacts on incumbent

4   officeholders: The current LD 8 Representative, Position 1 would reside in LD 16; the current

5   LD 14 Senator and Representative, Position 1 would reside in LD 15; the current LD 14

6   Representative, Position 2 would reside in LD 17; and the current LD 15 Senator would reside

7   in LD 16.

8   11.   Plaintiffs' Remedial Proposal 3 would have the following impacts on incumbent

9   officeholders: The current LD 8 Representative, Position 1 would reside in LD 16; the current

10 LD 12 Senator would reside in LD 7; the current LD 14 Senator and Representative, Position 1

11 would reside in LD 15; the current LD 14 Representative, Position 2 would reside in LD 17; the

12 current LD 15 Senator would reside in LD 16; and the current LD 31 Senator would reside in

13 LD 5.

14   12.   Plaintiffs' Remedial Proposal 4 would have the following impacts on incumbent

15 officeholders: The current LD 8 Representative, Position 1 would reside in LD 16; the current

16 LD 14 Senator and Representative, Position 1 would reside in LD 15; the current LD 14

17 Representative, Position 2 would reside in LD 17; and the current LD 15 Senator would reside

18 in LD 16.

19   13.   Plaintiffs' Remedial Proposal 5 would have the following impacts on incumbent

20 officeholders: The current LD 14 Representative, Position 1 would reside in LD 13; the current

21 LD 14 Representative, Position 2 would reside in LD 16; and the current LD 15 Representatives,

22 Positions 1 and 2, would reside in LD 14.

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DECLARATION OF NICHOLAS PHARRIS
IN SUPPORT OF DEFENDANT STEVEN
HOBBS'S RESPONSE TO PLAINTIFFS'
BRIEF IN SUPPORT OF REMEDIAL
PROPOSALS
NO. 3:22-cv-05035-RSL

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Pl.App.150

1   I declare under penalty of perjury under the laws of the State of Washington and the

2 United States that the foregoing is true and correct.

3   SIGNED this 21st day of December 2023, at Olympia, Washington.

4

5   _____
                                          NICHOLAS PHARRIS
6   VoteWA Support Lead

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DECLARATION OF NICHOLAS PHARRIS   4   ATTORNEY GENERAL OF WASHINGTON
IN SUPPORT OF DEFENDANT STEVEN   1125 Washington Street SE
HOBBS'S RESPONSE TO PLAINTIFFS'   PO Box 40100
BRIEF IN SUPPORT OF REMEDIAL   Olympia, WA 98504-0100
PROPOSALS   **Pl.App.151**   (360) 753-6200
NO. 3:22-cv-05035-RSL

1 **DECLARATION OF SERVICE**

2   I hereby declare that on this day I caused the foregoing document to be electronically

3 filed with the Clerk of the Court using the Court's CM/ECF System which will serve a copy of

4 this document upon all counsel of record.

5   DATED this 22nd day of December 2023, at Olympia, Washington.

6

7   *s/ Leena Vanderwood*
                  Leena Vanderwood

8   *Paralegal*
                  1125 Washington Street SE
                  PO Box 40100

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DECLARATION OF NICHOLAS PHARRIS
IN SUPPORT OF DEFENDANT STEVEN
HOBBS'S RESPONSE TO PLAINTIFFS'
BRIEF IN SUPPORT OF REMEDIAL
PROPOSALS
NO. 3:22-cv-05035-RSL

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Pl.App.152

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The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT

**WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SUSAN SOTO PALMER et al.,

   Plaintiffs,

  v.

STEVEN HOBBS, in his official capacity
as Secretary of State of Washington, et al.,

   Defendants,

  and

JOSE TREVINO et al.,

   Intervenor-Defendants.

Case No.: 3:22-cv-5035-RSL

INTERVENOR-DEFENDANTS'
RESPONSE IN OPPOSITION TO
PLAINTIFFS' REMEDIAL PROPOSALS

INTRODUCTION

  The Court should reject all five of Plaintiffs' proposed remedial maps. In an attempt to circumvent the constitutional requirement that *any* map enacted by Washington's independent Redistricting Commission contain bipartisan compromise, *see* Wash. Const. art. II, § 43, Plaintiffs and their politically-aligned State/Defendant counterparts attempt to obtain through this Court what the Washington Constitution affirmatively denied them—an overtly partisan legislative map, *cf. Cooper v. Harris*, 137 S. Ct. 1455, 1490 (2017) (Alito, J., concurring in the judgment in part and dissenting in part) (warning that "federal courts will be transformed into weapons of political warfare" that "invite the losers in the redistricting process to seek to obtain in court what they could not achieve in the political arena."). In what can only generously be called a mockery of the

INTERVENOR-DEFENDANTS'
RESPONSE IN OPPOSITION TO
PLAINTIFFS' REMEDIAL PROPOSALS
No. 3:22-cv-5035-RSL

1

Pl.App.153

Chalmers, Adams, Backer & Kaufman, LLC
701 Fifth Avenue, Suite 4200
Seattle, Washington 98104
Phone: (206) 207-3920

1   Voting Rights Act ("VRA") and a condescending insult to Hispanic voters in Washington, in *all*

2   of their five proposed remedial maps, Plaintiffs purport to cure an allegedly unlawful *dilution* of

3   Hispanic voting strength by *further diluting* Hispanic voting strength—lowering the percentage of

4   Hispanic citizens of voting age ("HCVAP") in the Yakima Valley VRA "opportunity" district in

5   each and every one of their five proposals. If there were any doubt that Plaintiffs' objectives were

6   to serve partisan aims rather than the VRA's anti-dilutive purposes, their proposed remedial maps

7   dispel them.

8   Using the latest 2021 American Community Survey ("ACS") numbers from the U.S.

9   Census Bureau, the enacted Legislative District 15 ("LD-15") contains an HCVAP of at least

10   52.4%. (*See* Expert Report of Sean P. Trende, Ph.D. (Trende Report), Dkt. # 251 at 16.) This

11   majority-HCVAP district elected a Latina state senator, Nikki Torres, by a 35-point margin over

12   her White opponent in the 2022 general election for this open seat, in the only contested legislative

13   election hitherto held in the enacted LD-15. In a first-of-its-kind holding, the Court found that,

14   despite containing a majority HCVAP and electing a Latina by 35 points, the enacted LD-15 did

15   not afford an equal opportunity for Hispanic voters to elect a candidate of their choice. Because,

16   evidently for Plaintiffs, the phrase "Hispanic Candidate of Choice" must be a synonym for

17   "Democratic Candidate."

18   To those that espouse the same beliefs of Plaintiffs, the election of Nikki Torres by 35

19   points over a White Democratic candidate can only be explained by alleging the Hispanic voters

20   were unlawfully denied the ability to elect their preferred candidate—either by racially

21   discriminatory voting procedures or boundary lines. The Court's holding in this matter necessarily

22   implies that the explanation *could not be* because Hispanic voters in Yakima knowingly

23   participated in the franchise and elected Nikki Torres because they *actually preferred* her, or

24   because she is a child of immigrant parents and worked in the fields and grew up in Yakima.[1] It

25   _____

[1] *See* Ex. A, Email from Senator Nikki Torres to Washington Legislators, *A Request Regarding Redistricting* (Oct. 12,
26   2023, 1:03:27 PM PST). Senator Torres sent an email to all members of both Republican and Democratic Caucuses
of the Washington House of Representatives and Senate. Intervenor-Defendant Representative Alex Ybarra is a
member of the House Republican Caucus; as such, he received this email. It is attached hereto as Exhibit A and
27   incorporated herein by reference.

INTERVENOR-DEFENDANTS'   2   **Chalmers, Adams, Backer & Kaufman, LLC**
RESPONSE IN OPPOSITION TO   701 Fifth Avenue, Suite 4200
PLAINTIFFS' REMEDIAL PROPOSALS   **Pl.App.154**   Seattle, Washington 98104
No. 3:22-cv-5035-RSL   Phone: (206) 207-3920

1   could not be explained by her giving birth to her first child as a teen and dropping out of high

2   school, then fighting to get her GED, undergraduate and graduate degrees, and becoming a

3   community leader. Her election cannot be explained by—despite all odds against her—her picking

4   herself up by the bootstraps as a single mother and providing for her family. Her election could

5   not be explained by the Hispanic voters in Yakima seeing themselves in her—the hopes and

6   dreams of what their children could accomplish through dedication and hard work. No, based on

7   Plaintiffs' legal arguments, Nikki Torres was only elected because the system was rigged through

8   unlawful vote dilution.

9   Despite Plaintiffs' best efforts arguing otherwise, the VRA does not mandate the creation

10   of Democratic districts wherever there is concentration of minority population. *See, e.g.*, *Baird v.*

11   *Consol. City of Indianapolis*, 976 F.2d 357, 361 (7th Cir. 1992) ("The Voting Rights Act does not

12   guarantee that nominees of the Democratic Party will be elected, even if [minority] voters are

13   likely to favor that party's candidates."). Plaintiffs' proposed maps remove Hispanic voters from

14   the Yakima "remedial" district and acceptance of any of Plaintiffs' five remedial proposals would

15   compound that error by replacing them with Native American and White Democrats. The Court

16   should reject Plaintiffs' five remedial proposals and call them what they are: a backdoor to elect

17   more Democratic candidates regardless of demographics through exploiting and inverting the

18   VRA—by challenging putative dilution of the Hispanic vote and then "remedying" that alleged

19   dilution with *additional dilution*.

20   **ARGUMENT**

21   **A.   Plaintiffs' Remedial Proposals Fail for Legal Reasons.**

22   The purpose of this Response is not to re-hash all of the reasons Plaintiffs' remedial maps

23   are unnecessary. Intervenor-Defendants' legal position is simple—this Court should reject

24   Plaintiffs' remedial maps because Plaintiffs failed to meet the required legal burden that is a

25   prerequisite to a court requiring a minority "opportunity" district. *See generally Thornburg v.*

26   *Gingles*, 478 U.S. 30 (1986). Intervenor-Defendants have discussed the myriad of reasons

27   Plaintiffs' claims fall short—both in pre-and-post trial briefing—and incorporate those arguments

INTERVENOR-DEFENDANTS'
RESPONSE IN OPPOSITION TO
PLAINTIFFS' REMEDIAL PROPOSALS
No. 3:22-cv-5035-RSL

3

Pl.App.155

Chalmers, Adams, Backer & Kaufman, LLC
701 Fifth Avenue, Suite 4200
Seattle, Washington 98104
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1   by reference herein. (*See* Intervenor-Defs.' Tr. Br., Dkt. # 197; Intervenor-Defs.' Written Closing

2   Argument, Dkt. # 215.)

3   However, it is worth noting that Plaintiffs still fail to show that the Court adopting any of

4   their remedial maps would actually remedy their alleged injury—that enacted LD-15 does not

5   provide Hispanic voters an equal opportunity to elect their candidate of choice. Said differently,

6   Plaintiffs have failed to show that Nikki Torres would *not* be reelected to the state senate if she

7   moved into one of their proposed remedial districts.

8   At trial, Plaintiffs contended that Nikki Torres's victory in the only contested endogenous

9   election in enacted LD-15 was more evidence of racially-polarized voting. *See, e.g.*, Trial Tr. 76:1-

10   76:20. Yet now at the remedial phase, Plaintiffs' experts fail to show that Nikki Torres would not

11   still be elected in any of their remedial districts, even if her share of the Hispanic vote was as small

12   as their experts contended at trial. *See, e.g.*, Trial Ex. 2 at 4.

13   The Redistricting Commission reached a compromise that LD-15 would be a majority

14   HCVAP district, but would lean Republican. *See, e.g.*, Trial Tr. 476:17-477:1, 747:16-23, 279:6-

15   23. Despite drawing a district that all head-to-head partisan metrics showing that Republicans

16   enjoyed only a 2-point advantage (*see, e.g.*, Trende Report, Dkt. # 251 at 33), Senator Torres

17   defeated the Democratic candidate by a whopping 35 points. This margin of victory would be more

18   than sufficient to overcome the roughly 12- to 15-point Democratic advantage in Plaintiffs'

19   proposed remedial districts. (*See* Trende Report, Dkt. # 251 at 33, 55.) Yet Plaintiffs' remedial

20   experts fail to explain or account for this "Nikki Torres Effect," much less show if it is even

21   possible to draw a district in the Yakima region that would not again elect Republican Nikki

22   Torres. Thus, their claim should be dismissed for lack of standing. *See, e.g.*, *Lujan v. Defs. of

23   Wildlife*, 504 U.S. 555, 561 (1992) (explaining that "the Plaintiff bears the burden" to establish

24   redressability at all "successive stages of the litigation"); *see also* Trial Tr. 89:11-17 (Plaintiffs'

25   expert Dr. Collingwood explained that he had no idea if it was even possible to draw a majority-

26   Hispanic district that both performs for Democratic candidates and keeps the Yakama Nation

27   intact).

INTERVENOR-DEFENDANTS'
RESPONSE IN OPPOSITION TO
PLAINTIFFS' REMEDIAL PROPOSALS
No. 3:22-cv-5035-RSL   4   **Chalmers, Adams, Backer & Kaufman, LLC**
                                                                  701 Fifth Avenue, Suite 4200
                                        Pl.App.156   Seattle, Washington 98104
                                                                  Phone: (206) 207-3920

B.   Plaintiffs' Remedial Proposals Fail for Practical Reasons.

The Court's Memorandum of Decision in this case addresses Hispanic Voting strength in the Yakima Valley. (*See* Dkt. # 218.) Notwithstanding the limited geographical scope of the Court's ruling, Plaintiffs decided to swing for the fences to see just how far they can exploit the Court's ruling to benefit State Democrats. While one cannot fault Plaintiffs for lack of ambition, their fealty to geography and traditional redistricting principles is another matter. Although it would be impossible to detail every instance in Plaintiffs' proposed remedial maps where they try to gain a partisan advantage outside of the Court's decision regarding a Yakima Valley district, what follows are some illustrative examples that shows their recommendations cannot be trusted.

1.   "Curing" Hispanic Vote Dilution by Further Diluting the Hispanic Population.

Plaintiffs' proposed remedial districts rest on something of a paradox: while purporting to remedy dilution of Hispanic voting strength, every single one of the proposals actually dilutes Hispanic voting strength *further*. The table below compares the HCVAP proportion of enacted LD-15 to the estimated HCVAP proportion of each of the remedial districts in Plaintiffs' Proposals 1 through 5:

Map	District	HCVAP (2021 ACS)
Enacted Plan	LD-15	52.6%
Plaintiffs' Proposal 1 and 2	LD-14	51.7%
Plaintiffs' Proposal 3 and 4	LD-14	50.2%
Plaintiffs' Proposal 5	LD-14	46.9%

(*See* Trende Report, Dkt. # 251 at 67.) By claiming that their five proposals—each of which *lowers* the HCVAP in the relevant district—will "remedy the VRA violation for Latino voters in the Yakima Valley region and provide all voters in the region equal electoral opportunity" (Dkt. # 245 at 1-2), Plaintiffs are proposing to replace Hispanic Republican voters with White Democratic voters, impliedly insisting that Hispanic voters can only elect their candidates of choice with the help of more White Democrats.

INTERVENOR-DEFENDANTS'
RESPONSE IN OPPOSITION TO
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No. 3:22-cv-5035-RSL

5

Pl.App.157

Chalmers, Adams, Backer & Kaufman, LLC
701 Fifth Avenue, Suite 4200
Seattle, Washington 98104
Phone: (206) 207-3920

1   As independent-minded Latino voters, Intervenors Trevino, Ybarra and Campos

2   categorically reject this approach by Plaintiffs, which makes a mockery of the VRA. The VRA

3   cannot possibly demand further dilution to remedy the alleged dilution, and Plaintiffs have not

4   cited a single case in which a court has *ever* accepted such a remedy-dilution-with-more-dilution

5   proposal.

6   **2.   Cascading Changes to Districts Outside the Scope of the Court's Order.**

7   Although Plaintiffs only alleged the Enacted Plan violated the VRA with respect to *one*

8   legislative district in South Central Washington, Plaintiffs' Remedial Proposals 1 through 4 would

9   adjust the boundaries for 20 percent or more of the state's legislative districts, across not just South

10 Central Washington but Western Washington, North Central Washington and Eastern Washington

11 too, affecting the *majority* of Washington counties and moving upwards of half a million

12 Washingtonians into new legislative districts. (*See* Trende Report, Dkt. # 251 at 6-15, 41-50.)

13 The following table shows how many legislative districts would be altered, how many

14 counties affected and how many Washington residents moved to new districts in each of Plaintiffs'

15 Remedial Proposals 1 through 4:

16

Plaintiffs' Proposal	Districts Changed	Counties Affected	Population Moved
Proposal 1	14	28	574,251
Proposal 2	11	21	506,922
Proposal 3	13	28	531,551
Proposal 4	10	21	476,440

17

18

19

20

21 (*See id.*)

22 Many of the redrawn districts in Plaintiffs' proposed remedial maps bely even a cursory

23 understanding of Washington geography. As anyone flying into Washington can readily observe,

24 the state is bisected by a rugged mountain range. While one district must transverse the Cascade

25 Mountains in order to obtain an equal population across legislative districts as required by law, *see*

26 Wash. Const. art. II, § 43(5), since statehood there has only ever been one such district, and always

27 the district containing Skamania and Klickitat Counties, *see* Ex. B, Trial Ex. 1061 at 180-97. The

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1   Enacted Plan represents the first-ever legislative map with a trans-Cascade district outside

2   Southwest Washington. There are practical realities for this—most of the Cascade Mountains lie

3   within federally-protected National Parks or National Forests, which would create a "population

4   desert" between the western and eastern portions of a trans-Cascade district, needlessly expanding

5   the geographic size of such a district. And as any Washingtonian knows, there are only a few

6   highway passes that connect Western and Eastern Washington, which are often challenging and

7   time-consuming to cross in winter months (and in some cases, like Chinook Pass through Highway

8   410, closed entirely[2]), making such a district difficult to represent effectively. Despite this reality,

9   Plaintiffs' Proposals 1 through 4 needlessly create multiple trans-Cascade districts. In addition to

10 maintaining most of the Enacted Plan's boundaries for Legislative District 12 (stretching from

11 Wenatchee to Monroe), Proposals 1 through 4 extend Legislative District 17 from Vancouver all

12 the way east to Goldendale, creating a second trans-Cascade district. (*See* Dkt. # 245-1 at 5-9.)

13 And Proposals 2 and 4 extend Legislative District 13 from Moses Lake and Ephrata all the way to

14 Enumclaw (over Chinook Pass, which is typically closed for six months per year), creating a three

15 trans-Cascade districts in those maps. (*See* id. at 7, 9.)

16   **3.   Hispanic Populations That Are Far-Flung and Distant From One Another.**

17   Dr. Trende's expert report points out that the Hispanic population in Plaintiffs' proposed

18 remedial districts are far-flung and distant from one another, thereby violating *Gingles*'s mandate

19 that the minority populations must be compact. *See LULAC v. Perry*, 548 U.S. 399, 433 (quoting

20 *Bush v. Vera*, 517 U.S. 952, 997 (1996) ("The first Gingles condition refers to the compactness of

21 the minority population, not to the compactness of the contested district.")).

22   Dr. Trende shows that, in their Proposals 1 and 2, Plaintiffs' remedial district is drawn in

23 a way that captures nearly all the high-HCVAP neighborhoods in both Yakima and Pasco (two

24 cities that are themselves 85 miles apart) while avoiding nearly all the White neighborhoods in

25

26 _____
    [2] *See, e.g.*, Press Release, Washington State Department of Transportation, SR 410/Chinook Pass and SR 123 Cayuse
27 Pass Close for the Season (Nov. 14, 2023), https://wsdot.wa.gov/about/news/2023/sr-410-chinook-pass-and-sr-123-
    cayuse-pass-close-season ("Typically, SR 410 Chinook Pass and SR 123 Cayuse Pass reopen in late May . . . .").

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1   those cities. (*See* Trende Report, Dkt. # 251 at 26-27.) Likewise, the boundaries of District 14 in

2   these two maps encompass nearly all the majority-Hispanic voting districts along the Yakima

3   River while avoiding nearly all the majority-White voting districts. (*See id.* at 28.) Dr. Trende's

4   dot density maps also graphically show how the Hispanic population of District 14 in Proposals 1

5   and 2 is dispersed throughout Yakima, Pasco and the Yakima River Valley connecting the two

6   (*see id.* at 29-32), leading him to conclude that "the district stitched together discrete clusters of

7   minority groups to achieve the 50% + 1 threshold," rather than there being "a compact minority

8   population at the core of the district." (*Id.* at 21-22.)

9   Given the minimal differences between Plaintiffs' remedial district in Proposals 3 and 4

10   (compared to their remedial district in Proposals 1 and 2) with respect to precincts in the Yakima,

11   Pasco and the Yakima River Valley areas, Dr. Trende also concludes that "the same analysis from

12   Maps 1 and 2 applies" with respect to the remedial district in Proposals 3 and 4. (*Id.* at 54.)

13   **4.   Playing Political Games with Political Performance of Legislative Districts.**

14   "The Voting Rights Act does not guarantee that nominees of the Democratic Party will be

15   elected, even if [minority] voters are likely to favor that party's candidates." *Baird*, 976 F.2d at

16   361. Intervenor-Defendants have continually argued that Plaintiffs' VRA claims were an attempt

17   "to obtain in court what they could not achieve in the political arena"—or in this case, through

18   Washington's bipartisan redistricting process. *Cooper*, 137 S. Ct. at 1490 (Alito, J., concurring in

19   the judgment in part and dissenting in part) (*see also, e.g.*, Dkt. # 215 at 51). Plaintiffs' proposed

20   remedial maps show that Intervenor-Defendants' fears were well founded.

21   In addition to shifting the partisan tilt of the challenged district (enacted LD-15) from an

22   average of -1.8% Democratic to +12.5% Democratic (using "Total Vote, 2016-2020" metric) in

23   the remedial districts of their Proposals 1 and 2, and +12.0% Democratic in Proposals 3 and 4 (*see*

24   Trende Report at 33, 55), Plaintiffs' proposals make several other partisan changes that are both

25   unnecessary and one-sided. For example, under Plaintiffs' Proposals 1 and 2, "District 12, which

26   always voted for the Republican candidate under the Enacted Map, is transformed into a district

27   where the Republican candidate sometimes loses, and frequently has close calls." (*Id.* at 33.) Under

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1   Proposals 3 and 4, "District 12 is made more Democratic, and is turned from a district carried by

2   former President Donald Trump into one carried by President Joe Biden." (*Id.* at 55.) "More

3   dramatically, District 17 moves from a district where . . . the Republican has won by 0.9% on

4   average to one where the Democrat has won by 1.4% on average" using the "DRA elections"

5   metric. (*Id.* at 34.) Likewise, under Proposals 3 and 4, District 17 "is made even more Democratic."

6   (*Id.* at 55.) Both Districts 12 and 17 "are presently represented by Republicans" in the state senate

7   and both state house seats in each district. (*Id.* at 34.) But, as Dr. Trende points out, such partisan

8   changes to districts beyond the remedial district "could have been avoided rather easily," through

9   slightly different adjustments by the map-drawer. (*Id.* at 34-35.)

10   Even more troubling, Dr. Trende's analysis concludes that there are no countervailing

11   partisan shifts in Plaintiffs' proposed maps that might "make a Democratic incumbent appreciably

12   more vulnerable." (*Id.* at 34.) In other words, not only are Plaintiffs seeking "to obtain in court"

13   an additional Democratic legislative district in the Yakima area that their political allies "could not

14   achieve" at the Redistricting Commission, *Cooper*, 137 S. Ct. at 1490 (Alito, J., concurring in the

15   judgment in part and dissenting in part), but they are now using the remedial process to seek to

16   turn two other legislative districts—one in North Central Washington and one in Southwest

17   Washington—into majority-Democratic districts. If successful, this would result in six additional

18   Democratic state representatives and three additional Democratic state senators (in addition to the

19   two additional Democratic state representatives and additional Democratic state senator elected

20   from the remedial district in each of Plaintiffs' remedial proposals).

21   **5.   Playing More Political Games with Incumbent Legislators.**

22   The Supreme Court has acknowledged that traditional redistricting principles include

23   "preserving the cores of prior districts and avoiding contests between incumbent[s]." *Karcher v.*

24   *Daggett*, 462 U.S. 725, 740 (1983). Yet Plaintiffs' five remedial proposals would wreak havoc on

25   incumbents far removed from enacted LD-15. According to Dr. Trende's analysis, each of

26   Plaintiffs' map proposals would imperil numerous current Republican legislators by moving them

27   into Democratic districts or pitting them against other Republican incumbents. (*See* Trende Report,

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Dkt. # 251 at 38-40, 59-60, 66; *see also* Dkt. # 248 at 2-4.) In contrast, not a single incumbent

Democratic legislator is moved into a new district, placed in a safely Republican district or paired

against an incumbent Democrat. (*See id*.) The table below summarizes these effects:

Legislator	LD	Party	Chamber	Proposal	Change(s)
Stephanie Barnard	8	R	House	1, 2, 3, 4	Moved to LD-16 with Reps. Klicker & Rude
Brad Hawkins	12	R	Senate	1, 3	Moved to LD-7 with Sen. Short
Curtis King	14	R	Senate	1, 2, 3, 4	Moved to LD-5 which is not on ballot until 2026
Chris Corry	14	R	House	1, 2, 3, 4, 5	Moved to LD-15 with Reps. Chandler & Sandlin (Maps 1-4); moved to LD-13 with Reps. Dent & Ybarra (Map 5)
Gina Mosbrucker	14	R	House	1, 2, 3, 4, 5	Moved to LD-17 with Reps. Harris & Waters (Maps 1-4); moved to LD-16 with Reps. Klicker & Rude (Map 5)
Nikki Torres	15	R	Senate	1, 2, 3, 4	Moved to LD-16 with Sen. Dozier
Bruce Chandler	15	R	House	5	Moved to safely Dem. LD-14
Bryan Sandlin	15	R	House	5	Moved to safely Dem. LD-14
Phil Fortunato	31	R	Senate	1, 3	Moved to safely Dem. LD-5
Drew Stokesbary	31	R	House	1	Moved to safely Dem. LD-5

(*See id.*)

Many of these shifts appear gratuitous and intentional. In Plaintiffs' Proposals 1 through

4, Senator Curtis King is drawn out of his current district by less than one mile, as is Representative

Gina Mosbrucker in Proposals 3 and 4. Representative Chris Corry is left 1.5 miles outside of his

current district in Proposals 1 through 4, and just *one-third* of a mile away in Proposals 5. Even

more egregiously in Proposal 5, LD-15 Representative Bruce Chandler is moved into a

neighboring district by a mere *500 feet*. His seatmate, Representative Bryan Sandlin, is treated

similarly, ending up only one-half of a mile outside his current district, despite living in an

extremely sparsely populated area on the north slope of the Yakima River Valley. Lastly, in

Plaintiffs' Proposal 1, House Minority Leader Drew Stokesbary (who is also, as Plaintiffs have

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1   pointed out, undersigned counsel, *see* Dkt. # 64 at 3) sees his *neighborhood* in South Auburn split

2   in half, with his residence ending up one-half mile outside his current district. (*See also* Trende

3   Report, Dkt. # 251 at 39-40.)

4   **6.**   **Ignoring the Commission's First-Ever Tribal Consultation Policy.**

5   For the first time in the history of the Redistricting Commission, it adopted a formal tribal

6   consultation policy. *See* Ex. C, Trial Ex. 1060; *see also* Washington State Redistricting

7   Commission, 2021 Redistricting Commission Tribal Consultation Policy (Apr. 12, 2021),

8   *available at* https://rdcext.blob.core.windows.net/public/Communications_and_Outreach/Tribal_

9   Consultation/Tribal Consultation Policy - Adopted.pdf. Pursuant to this policy, the Commission

10   engaged in formal, government-to-government discussions with the Yakama Nation. *See, e.g.*, Ex.

11   E at 2, Email from Lisa McLean, Executive Director, Washing State Redistricting Commission, to

12   Redistricting Commissioners (Aug. 6, 2021, 11:21:49 AM PDT). In the course of these

13   discussions, the Yakama Nation "urge[d] the Redistricting Commission to reject any legislative

14   map that divides the Yakama Reservation into separate representative districts[,]" and to "reject

15   any legislative mapping that demonstrably 'cracks' the indigenous voting population located south

16   of the Yakama Reservation in Klickitat and Skamania Counties[,]" where "many enrolled

17   members reside on off-Reservation trust parcels, at traditional family homesteads, or in

18   communities near the usual and accustom[ed] fishing sites along the Columbia River." Ex. D at 5,

19   Letter from Delano Saluskin, Chairman, Yakama Nation Tribal Council, to Sarah Augustine,

20   Chair, Washington State 2021 Redistricting Commission (Jun. 3, 2021). At a tribal consultation

21   meeting with the Redistricting Commission on August 4, 2021, the Yakama Nation presented a

22   slide deck which included a request that the "2021 Redistricting Maps Should Provide For Single

23   Representation Between The Yakima & Columbia R[ivers]." Ex. E at 22, Presentation by Yakama

24   Nation Tribal Council to Washington State Redistricting Commission (Aug. 4, 2021). In a letter

25   to the Commission during their final negotiations, the Yakama Nation indicated they "specifically

26   favor[ed] elements of Commissioner Graves' proposed Legislative District 14," including those

27   that "incorporate[d] Yakama members living in established tribal communities off-Reservation

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1 and on federal trust property along the Columbia River" and "include[d] critical natural resource

2 management areas for the protection of adjacent forests and rivers." Ex. F at 7-8, Letter from

3 Delano Saluskin, Chairman, Yakama Nation Tribal Council, to Sarah Augustine, Chair,

4 Washington State 2021 Redistricting Commission (Nov. 4, 2021). Notably, consistent with the

5 Yakama Nation's formal request, Commissioner Graves' proposed map of District 14 extended

6 from the Yakima to Columbia River. *See* Ex. G.

7   None of Plaintiffs' maps extend the same government-to-government courtesy to the

8 Yakama Nation as Commissioner Graves, and eventually the Commission. District 14 in Plaintiffs'

9 Proposals 1, 2 and 5 only extend to the southern border of the Yakama Reservation, not all the way

10 to the Columbia River at White Salmon as in the Enacted Plan (and LD-14 does not reach any part

11 of the Columbia River in their Proposal 5). (*See* Dkt. # 245-1.) In Proposals 3 and 4, District 14

12 extends further down the Columbia River (though still not all the way to White Salmon like the

13 Enacted Plan), but District 17 protrudes from Clark County east to Goldendale, bisecting much of

14 the Yakama Nation's usual and accustomed hunting and fishing grounds and placing several off-

15 Reservation trust parcels and traditional family homesteads in a separate legislative district from

16 the Yakama Reservation. (*See id.*)

17   **7.   Ignoring the Commission's Extensive Public Comments.**

18   While Plaintiffs' map-making misadventures are too numerous to catalogue

19 comprehensively, Intervenor-Defendant Alex Ybarra is uniquely impacted by one such example.

20 In Plaintiffs' Proposals 2 and 4, Legislative District 13, which Rep. Ybarra represents in the State

21 House, is extended westward across the Cascade Mountains all the way to Enumclaw. (*See* Dkt. #

22 245-1.) In addition to the obvious logistical challenges of representing a district crossing Chinook

23 Pass, *see supra* note 2, this configuration is somewhat similar to the configure by Commissioner

24 Paul Graves, *see* Ex. G, which received swift and severely negative feedback. Not only does this

25 configuration of District 13 exemplify Plaintiffs' ignorance of Washington's geography and other

26 traditional redistricting principles, it also illustrates their disregard for the Commission's

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1 bipartisan, good-faith negotiating process that included tremendous efforts to incorporate public

2 feedback and produce maps receptive to the needs of Washington.

3 **CONCLUSION**

4   For the foregoing reasons, the Court should reject *all* of Plaintiffs' remedial proposals,

5 which purport to "remedy" voter dilution through additional dilution. Here, the proposed cure is

6 not merely worse than the disease—it is, quite literally, more of the alleged disease itself. And

7 despite the narrow holding of the Court regarding LD-15, Plaintiffs are now attempting to use the

8 remedial process to further trample the constitutionally-mandated work of the Redistricting

9 Commission and score political wins (outside the scope of the Court's holding) through this Court

10 and distortions of the VRA, as opposed to engaging in the required bipartisan process so clearly

11 outlined in the Washington Constitution.

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1   DATED this 22nd day of December, 2023.

2   Respectfully submitted,

3   *s/ Andrew R. Stokesbary*

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22   *Counsel for Intervenor-Defendants*

23   I certify that this memorandum contains 4,193
24   words, in compliance with the Local Civil Rules.

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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing document with the Clerk of the Court of the United States District Court for the Western District of Washington through the Court's CM/ECF System, which will serve a copy of this document upon all counsel of record.

DATED this 22nd day of December, 2023.

Respectfully submitted,

s/ Andrew R. Stokesbary
Andrew R. Stokesbary, WSBA No. 46097

Counsel for Intervenor-Defendants

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EXHIBIT 1
December 1, 2023 Declaration of Dr. Oskooii

Expert Report Submitted on Behalf of Plaintiffs

in *Soto Palmer, et al. v. Hobbs, et al.*

Kassra AR Oskooii, Ph.D.

University of Delaware

December 1, 2023

1

A. Background and Qualifications

1. I, Kassra AR Oskooii, am over 18 years of age and am competent to testify.

2. I am a tenured, Associate Professor and Provost Teaching Fellow in the department of Political Science and International Relations at the University of Delaware ("UD"), having joined the faculty in 2016 as an Assistant Professor. I am also an affiliated faculty member at UD's Data Science Institute, Master of Science in Data Science, Center for Political Communication, and Center for the Study of Diversity. My research and teaching focuses on American political behavior, political methodology, political psychology, political representation, voting rights, and redistricting. My research has appeared in numerous leading peer-reviewed, social science journals, including *Sociological Methods and Research*, *Political Behavior*, *Public Opinion Quarterly*, *Political Psychology*, *British Journal of Political Science*, *Electoral Studies*, *Perspectives on Politics*, *Urban Affairs Review*, *State Politics and Policy Quarterly*, and *Journal of Public Policy*.

3. I received my Ph.D. in Political Science, specializing in American politics, minority and race politics, and political methodology, from the University of Washington in Seattle, Washington in 2016. Prior to that, I received my Master's Degree in Political Science at the University of Washington and received a political methodology field certificate from the Center for Statistics & the Social Sciences in 2013. I received my Bachelor of Arts in Political Science in 2008 at the University of Washington, with minors in Human Rights and Law, Societies, and Justice.

4. Of relevance to this report, I have taught courses at the University of Delaware related to demographic data collection and analysis, evaluation of redistricting plans for compliance with the Voting Rights Act of 1965 ("VRA"), and the drawing of redistricting plans using traditional redistricting criteria. Relatedly, I have been retained as an expert in redistricting and voting rights cases, including *Dickinson Bay Area Branch NAACP v. Galveston County, Texas*, No. 3:22-cv-117-JVB (S.D. Tex. 2023) (deposed and testified), *Baltimore County Branch of the NAACP v. Baltimore County, Maryland*, No. 1:21-cv-03232-LKG (D. Md. 2022), *Common Cause Florida v. Lee*, No. 4:22-cv-00109-AW-MAF (N.D. Fla. 2022), *Common Cause Florida v. Byrd*, No. 4:22-cv-00109-AW-MAF (N.D. Fla. 2022) (deposed), *Reyes v. Chilton*, No. 4:21-cv-05075-MKD (E.D. Wash. 2021) (deposed), *Finn et al. v. Cobb County Board of Elections and Registration*, No. 1:22-cv-02300-ELR (N.D. Ga. 2022), *Caroline County Branch of the NAACP v. Town of Federalsburg*, Civ. Action No. 23-SAG-00484 (D. Md. 2023), and *Coca v. City of Dodge City, et al.*, Case No. 6:22-cv-01274 (D. Kan. 2022) (deposed).

5. As an expert consultant, I have also advised the State of Maryland on its 2021 Congressional and Legislative redistricting plans. I have also examined and redrawn the 2022 school board district boundaries of the Roswell Independent School District in the state of New Mexico. More information about my qualifications and expert witness and consulting background can be found on my Curriculum Vitae, appended to this declaration as **Exhibit A**.

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6.   I am being compensated by the plaintiffs at a rate of $350 an hour for my work on this on this matter. My compensation is not in any way contingent on the content of my opinions or the outcome of this matter.

B. Scope of Work

7.   I was asked to prepare legislative redistricting plans for the Washington Legislature (i) that respect traditional redistricting criteria and the redistricting criteria set forth in Washington law, and (ii) that include a legislative district numbered 14 ("LD 14") in the Yakima Valley region uniting communities of interest in the region and remedying the Section 2 violation found by the district court. With respect to the second requirement, I was asked to draw maps that include an LD 14 that, to the extent possible, unifies the population centers from East Yakima to Pasco that form a community of interest, including cities in the Lower Yakima Valley like Wapato, Toppenish, Granger, Sunnyside, Mabton, and Grandview.

8.   I prepared four remedial plans that satisfy all of the above requirements (Plaintiffs' Remedial Maps 1-4). At the request of Counsel for Plaintiffs, I prepared one additional remedial option that respects traditional redistricting criteria and the redistricting criteria set forth in Washington law, and that unites East Yakima with the Lower Yakima Valley cities listed above but does not include Pasco in LD 14 (Plaintiffs' Remedial Map 5).

9.   Attached to this report, I include district shapes for all five remedial maps in GeoJSON format, as well as block assignment files and pdf images of each remedial maps. I also include the remedial maps in an interactive html format that displays important roadways, geographical markers, and voting precinct boundaries. The maps in html format can be downloaded to a computer and opened on any internet browser.

C. Approach

10.   I relied on the applicable redistricting criteria to draw the five remedial maps.

11.   In drawing districts, I considered the criteria found in Washington Constitution Article 2, Section 43 and in statute at RCW 44.05.090. I drew districts to have a population as nearly equal as is practicable, consistent with the constitutional one-person-one-vote requirement. I drew districts to follow boundaries of political subdivisions and communities of interest. I minimized the number of counties, municipalities, and precincts split into multiple districts. And I endeavored to draw districts with convenient, contiguous, and compact territory, ensuring that areas of each district are connected and can be readily traversed by road.

12.   I also considered other traditional redistricting principles in drawing the remedial plans. To the extent practicable, I sought to minimize changes to districts outside the Yakima Valley region. I also avoided pairing incumbents to the extent practicable, based on publicly available data.

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13.   I did not consider race or racial demographics in drawing the remedial plans. I did not make visible, view, or otherwise consult any racial demographic data while drawing districts. I did not assess the districts for performance to elect minority candidates of choice.

14.   I did not consider election results or any partisan performance metrics in drawing the remedial plans, and I did not make visible, view, or otherwise consult any such data while drawing districts.

15.   As indicated in further detail below, I conclude that all five remedial maps herein abide by Washington's redistricting criteria and other traditional redistricting criteria.

D.   Plaintiffs' Remedial Map 1

16.   Figure 1 below provides a visual depiction of Plaintiffs' Remedial Map 1. Remedial Map 1 includes an LD 14 that unites the population centers forming a community of interest between East Yakima and Pasco. The map also keeps the Yakama Nation Reservation whole in LD 14, along with some off-reservation trust lands and fishing villages.
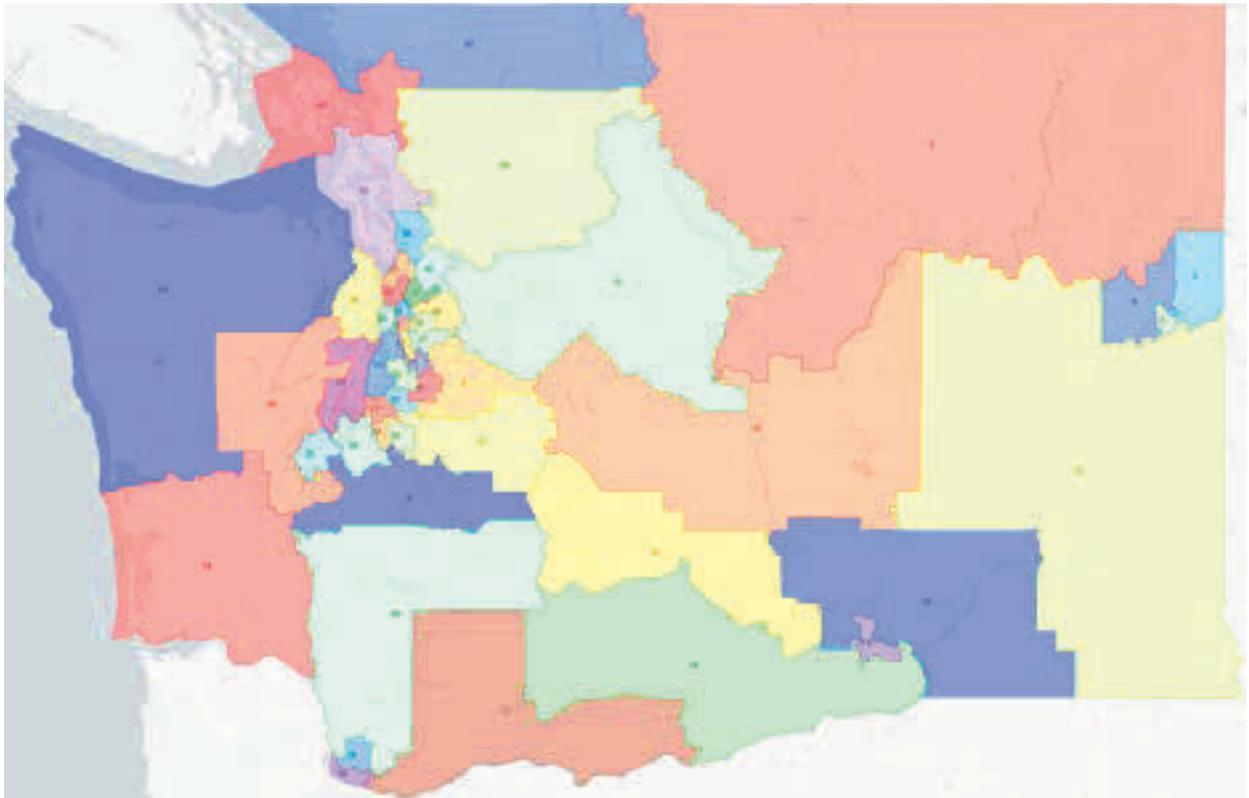
Figure 1: Remedial Map 1

17.   **Appendix Table 1**, located at the end of this document provides, for each district in Remedial Map 1, the total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table

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1, Remedial Map 1 has a negligible total population deviation[1] of 0.23%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

18.   Remedial Map 1's districts are reasonably shaped and compact, particularly given the often oddly shaped precinct and municipal boundaries and variable topography in Washington. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 1, which are largely on par with the compactness scores for the Enacted Plan.[2]

19.   Remedial Map 1's districts are comprised of convenient, contiguous territory and are traversable.

20.   Remedial Map 1 respects communities of interest and minimizes splitting counties, cities, and precincts. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 1, including county-district splits and district-county splits.[3] Remedial Map 1 performs about the same on county split metrics as compared to the Enacted Plan. With respect to precinct and city splits, I used the updated 2022 precinct boundaries and avoided any precinct or city splits unless such splits were necessary for the purposes of maintaining population equality and/or contiguity (including road connectivity).

21.   To the extent practicable after complying with the above criteria, I endeavored to minimize changes to districts outside the Yakima Valley region and avoid pairing incumbents.

22.   In summary, Remedial Map 1 is compliant with all relevant redistricting criteria.

E. Plaintiffs' Remedial Map 2

23.   Figure 2 below provides a visual depiction of Plaintiffs' Remedial Map 2. Remedial Map 2 contains an LD 14 that is identical to the LD 14 in Remedial Map 1, but offers an alternative configuration of surrounding districts.

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[1] Total population deviation for a redistricting plan is calculated by taking the difference between the population deviation in the least and most populous districts.

[2] Reock score is calculated by taking the ratio of the area of a district to the area of its minimum bounding circle. Polsby-Popper score is calculated by taking the ratio of the area of a district to the area of a circle whose circumference matches the perimeter of the district. Both scores range from 0 to 1. Scores closer to 0 indicate a less compact jurisdiction and scores closer to 1 indicate a more compact jurisdiction.

[3] The county-district split metric measures the extent to which the plan splits counties across districts. The district-county split metric measures the extent to which districts are split across counties.

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Figure 2: Remedial Map 2

24. **Appendix Table 1** provides, for each district in Remedial Map 2, the total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 2 has a negligible total population deviation of 0.22%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

25. Remedial Map 2's districts are reasonably shaped and compact, particularly given the often oddly shaped precinct and municipal boundaries and variable topography in Washington. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 2, which are largely on par with the compactness scores for the Enacted Plan

26. Remedial Map 2's districts are comprised of convenient, contiguous territory and are traversable.

27. Remedial Map 2 respects communities of interest and minimizes splitting counties, cities, and precincts. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 2, which performs about the same on metrics of county splits as compared to the Enacted Plan. Cities and precincts were only split when necessary for the purposes of population deviation and/or contiguity (including road connectivity).

28. To the extent practicable after complying with the above criteria, I endeavored to minimize changes to districts outside the Yakima Valley region and avoid pairing incumbents.

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29.   In summary, Remedial Map 2 is compliant with all relevant redistricting criteria.

F.   **Plaintiffs' Remedial Map 3**

30.   Figure 3 below provides a visual depiction of Plaintiffs' Remedial Map 3. Remedial Map 3 includes an LD 14 that unites the population centers forming a community of interest between East Yakima to Pasco. In addition to keeping the Yakama Nation Reservation whole in LD 14, Remedial Map 3 also incorporates into LD 14 all of the Yakama Nation's off-reservation trust lands and fishing villages.

Figure 3: Remedial Map 3

31.   **Appendix Table 1** provides, for each district in Remedial Map 3, the total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 3 has a negligible total population deviation of 0.24%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

32.   Remedial Map 3's districts are reasonably shaped and compact, particularly given the often oddly shaped precinct and municipal boundaries and variable topography in Washington. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 3, which are largely on par with the compactness scores for the Enacted Plan.

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33. Remedial Map 3's districts are comprised of convenient, contiguous territory and are traversable.

34. Remedial Map 3 respects communities of interest and minimizes splitting counties, cities, and precincts. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 3, which performs the same or better on metrics of county splits as compared to the Enacted Plan. Cities and precincts were only split when necessary for the purposes of population deviation and/or contiguity (including road connectivity).

35. To the extent practicable after complying with the above criteria, I endeavored to minimize changes to districts outside the Yakima Valley region and avoid pairing incumbents.

36. In summary, Remedial Map 3 is compliant with all relevant redistricting criteria.

G. Plaintiffs' Remedial Map 4

37. Figure 4 below provides a visual depiction of Plaintiffs' Remedial Map 4. Remedial Map 4 includes an LD 14 that is identical to LD 14 in Remedial Map 3, but offers an alternative configuration of surrounding districts.
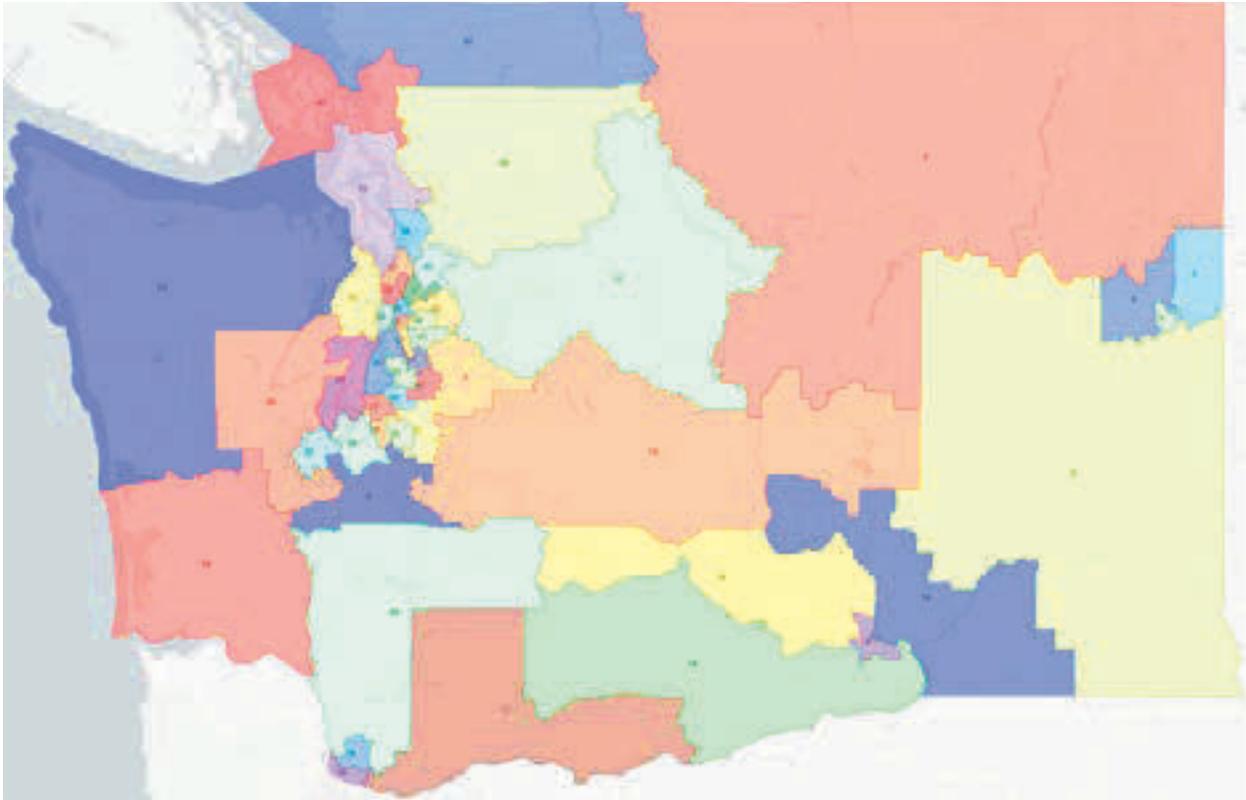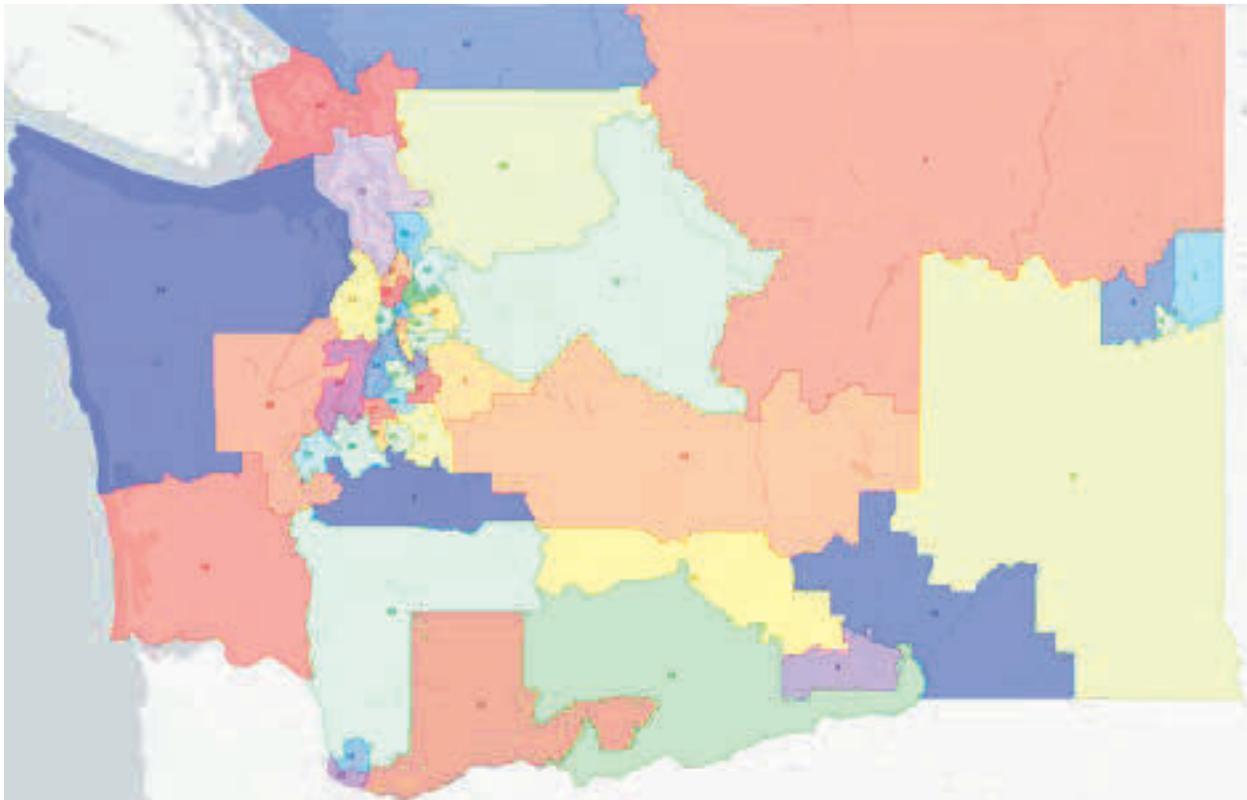

Figure 4: Remedial Map 4

38. **Appendix Table 1** below provides, for each district in Remedial Map 4, the total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 4 has

a negligible total population deviation of 0.24%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

39.   Remedial Map 4's districts are reasonably shaped and compact, particularly given the often oddly shaped precinct and municipal boundaries and variable topography in Washington. **Appendix Table 2** below provides the Reock and Polsby-Popper compactness scores for Remedial Map 4, which are largely on par with the compactness scores for the Enacted Plan.

40.   Remedial Map 4's districts are comprised of convenient, contiguous territory and are traversable.

41.   Remedial Map 4 respects communities of interest and minimizes splitting counties, cities, and precincts. **Appendix Table 3** below provides statistics regarding county splits for Remedial Map 4, which performs about the same on metrics of county splits as compared to the Enacted Plan. Cities and precincts were only split when necessary for the purposes of population deviation and/or contiguity (including road connectivity).

42.   To the extent practicable after complying with the above criteria, I endeavored to minimize changes to districts outside the Yakima Valley region and avoid pairing incumbents.

43.   In summary, Remedial Map 4 is compliant with all relevant redistricting criteria.

H. Plaintiffs' Remedial Map 5

44.   Figure 5 below provides a visual depiction of Plaintiffs' Remedial Map 5. Remedial Map 5 includes an LD 14 that unites the population centers in Yakima County that form a community of interest, including East Yakima and cities in the Lower Yakima Valley like Wapato, Toppenish, Granger, Sunnyside, Mabton, and Grandview. The map also keeps the Yakama Nation Reservation whole in LD 14 and keeps nearly the entire district wholly within Yakima County.
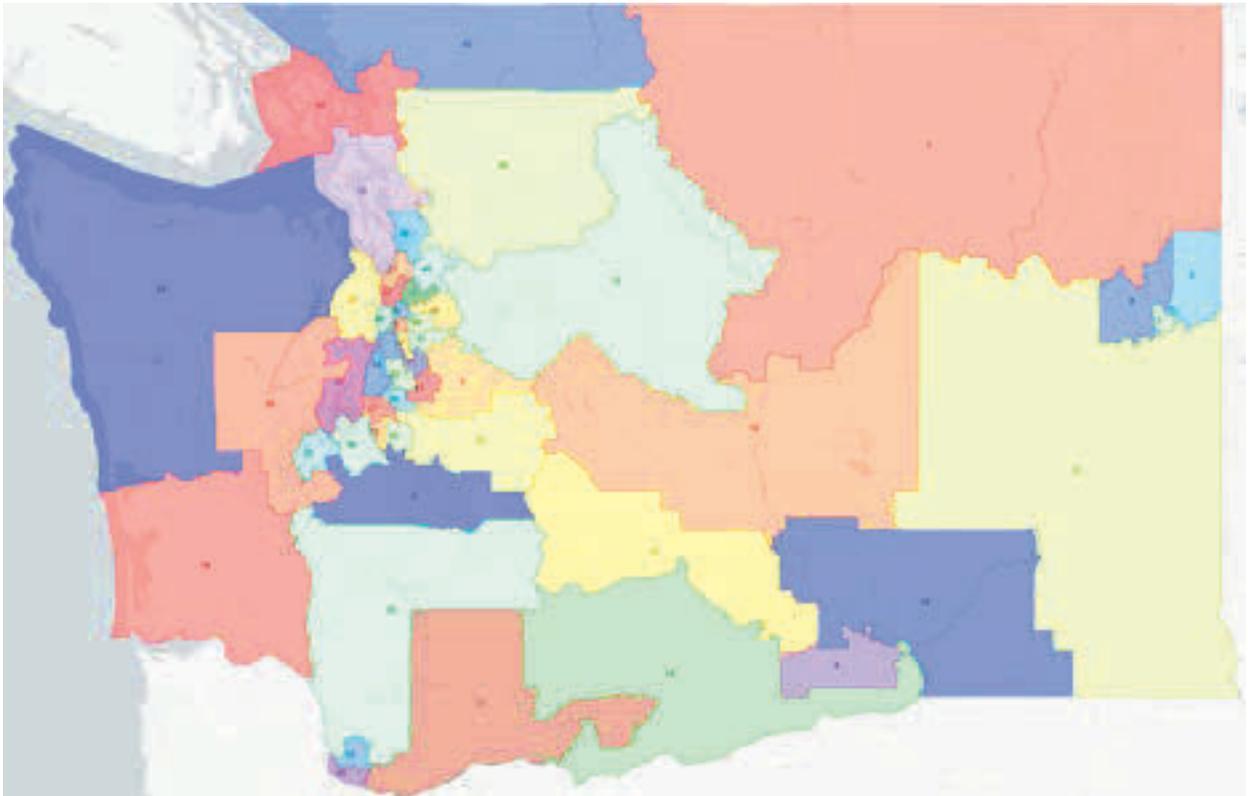
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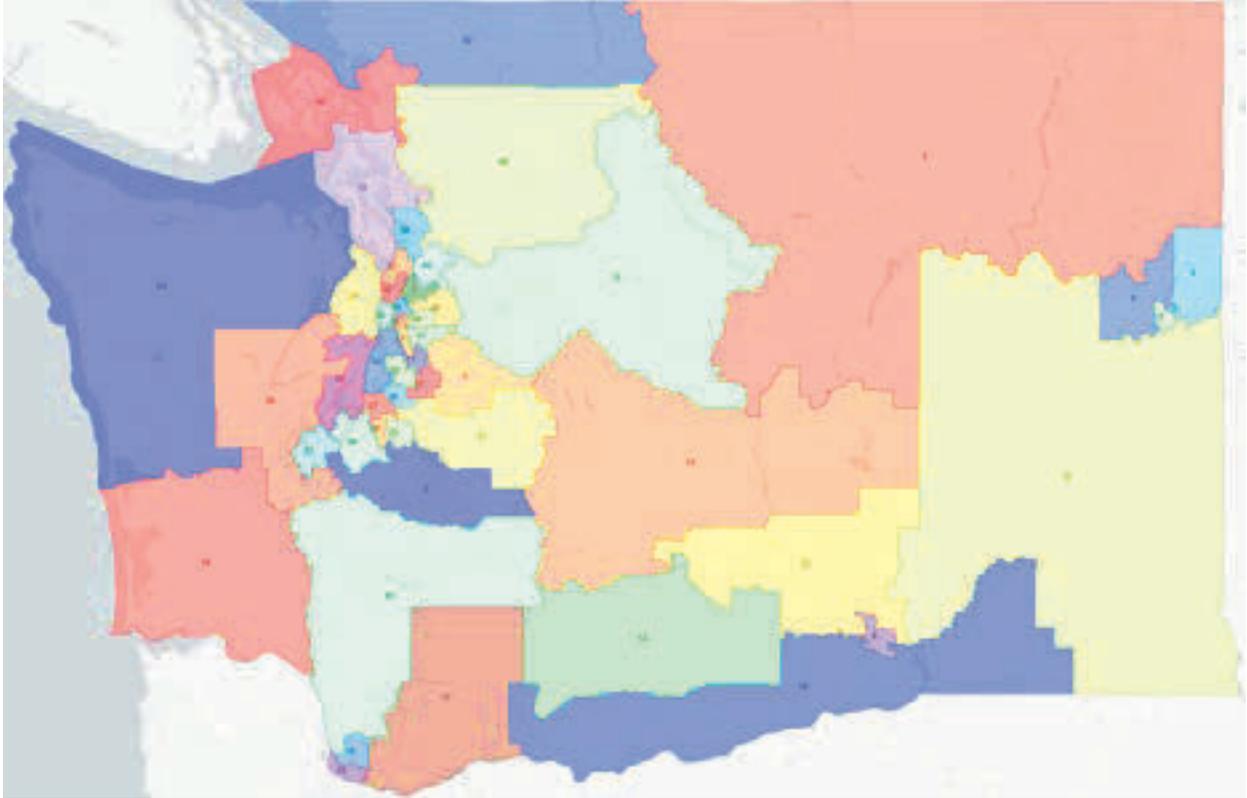
Figure 5: Remedial Map 5

45.   **Appendix Table 1** in the Appendix provides, for each district in Remedial Map 5, the total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 4 has a negligible total population deviation of 0.25%, which is the same as the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

46.   Remedial Map 5's districts are reasonably shaped and compact, particularly given the often oddly shaped precinct and municipal boundaries and variable topography in Washington. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 5, which are largely on par with the compactness scores for the Enacted Plan.

47.   Remedial Map 5's districts are comprised of convenient, contiguous territory and are traversable.

48.   Remedial Map 5 respects communities of interest and minimizes splitting counties, cities, and precincts. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 5, which performs about the same on metrics of county splits as compared to the Enacted Plan. Cities and precincts were only split when necessary for the purposes of population deviation and/or contiguity (including road connectivity).

49.   To the extent practicable after complying with the above criteria, I endeavored to minimize changes to districts outside the Yakima Valley region and avoid pairing incumbents.

50.   In summary, Remedial Map 5 is compliant with all relevant redistricting criteria.

I.   Conclusion

51.   I reserve the right to modify, update, or supplement my report as additional information is made available to me.

52.   Pursuant to 28 U.S.C. § 1746, I, Kassra AR Oskooii, declare under penalty of perjury that the foregoing is true and correct.

Executed by:

Dr. Kassra AR Oskooii

Dated: December 1, 2023

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Appendix

Table 1 – Population Deviation

District	Enacted Map			Remedial Map 1			Remedial Map 2			Remedial Map 3			Remedial Map 4			Remedial Map 5		
	Total Pop	Deviation	%	Total Pop	Deviation	%	Total Pop	Deviation	%	Total Pop	Deviation	%	Total Pop	Deviation	%	Total Pop	Deviation	%
1	157284	33	0.021%	157284	33	0.021%	157284	33	0.021%	157284	33	0.021%	157284	33	0.021%	157284	33	0.021%
2	157441	190	0.121%	157371	120	0.076%	157244	-7	-0.004%	157429	178	0.113%	157429	178	0.113%	157441	190	0.121%
3	157244	-7	-0.004%	157244	-7	-0.004%	157244	-7	-0.004%	157244	-7	-0.004%	157244	-7	-0.004%	157244	-7	-0.004%
4	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%
5	157289	38	0.024%	157287	36	0.023%	157289	38	0.024%	157237	-14	-0.009%	157289	38	0.024%	157289	38	0.024%
6	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%
7	157250	-1	-0.001%	157248	-3	-0.002%	157250	-1	-0.001%	157313	62	0.039%	157250	-1	-0.001%	157250	-1	-0.001%
8	157266	15	0.010%	157198	-53	-0.034%	157198	-53	-0.034%	157110	-141	-0.090%	157110	-141	-0.090%	157266	15	0.010%
9	157247	-4	-0.003%	157125	-126	-0.080%	157156	-95	-0.060%	157125	-126	-0.080%	157156	-95	-0.060%	157247	-4	-0.003%
10	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%
11	157228	-23	-0.015%	157228	-23	-0.015%	157228	-23	-0.015%	157228	-23	-0.015%	157228	-23	-0.015%	157228	-23	-0.015%
12	157247	-4	-0.003%	157175	-76	-0.048%	157247	-4	-0.003%	157096	-155	-0.099%	157247	-4	-0.003%	157247	-4	-0.003%
13	157248	-3	-0.002%	157145	-106	-0.067%	157250	-1	-0.001%	157360	109	0.069%	157312	61	0.039%	157283	32	0.020%
14	157253	2	0.001%	157166	-85	-0.054%	157166	-85	-0.054%	157318	67	0.043%	157318	67	0.043%	157377	126	0.080%
15	157231	-20	-0.013%	157409	158	0.100%	157203	-48	-0.031%	157122	-129	-0.082%	157070	-181	-0.115%	157084	-167	-0.106%
16	157254	3	0.002%	157081	-170	-0.108%	157318	67	0.043%	157270	19	0.012%	157309	58	0.037%	157242	-9	-0.006%
17	157239	-12	-0.008%	157405	154	0.098%	157405	154	0.098%	157346	95	0.060%	157346	95	0.060%	157239	-12	-0.008%
18	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%
19	157236	-15	-0.010%	157236	-15	-0.010%	157236	-15	-0.010%	157236	-15	-0.010%	157236	-15	-0.010%	157236	-15	-0.010%
20	157243	-8	-0.005%	157401	150	0.095%	157401	150	0.095%	157353	102	0.065%	157353	102	0.065%	157243	-8	-0.005%
21	157212	-39	-0.025%	157212	-39	-0.025%	157212	-39	-0.025%	157212	-39	-0.025%	157212	-39	-0.025%	157212	-39	-0.025%
22	157257	6	0.004%	157257	6	0.004%	157257	6	0.004%	157257	6	0.004%	157257	6	0.004%	157257	6	0.004%
23	157258	7	0.004%	157258	7	0.004%	157258	7	0.004%	157258	7	0.004%	157258	7	0.004%	157258	7	0.004%
24	157233	-18	-0.011%	157233	-18	-0.011%	157233	-18	-0.011%	157233	-18	-0.011%	157233	-18	-0.011%	157233	-18	-0.011%
25	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%
26	157227	-24	-0.015%	157227	-24	-0.015%	157227	-24	-0.015%	157227	-24	-0.015%	157227	-24	-0.015%	157227	-24	-0.015%
27	157239	-12	-0.008%	157239	-12	-0.008%	157239	-12	-0.008%	157239	-12	-0.008%	157239	-12	-0.008%	157239	-12	-0.008%
28	157289	38	0.024%	157289	38	0.024%	157289	38	0.024%	157289	38	0.024%	157289	38	0.024%	157289	38	0.024%
29	157054	-197	-0.125%	157054	-197	-0.125%	157054	-197	-0.125%	157054	-197	-0.125%	157054	-197	-0.125%	157054	-197	-0.125%
30	157277	26	0.017%	157277	26	0.017%	157277	26	0.017%	157277	26	0.017%	157277	26	0.017%	157277	26	0.017%
31	157223	-28	-0.018%	157420	169	0.107%	157304	53	0.034%	157352	101	0.064%	157242	-9	-0.006%	157223	-28	-0.018%
32	157211	-40	-0.025%	157211	-40	-0.025%	157211	-40	-0.025%	157211	-40	-0.025%	157211	-40	-0.025%	157211	-40	-0.025%
33	157256	5	0.003%	157256	5	0.003%	157256	5	0.003%	157256	5	0.003%	157256	5	0.003%	157256	5	0.003%
34	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%
35	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%	157268	17	0.011%
36	157250	-1	-0.001%	157250	-1	-0.001%	157250	-1	-0.001%	157250	-1	-0.001%	157250	-1	-0.001%	157250	-1	-0.001%
37	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%
38	157215	-36	-0.023%	157215	-36	-0.023%	157215	-36	-0.023%	157215	-36	-0.023%	157215	-36	-0.023%	157215	-36	-0.023%
39	157306	55	0.035%	157306	55	0.035%	157306	55	0.035%	157306	55	0.035%	157306	55	0.035%	157306	55	0.035%
40	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%	157261	10	0.006%
41	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%	157234	-17	-0.011%
42	157263	12	0.008%	157263	12	0.008%	157263	12	0.008%	157263	12	0.008%	157263	12	0.008%	157263	12	0.008%
43	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%	157247	-4	-0.003%
44	157248	-3	-0.002%	157248	-3	-0.002%	157248	-3	-0.002%	157248	-3	-0.002%	157248	-3	-0.002%	157248	-3	-0.002%
45	157270	19	0.012%	157270	19	0.012%	157270	19	0.012%	157270	19	0.012%	157270	19	0.012%	157270	19	0.012%
46	157255	4	0.003%	157255	4	0.003%	157255	4	0.003%	157255	4	0.003%	157255	4	0.003%	157255	4	0.003%
47	157240	-11	-0.007%	157240	-11	-0.007%	157240	-11	-0.007%	157240	-11	-0.007%	157240	-11	-0.007%	157240	-11	-0.007%
48	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%
49	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%	157252	1	0.001%
Total Deviation	-	-	0.25%	-	-	0.23%	-	-	0.22%	-	-	0.24%	-	-	0.24%	-	-	0.25%

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Table 2 – Compactness Scores

	Enacted Map	**Remedial Map 1**	**Remedial Map 2**	**Remedial Map 3**	**Remedial Map 4**	**Remedial Map 5**
Reock	0.44	0.42	0.42	0.43	0.42	0.43
Polsby-Popper	0.33	0.32	0.31	0.32	0.32	0.32

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Table 3 – County Split Metrics

	Enacted Map	Remedial Map 1	Remedial Map 2	Remedial Map 3	Remedial Map 4	Remedial Map 5
Number of Counties Split	18	20	19	20	19	19
County-District Splitting	1.61	1.68	1.64	1.61	1.63	1.62
District-County Splitting	1.25	1.25	1.26	1.24	1.25	1.26

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	Assistant Professor	2016-2021
	Provost Teaching Fellow	2022-Present
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	Former Faculty Affiliations: Race, Justice, Policy Research Initiative (RJPRI)	 2017-2023

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	University of Washington Department of Political Science	M.A., 2013
	Center for Statistics & the Social Sciences (CSSS) Political Methodology Field Certificate (2013)	
	University of Washington Major: Political Science Minors: Human Rights and Law, Societies, & Justice	B.A., 2008

Peer-Reviewed Journal Publications	"In the Shadow of September 11: The Roots and Ramifications of Anti-Muslim Attitudes in the United States." ***Advances in Political Psychology***. w/ Lajevardi, N., Saleem, M., and Docherty, M. (Forthcoming)
	"Social Mobility Through Immigrant Resentment: Explaining Latinx Support for Restrictive Immigration Policies and Anti-Immigrant Candidates." ***Public Opinion Quarterly***. w/ Hickel, F., and Collingwood, L. (Forthcoming)

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"Undermining Sanctuary? When Local and National Partisan Cues Di-verge." 2023. ***Urban Affairs Review***, 59(1): 133-169. w/ Colling-wood, L. & Martinez, G.

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"Beyond Generalized Ethnocentrism: Islam-Specific Beliefs and Preju-dice toward Muslim Americans." 2021. ***Politics, Groups, and Identi-ties***, 9(3): 538-565. w/ Dana, K. & Barreto, M.

"Opinion Shift and Stability: The Information Environment and Long-Lasting Opposition to Trump's Muslim Ban." 2021. ***Political Behavior***, 43: 301–337. w/Lajevardi, N. & Collingwood, L.

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"The Role of Identity Prioritization: Why Some Latinx Support Restric-tionist Immigration Policies and Candidates." 2020. ***Public Opinion Quarterly***, 84: 860–891. w/ Hickel, F., Alamillo, R. & Collingwood, L.

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"The Paradox Between Integration and Perceived Discrimination Among American Muslims." 2020. ***Political Psychology***, 41(3): 587-606. w/ Lajevardi, N., Walker, H. & Westfall, A.

Winner of the 2019 American Political Science Association Race, Eth-nicity, and Politics Section Best Paper Award.

"Veiled Politics: Experiences with Discrimination among Muslim Amer-icans." 2019. ***Politics and Religion***, 12(2): 629-677. w/ Dana, K., La-jevardi, N., & Walker, H.

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"eiCompare: Comparing Ecological Inference Estimates across EI and EI: RxC." 2016. *R Journal*, 8(2): 92-101. w/ Collingwood, L., Barreto, M. & Garcia-Rios, S.

"How Discrimination Impacts Sociopolitical Behavior: A Multidimensional Perspective." 2016. *Political Psychology*, 37(5): 613-640.

"Mosques as American Institutions: Mosque Attendance, Religiosity and Integration into the Political System among American Muslims." 2011. *Religions*, 2(4): 504-524. w/ Dana, K. & Barreto, M.

Book Chapters Encyclopedic Entries	"Discrimination." In *Edward Elgar Encyclopedia of Political Sociology* edited by Maria Grasso and Marco Giugni. (Forthcoming)
	"Race and Racism in U.S. Campaigns." 2020. In *Oxford Handbook on Electoral Persuasion* edited by Liz Suhay, Bernie Grofman, and Alex Trechsel, 15:278–295. w/ Christopher Parker, Christopher Towler, and Loren Collingwood.
Book Reviews	"Understanding Muslim Political Life in America: Contested Citizenship in the Twenty-First Century." Edited by Brian R. Calfano and Nazita Lajevardi. Philadelphia: Temple University Press, 2019. 248p. *Perspectives on Politics*.

Public Writing	"Biden reverses Trump's 'Muslim Ban.' Americans support the decision." **The Washington Post** *(Monkey Cage)* (27 January, 2021). w/ Lajevardi, N. and Collingwood, L.
	"Targeted: Veiled Women Experience Significantly More Discrimination in the U.S." **Religion in Public** (21 January, 2020). w/ Dana, K., Lajevardi, N., and Walker, H.
	"Here's what the Democrats need to do to get the DREAM Act through Congress." **LSE American Politics and Policy Blog** (29 January, 2018). Also covered by Newsweek U.S. Edition. w/ Walker, H. and Garcia-Rios, S.
	"Why Individual-Level Opinion Rapidly Shifted Against Trump's 'Muslim Ban' Executive Order." **Religion in Public** (17 January, 2018). w/ Collingwood, L. and Lajevardi, N.
	"Allies in name only? Latino-only leadership on DACA may trigger implicit racial biases among White liberals." **LSE American Politics and Policy Blog** (28 September, 2017). w/ Garcia-Rios, S. and Walker, H.
	"Protests against Trump's immigration executive order may have helped shift public opinion against it" **LSE American Politics and Policy Blog** (12 February, 2017). w/ Collingwood, L. and Lajevardi, N.
Select Works In Progress	"The Influence of American Identity on Anti-Muslim Policy Preferences Across Partisans." w/ Lajevardi, N. (Invited for R&R)
	"Neighboring Identities: Psychological and Political Reactions to Xenophobic Campaign Attacks." w/ Basco, R., Fisher, S., Garcia-Rios, S., Lagodny, J., Lajevardi, N., and Tolley, E. (In Progress)
	"Partisan Winners and Losers: Testing Alternative Frames of Congressional Election Results Among White and Latino Voters." w/ Valenzuela, A. and Collingwood, L. (In Progress)
	"Polarizing Cues Revisited: The Role of Partisan Benchmarking." w/ Kipp, S., Medenica, V., and Walker, H. (In Progress)
	"Voting for Violence? Tracing Ethno-Racial and Partisan Differences in Support for Anti-Democratic Violence Before and After the 2020 Presidential Election." w/ Valenzuela, A. and Collingwood, L. (In Progress)
	"White Candidates and Latino Voters: The Significance of Symbolic vs Substantive Ethnic Cues." w/ Collingwood, L. and Alamillo, R. (In Progress)

Grants, Fellowships, & Awards	Nominee of UD's Excellence in Teaching Award	(2023)
	UD Provost Teaching Fellow	(2022-)
	APSA Race, Ethnicity, and Politics Best Paper Award	(2019)
	w/ Nazita Lajevardi, Hannah Walker and Aubrey Westfall	
	AAPOR Student-Faculty Diversity Pipeline Award	(2019)

CTAL Instructional Improvement Grant: Engaging Diversity
in Political Science w/ Kara Ellerby ($11,000)   (2018)
POSCIR Seed Research Grant ($1,500)   (2018)
DEL General University Research Grant ($7,500)   (2017)
UW Political Science Research Fellowship (est. $13,000)   (2016)
Dissertation Improvement Research Grant, UCLA ($3000)   (2015)
Dean Recognition for Exceptional Pedagogical Contribution, UW   (2014)
Best Graduate Paper in PoliSci (w/Hannah Walker), UW   (2014)
UW Center for Democracy & VRA Research Fellowship ($5,000)   (2014)
UW Center for Democracy & VRA Research Fellowship ($5,000)   (2013)
Center for Statistics and the Social Sciences Grant ($1,000)   (2013)
UW WISER Research Grant ($2500)   (2011-14)
UW WISER Survey Research Fellowship ($20,000)   (2011-14)
Grad. Opportunities & Minority Achievement Fellowship ($4,000)   (2010-11)
Donald R. Matthews Graduate Fellowship ($40,000)   (2010-11)
Jody Deering Nyguist Award for Excellence in Public Speaking   (2008)

Research Center Affiliations		
Race, Justice, Policy Research Initiative, UD	(2017 -)
Center for Political Communication, UD	(2016 -)
Center for the Study of Diversity, UD	(2016 -)
UW Center for Democracy and Voting Rights Research	(2013-14)
Washington Institute for the Study of Race & Ethnicity (WISER)	(2010-16)
Center for Social Science and Statistics (CSSS)	(2010-16)
Washington Survey Research Center (WASRC)	(2010-15)

Teaching Experience

University of Delaware (2016 -)
    POSC 150: Intro to American Politics (x10)
    POSC 230: Intro to Politics and Social Justice (x2)
    POSC 413: Minority Politics, Representation, and Voting Rights (x4)
    POSC 867: Race, Ethnicity, and Politics (Graduate Seminar) (x3)
    POSC 807: American Political Behavior (Graduate Seminar) (x1)

University of Washington (2011-2016)
    POLS 202: Intro to American Politics (x2)
    POLS 357: Minority Representation and the Voting Rights Act (x1)
    POLS 205: Political Science as a Social Science (TA)
    POLS 317: US Race and Ethnic Politics (TA)
    POLS 353: US Congress (TA)
    POLS 503: Advanced Research Design and Analysis (TA)
    LAW E 558: Voting Rights Research and the Law (TA)

External Invited Talks/Panels   "Diversity and the State of Democratic Citizenship." Featured invited roundtable sponsored by the *Center for the Study of Democratic Citizenship*. April 23,

2021.

"Shocks to the System: Capturing Opinion Shift and Stability Toward Trump's Muslim Ban." Keynote Speaker at the Democracy and Diversity Triannual Conference at the **Center for the Study of Democratic Citizenship** in Montreal, Canada. April 24-25, 2020. [Cancelled Due to COVID-19]

"The New American Electorate." Panelist. **Princeton University**. Event sponsored by the Center for the Study of Democratic Politics. April 3, 2020. [Cancelled Due to COVID-19]

"Neighboring Identities: Psychological and Political Reactions to Generalized and Particularized Anti-Immigrant Appeals." w/Sergio Garcia-Rios. **University of Toronto**. Talk Sponsored by the Department of Political Science. March 6, 2020.

"History, Institutions, and Theory Research Coordination Network on Racial and Ethnic Politics." Panelist. **University of Pennsylvania**. Event sponsored by the American Political Science Association's Special Projects Fund and the Center for the Study of Ethnicity, Race and Immigration at Penn. February 28-29, 2020.

"Using Observational and Experimental Data to Examine the Sociopolitical Consequences of Perceived Discrimination." **Rutgers University**. Talk sponsored by the Emerging Trends Lecture Series & the Center for the Experimental Study of Politics and Psychology. April 27, 2018.

"A Change of Heart? Using Panel Designs to Establish Causality with Real Events." w/Loren Collingwood. **Princeton University**. Talk sponsored by the Center for the Study of Democratic Politics. April 26, 2018.

"Using Observational and Experimental Data to Examine the Sociopolitical Consequences of Perceived Discrimination." **University of California Los Angeles**. Talk sponsored by the Race, Ethnicity and Politics Workshop. March 5, 2018.

"Muslim-American Attitudes, Sociopolitical Behavior, and Identity." Panelist/Section Presenter. **University of California Los Angeles**. Event sponsored by the Luskin School of Public Affairs & the National Science Foundation. December 15, 2017.

"Muslim-American Political Behavior." Panelist/Section Presenter. **Menlo College**. Event sponsored by Menlo College & the National Science Foundation. December 16, 2016.

Internal or
Public
Invited
Talks/Panels

"How Democratic is the U.S. Constitution, and to What Extent did the Founding Fathers Oppose Majority Rule?" Speaker. University Day Public Lecture. March 18, 2023.

"Race, Ethnicity, and Gender in the 2020 Election." Speaker. Panel sponsored by the the University of Delaware POSCIR. December 14, 2020.

"Building Community: Scholarship and Connection among Faculty of Color." Speaker. Panel sponsored by the Center for the Study of Diversity (CSD) at the University of Delaware. February 24, 2020.

"Executive Power and the U.S. Democracy." Talk sponsored by the 2019 YALI Mandela Washington Fellows Program at the University of Delaware. July 2, 2019.

"Opinion Shift and Stability: Long-Lasting Opposition toward Trump's Muslim Ban." Talk sponsored by the Department of Sociology and Criminal Justice Colloquium Speaker Series at the University of Delaware. April 24, 2019.

"Old-Fashioned Racism and the Roots of Contemporary Islamophobia." Talk sponsored by the Center for the Study of Diversity (CSD) Colloquium Speaker Series at the University of Delaware. December 6, 2018.

"Understanding Executive Power in the United States." Talk sponsored by the 2018 YALI Mandela Washington Fellows Program at the University of Delaware. July 2, 2018.

"The Inclusion and Exclusion of Minority Groups in the United States." Talk sponsored by the 2017 YALI Mandela Washington Fellows Program at the University of Delaware. July 11, 2017.

"Inclusion and Exclusion: Perceptions of Discrimination in the Workplace." Diversity Summit Presenter. Talk sponsored by the Office of Equity and Inclusion at the University of Delaware. June 20, 2017.

"What Happens Now Part II? A Forum to Discuss Bigotry & Closed Borders in the Trump Era." Speaker. Panel sponsored by the Department of Women and Gender Studies, Sociology and Criminal Justice, Political Science and International Relations, & the College of Arts and Sciences at the University of Delaware. February 13, 2017.

"Forum on the Travel Ban Executive Order." Speaker. Panel sponsored by the University of Delaware Provost Office. February 7, 2017.

"What Happens Now Part I? Fear, Diversity, and Inclusion in Post-U.S. Election." Speaker. Panel sponsored by Women and Gender Studies, Sociology and Criminal Justice, Political Science and International Relations, History, & the College of Arts and Sciences at the University of Delaware. November

30, 2016.

"Race, Religion, and Gender." Election Central Panelist. Event sponsored by the Center for Political Communication at the University of Delaware. November 8, 2016.

Select Conference Presentations	2021

"Partisan Winners and Losers: Testing Alternative Frames of Congressional Election Results Among White and Latino Voters." Online Paper Presentation at the Annual American Political Science Association Conference (APSA).

"Kissing Up and Kicking Down: How Immigrant Resentment Impacts Latinx Support for Donald Trump and Restrictive Immigration Policies." Online Paper Presentation at the Annual American Political Science Association Conference (APSA).

"How do Political Attacks Affect Racial and Ethnic Self-Identities?" Online Paper Presentation at the Annual Midwest Political Science Association Conference (MPSA).

"Kissing Up and Kicking Down: How Immigrant Resentment Impacts Latinx Support for Donald Trump and Restrictive Immigration Policies." Online Paper Presentation at the Annual Midwest Political Science Association Conference (MPSA).

2019

"The Significance of Politicized Group Identities: Re-examining the Relationship between Contact with Punitive Political Institutions and Political Participation." Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

"Threat or Reassurance? Framing Midterm results among Latinos and Whites." Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

"When American Identity Trumps Latinx Identity: Explaining Support for Restrictive Immigration Policies." Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

"Anti-Minority Politics and Political Participation: Evidence from Four Countries." Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

2018

"Assessing the Link between Interactions with Punitive Political Institutions and Political Behavior." Paper Presentation at the 2018 Symposium on the Politics of Immigration, Race, and Ethnicity (SPIRE) Meeting in Philadelphia, PA (University of Pennsylvania).

"Are Integrated Muslim Americans More Likely to Perceive Discrimination?" Paper Presentation at the Annual American Political Science Association Conference (APSA) in Boston, MA.

"Opinion Shift and Stability: Enduring Individual-Level Opposition to Trump's Muslim Ban." Paper Presentation at the Annual American Political Science Association Conference (APSA) in Boston, MA.

"Assessing the Link between Interactions with Punitive Political Institutions and Political Behavior." Paper Presentation at the 2018 Collaborative Multiracial Post-Election Study (CMPS) Meeting in Los Angeles, CA (UCLA).

2017

"A Change of Heart? Why Individual-Level Public Opinion Shifted against Trump's Muslim Ban." Paper Presentation at the Annual American Political Science Association Conference (APSA) in San Francisco, CA.

"Veiled Politics: Experiences with Discrimination among American Muslims." Paper Presentation at the Annual American Political Science Association Conference (APSA) in San Francisco, CA.

"The Racial Shield as Racism Exoneration: Explaining White Racist Support for Conservative Minority Candidates." Paper Presentation at the Annual Western Political Science Association Conference (WPSA) in Vancouver BC, Canada.

2016

"Assessing the Mechanism Linking Discrimination to Democratic Engagement." Paper Presentation at the Annual American Political Science Association Conference (APSA) in Philadelphia, PA.

"Estimating Candidate Support: Comparing EI and EI-RxC." Paper Presentation at the Annual Midwest Political Science Association Conference (MPSA) in Chicago, Illinois.

| Student Supervision | Sadie Ellington, Dissertation Committee Member (POSC) |
| | Enes Aksu, Dissertation Committee Member (POSC) |

Enes Tuzgen, Dissertation Committee Member (POSC)
Olga Gerasimenko, Dissertation Committee Member (POSC)
Furkan Karakayan, Dissertation Committee Member (POSC)
Richard Takyi Amoah, Dissertation Committee Member (ECON)
Sheila Afrakomah, Dissertation Committee Member (ECON)
Ahmet Ates, Dissertation Committee Member (POSC)
Charles Mays, Long Paper and Dissertation Chair (POSC)
Ian Mumma, Long Paper Committee Member (POSC)
Clark Shanahan, Long Paper Committee Member (POSC)

Rachel Spruill, Undergraduate Honors Thesis Chair
Jessica Sack, Undergraduate Honors Thesis Chair
Jordan Spencer, Undergraduate Faculty Mentor for the McNair Program
Lauren Turenchalk, Undergraduate Research Supervisor

| Professional Service | **Editorial Board Member** |
| | *Politics and Religion* (6/2018 - 12/2021) |

Discipline Service
American Political Science Association (APSA) REP Section Chair (2021-2022)

Western Political Science Association (WPSA) Task Force on Equity, Inclusion, and Access in the Discipline (2020-2021)

APSA Race, Ethnicity, and Politics Best Paper Award Committee Member (2020)

University Service
2019 Summer Educational and Cultural Experience Program (SECEP) Lecturer of Politics and Justice in the United States. (July 27 - August 20, 2019)

Manuscript Reviewer/Referee
American Journal of Political Science, American Political Science Review, American Politics Research, British Journal of Political Science, Belgian Federal office for Science Policy, Behavioral Sciences of Terrorism and Political Aggression, Cambridge University Press, Electoral Studies, European Political Science Review, International Journal of Public Opinion, Journal of Elections, Public Opinion & Parties, Journal of Ethnic and Migration Studies, Journal of Politics, Journal of Race, Ethnicity and Politics, Migration Studies, Perspectives on Politics, Political Behavior, Politics, Groups, and Identities, Political Psychology, Political Research Quarterly, Politics and Religion, Public Opinion Quarterly, Social Science Quarterly, Time-Sharing Experiments for the Social Sciences

Conference Coordination
Politics of Race, Immigration, and Ethnicity Consortium (PRIEC) at the University of Delaware. (2020)

Politics of Race, Immigration, and Ethnicity Consortium (PRIEC) at the University of Washington. (2013)

Latinos and the Voting Rights Act. Center for Democracy and Voting Rights Research at the University of Washington Law School. (2013)

Islam in the Public Sphere Conference. Washington Institute for the Study of Race & Ethnicity (WISER). (2011)

Expert Consulting Experience	*State of Maryland Attorney General's Office*; 2021 MD Redistricting

State of Maryland Attorney General's Office; 2021 MD Redistricting

Baltimore County Branch of the NAACP v. Baltimore County, Maryland, No. 1:21-cv-03232-LKG (D. Md. 2022)

Common Cause Florida v. Lee, 4:22-cv-109-AW-MAF (N.D. Fla.)

Common Cause Florida v. Byrd, No. 4:22-cv-00109-AW-MAF (N.D. Fla. 2022) [Deposed]

Dickinson Bay Area NAACP Branch v. Galveston County, Texas, No. 3:22-cv-117-JVB (S.D. Tex. 2023) [Deposed & Testified]

Reyes v. Chilton, 4:21-cv-05075-MKD (E.D. Wash. 2021) [Deposed]

Roswell Independent School District (RISD); 2022 Redistricting

Caroline County Branch of the NAACP v. Town of Federalsburg, Civ. Action No. 23-SAG-00484 (D.Md. 2023)

Cobb County Board of Elections and Registration, No. 1:22-cv-02300-ELR (N.D. Ga. 2022)

Coca v. City of Dodge City, et al. Case no. 6:22-cv-01274 (D Kan. 2022) [Deposed]

Previous Research Positions	**Senior Researcher, Washington Poll**	2010-2014
	Public Opinion Survey Design, Programming, and Analysis.	
	Researcher, Center for Democracy & Voting Rights Research	2013-2014
	Racially Polarized Voting (RPV) Analysis of jurisdictions in states such as: California, Florida, Texas, and Washington.	
	Investigator, Washington State Charter School Initiative	2013
	Precinct and school district level data collection and analysis of the I-1240 Vote for S360 Polling Firm and Melinda & Gates Foundation.	

Skills & Additional Information	**Software**: R, STATA, LaTeX, ESRI, DRA
	Languages: Farsi (Persian)–Native Speaker
	R Packages: eiCompare (contributor), eiExpand (contributor)

EXHIBIT 2

December 1, 2023 Declaration of Dr. Collingwood

Expert Report of Dr. Loren Collingwood

Loren Collingwood

2023-12-01

Executive Summary

I have been retained by plaintiffs as an expert, and have been asked to analyze whether five plaintiff proposed remedial maps will perform electorally for Latino voters in Legislative District 14 in the Yakima Valley region– the area comprising Central Washington's large Latino community.

To assess electoral performance, as in my prior reports, I examine whether the minority-preferred candidate wins in contests featuring racially polarized voting in nine statewide elections subset to LD-14 in each of plaintiffs' five remedial plans.[1]

An electoral performance analysis reconstructs previous election results based on new district boundaries to assess whether a minority or white preferred candidate is most likely to win in a given jurisdiction under consideration (i.e., a newly adopted legislative district).

Based on my analysis, I conclude that all five of plaintiffs' proposed maps provide Latino voters in the Yakima Valley region with an equal opportunity to elect candidates of choice to the state legislature in LD-14.

My opinions are based on the following data sources: Washington State general election precinct/vtd returns from 2016-2020; 2020 US Census block data, 2021 5-Year American Community Survey (ACS) data, and remedial map geojson files provided by plaintiffs' counsel.

I am being compensated at a rate of $400/hour. My compensation is not contingent on the opinions expressed in this report, on my testimony, or on the outcome of this case.

Background and Qualifications

I am an associate professor of political science at the University of New Mexico. Previously, I was an associate professor of political science and co-director of civic engagement at the Center for Social Innovation at the University of California, Riverside. I have published two

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[1] My prior reports submitted to the court as Trial Exhibits 1-2 and my testimony at trial demonstrate which candidates are majority (white) and minority (Latino) preferred.

books with *Oxford University Press*, 42 peer-reviewed journal articles, and nearly a dozen book chapters focusing on sanctuary cities, race/ethnic politics, election administration, and RPV. I received a Ph.D. in political science with a concentration in political methodology and applied statistics from the University of Washington in 2012 and a B.A. in psychology from the California State University, Chico, in 2002.

In between my B.A. and Ph.D., I spent 3-4 years working in private consulting for the survey research firm Greenberg Quinlan Rosner Research in Washington, D.C. I also founded the research firm Collingwood Research, which focuses primarily on the statistical and demographic analysis of political data for a wide array of clients, and lead redistricting and map-drawing and demographic analysis for the Inland Empire Funding Alliance in Southern California. I was the redistricting consultant for the West Contra Costa Unified School District, CA, independent redistricting commission in which I was charged with drawing court-ordered single member districts. I am contracted with Roswell, NM, Independent School District to draw single member districts.

I served as a testifying expert for the plaintiff in the Voting Rights Act Section 2 case *NAACP v. East Ramapo Central School District*, No. 17 Civ. 8943 (S.D.N.Y. 2020), on which I worked from 2018 to 2020. In that case, I used the statistical software eiCompare and WRU to implement Bayesian Improved Surname Geocoding (BISG) to identify the racial/ethnic demographics of voters and estimate candidate preference by race using ecological data. I am the quantitative expert in *LULAC vs. Pate (Iowa* 2021), and have filed an expert report in that case. I am the BISG expert in *LULAC Texas et al. v. John Scott et al.*, 1:21-cv-0786-XR (W.D. Tex. 2022). I filed two reports and have been deposed in that case. I was the RPV expert for the plaintiff in *East St. Louis Branch NAACP, et al. vs. Illinois State Board of Elections, et al.*, (N.D. Ill. 2021), having filed two reports in that case. I am the Senate Factors expert for plaintiff in *Pendergrass v. Raffensperger (N.D. Ga. 2021)*, where I filed two reports, was deposed, and testified at trial. I was the RPV expert for plaintiff in *Johnson, et al., v. WEC, et al.,* No. 2021AP1450-OA (Wis. 2022), having filed three reports in that case. I was the RPV expert for plaintiff in *Faith Rivera, et al. v. Scott Schwab and Michael Abbott* (Kan. 2022). I filed a report, was deposed, and testified at trial. I served as the RPV expert for the intervenor in *Walen and Henderson v. Burgum and Jaeger*, No 1:22-cv-00031-PDW-CRH (D.N.D. 2023), where I filed a report and testified at trial. I was the RPV expert in *Lower Brule Sioux Tribe v. Lyman County* (D.S.D. 2022), where I filed a report. In this case, I was the RPV expert for plaintiffs, where I filed two reports, was deposed, and testified at trial. I was the RPV expert for plaintiff in *IE United et al. v. Riverside County,* CVRI2202423 (Cal. Super. Ct. 2022), where I filed a report and was deposed. I was the RPV expert for plaintiff in *Paige Dixon v. Lewisville Independent School District, et al.,* Civil Action No. 4:22-cv-00304 (E.D. Tex. 2022), where I filed two expert reports. I was the RPV expert for plaintiff in *Turtle Mountain Band of Chippewa Indians v. Jaeger*, No. 3:22-cv-00022-PDW-ARS (D.N.D. 2023), where I filed two reports, was deposed, and testified at trial.

My curriculum vitae was submitted to the Court as Trial Exhibit 531.

Proposed Maps

Plaintiffs' counsel provided me with the geojson files for five remedial maps. Each map's 2021 ACS Citizen Voting Age Population (CVAP) demographic estimates are presented in Table 1 below.

Table 1. Demographics 2021 CVAP.

Demographic	Map.1	Map.2	Map.3	Map.4	Map.5
Percent Hispanic CVAP 2021	51.65	51.65	50.14	50.14	47
Percent White CVAP 2021	37.14	37.14	38.86	38.86	42.34
Percent Black CVAP 2021	1.37	1.37	1.34	1.34	1.51
Percent Native CVAP 2021	7.08	7.08	7.04	7.04	6.91
Percent AAPI CVAP 2021	1.95	1.95	1.96	1.96	1.75

In terms of electoral performance, I previously analyzed the performance of LD-15 in the Enacted Plan. An electoral performance analysis tests whether different plans would provide a more equal ability for minority voters to participate in the electoral process and to elect candidates of choice. For the performance analysis, I gathered precinct results for the following nine statewide elections: 2016 U.S. Senate, 2016 President, 2016 Governor, 2018 U.S. Senate, 2020 Treasurer, 2020 State Supreme Court Position 3, 2020 President, 2020 Governor, 2020 Attorney General. To examine how a candidate performs in plaintiffs' remedial versions of LD-14, I then subset the precincts to only those falling within the new LD-14 boundary. I did not use district-based elections for the performance analysis because by nature they do not allow for a full reconstruction of previous elections in the new proposed district boundaries. For this reason, in addition to the low turnout and other unusual circumstances outlined in my prior reports, the LD-15 2022 election is not a probative gauge of performance in remedial districts, and I did not utilize it to analyze the performance of remedial districts in this report.

Assessing electoral performance in the proposed maps, LD-14 performs well – and similarly – for Latino voters in all five of plaintiffs' remedial maps. It should be noted that maps 1 and 2, then 3 and 4 are the same LD-14 so produce identical numbers. The average margin of victory in Maps 1 and 2 in my analysis is 14.3% for the Latino-preferred candidate. The average margin of victory in Maps 3 and 4 in my analysis is 14.1% for the Latino-preferred candidate. Finally, the average margin of victory in Map 5 is 13.6%. Thus, all maps produce similar electoral outcomes. Notably, Latino-preferred state legislative candidates will frequently receive a lower percentage than statewide candidates, and that is especially the case where the candidate is also Latino. As a result, these performance results are sufficient to provide Latino voters with an equal opportunity to elect candidates to the state legislature. The results of my analysis are reported below in Figure 1 and Table 2 in the Appendix.

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Figure 1. Electoral Performance analysis, Legislative District 14, 2016-2020 statewide general elections, paneled by map alternative.

Conclusion

Overall, each of the five proposed maps perform well for Latino voters' preferred candidates in LD-14. Therefore, Latino voters have a strong possibility of being able to elect their preferred candidate if any of plaintiffs remedial maps 1-5 is selected.

Pursuant to 28 U.S.C. § 1746, I, Loren Collingwood, declare the foregoing is true and correct.

Dr. Loren Collingwood

Dated: December 1, 2023

Appendix

Table 2. Electoral Performance Analysis, LD-14 in Maps 1-5, 2016-2020 contests.

Candidate	Preferred_Candidate	Map	Year	Contest	Vote
Trump	White	Map 1	2020	President	0.407
Biden	Latino	Map 1	2020	President	0.569
Culp	White	Map 1	2020	Governor	0.444
Inslee	Latino	Map 1	2020	Governor	0.554
Larkin	White	Map 1	2020	Attorney General	0.423
Ferguson	Latino	Map 1	2020	Attorney General	0.576
Davidson	White	Map 1	2020	Treasurer	0.449
Pellicciotti	Latino	Map 1	2020	Treasurer	0.551
Larson	White	Map 1	2020	State Sup. Ct. 3	0.424
Montoya	Latino	Map 1	2020	State Sup. Ct. 3	0.574
Trump	White	Map 2	2020	President	0.407
Biden	Latino	Map 2	2020	President	0.569
Culp	White	Map 2	2020	Governor	0.444
Inslee	Latino	Map 2	2020	Governor	0.554
Larkin	White	Map 2	2020	Attorney General	0.423
Ferguson	Latino	Map 2	2020	Attorney General	0.576
Davidson	White	Map 2	2020	Treasurer	0.449
Pellicciotti	Latino	Map 2	2020	Treasurer	0.551
Larson	White	Map 2	2020	State Sup. Ct. 3	0.424
Montoya	Latino	Map 2	2020	State Sup. Ct. 3	0.574
Trump	White	Map 3	2020	President	0.410
Biden	Latino	Map 3	2020	President	0.566
Culp	White	Map 3	2020	Governor	0.448
Inslee	Latino	Map 3	2020	Governor	0.550
Larkin	White	Map 3	2020	Attorney General	0.426
Ferguson	Latino	Map 3	2020	Attorney General	0.573
Davidson	White	Map 3	2020	Treasurer	0.452
Pellicciotti	Latino	Map 3	2020	Treasurer	0.547
Larson	White	Map 3	2020	State Sup. Ct. 3	0.409
Montoya	Latino	Map 3	2020	State Sup. Ct. 3	0.588
Trump	White	Map 4	2020	President	0.410
Biden	Latino	Map 4	2020	President	0.566

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Candidate	Preferred_Candidate	Map	Year	Contest	Vote
Culp	White	Map 4	2020	Governor	0.448
Inslee	Latino	Map 4	2020	Governor	0.550
Larkin	White	Map 4	2020	Attorney General	0.426
Ferguson	Latino	Map 4	2020	Attorney General	0.573
Davidson	White	Map 4	2020	Treasurer	0.452
Pellicciotti	Latino	Map 4	2020	Treasurer	0.547
Larson	White	Map 4	2020	State Sup. Ct. 3	0.409
Montoya	Latino	Map 4	2020	State Sup. Ct. 3	0.588
Trump	White	Map 5	2020	President	0.403
Biden	Latino	Map 5	2020	President	0.571
Culp	White	Map 5	2020	Governor	0.443
Inslee	Latino	Map 5	2020	Governor	0.554
Larkin	White	Map 5	2020	Attorney General	0.425
Ferguson	Latino	Map 5	2020	Attorney General	0.575
Davidson	White	Map 5	2020	Treasurer	0.454
Pellicciotti	Latino	Map 5	2020	Treasurer	0.546
Larson	White	Map 5	2020	State Sup. Ct. 3	0.426
Montoya	Latino	Map 5	2020	State Sup. Ct. 3	0.571
Hutchinson	White	Map 1	2018	U.S. Senate	0.455
Cantwell	Latino	Map 1	2018	U.S. Senate	0.545
Hutchinson	White	Map 2	2018	U.S. Senate	0.455
Cantwell	Latino	Map 2	2018	U.S. Senate	0.545
Hutchinson	White	Map 3	2018	U.S. Senate	0.455
Cantwell	Latino	Map 3	2018	U.S. Senate	0.545
Hutchinson	White	Map 4	2018	U.S. Senate	0.455
Cantwell	Latino	Map 4	2018	U.S. Senate	0.545
Hutchinson	White	Map 5	2018	U.S. Senate	0.460
Cantwell	Latino	Map 5	2018	U.S. Senate	0.540
Trump	White	Map 1	2016	President	0.406
Clinton	Latino	Map 1	2016	President	0.538
Bryant	White	Map 1	2016	Governor	0.423
Inslee	Latino	Map 1	2016	Governor	0.577
Vance	White	Map 1	2016	US Senate	0.383
Murray	Latino	Map 1	2016	US Senate	0.617
Trump	White	Map 2	2016	President	0.406

Candidate	Preferred_Candidate	Map	Year	Contest	Vote
Clinton	Latino	Map 2	2016	President	0.538
Bryant	White	Map 2	2016	Governor	0.423
Inslee	Latino	Map 2	2016	Governor	0.577
Vance	White	Map 2	2016	US Senate	0.383
Murray	Latino	Map 2	2016	US Senate	0.617
Trump	White	Map 3	2016	President	0.410
Clinton	Latino	Map 3	2016	President	0.532
Bryant	White	Map 3	2016	Governor	0.427
Inslee	Latino	Map 3	2016	Governor	0.573
Vance	White	Map 3	2016	US Senate	0.386
Murray	Latino	Map 3	2016	US Senate	0.614
Trump	White	Map 4	2016	President	0.410
Clinton	Latino	Map 4	2016	President	0.532
Bryant	White	Map 4	2016	Governor	0.427
Inslee	Latino	Map 4	2016	Governor	0.573
Vance	White	Map 4	2016	US Senate	0.386
Murray	Latino	Map 4	2016	US Senate	0.614
Trump	White	Map 5	2016	President	0.410
Clinton	Latino	Map 5	2016	President	0.528
Bryant	White	Map 5	2016	Governor	0.428
Inslee	Latino	Map 5	2016	Governor	0.572
Vance	White	Map 5	2016	US Senate	0.393
Murray	Latino	Map 5	2016	US Senate	0.607

1

2

3

4

5

6   UNITED STATES DISTRICT COURT
                        FOR THE WESTERN DISTRICT OF WASHINGTON
7   AT SEATTLE

8   SUSAN SOTO PALMER, *et al.*,

9   Plaintiffs,   CASE NO. 3:22-cv-05035-RSL

10   v.

11   STEVEN HOBBS, *et al.*,   ORDER

12   Defendants,

13   And

14   JOSE TREVINO, *et al.*,

15   Intervenor-Defendants.

16

17   On August 10, 2023, the Court found that the boundaries of Washington Legislative

18   District 15, in combination with the social, economic, and historical conditions in the

19   Yakima Valley region, results in an inequality in the electoral opportunities enjoyed by

20   white and Latino voters in the area. Judgment was entered in plaintiffs' favor on their

21   Section 2 Voting Rights Act claim, and the State of Washington was given an opportunity

22   to adopt revised legislative district maps for the Yakima Valley region pursuant to the

23   process set forth in the Washington State Constitution and state statutes. When news

24

25   reports indicated that the Majority Caucus Leaders of both houses of the Washington State

26

ORDER - 1

Pl.App.203

1   Legislature had declined to reconvene the bipartisan redistricting commission, the State

2   was directed to file a status report notifying the Court of the Legislature's position. Having

3
    reviewed the State's submission and the responses of plaintiffs and the Minority Caucus
4
    Leaders, the Court finds as follows:
5

6   Given the practical realities of the situation as revealed by the submissions of the

7   interested parties, the Court will not wait until the last minute to begin its own redistricting

8
    efforts. If, as the Minority Caucus Leaders hope, the Legislature is able to adopt revised
9
10 legislative maps for the Yakima Valley region in a timely manner, the Court's parallel

11 process, set forth below, will have been unnecessary. The likelihood that that will happen

12
    has lessened significantly since the Court issued its Memorandum of Decision, however.
13
    Establishing earlier deadlines for the presentation of alternative remedial proposals will
14
15 allow a more deliberate and informed evaluation of those proposals.

16   The parties shall meet and confer with the goal of reaching a consensus on a

17 legislative district map that will provide equal electoral opportunities for both white and

18
    Latino voters in the Yakima Valley regions, keeping in mind the social, economic, and
19
20 historical conditions discussed in the Memorandum of Decision. If the parties are unable to

21 reach agreement, they shall (a) further confer regarding nominees to act as Special Master

22 to assist the Court in the assessment of proposed remedial plans and to make modifications

23
    to those plans as necessary and (b) file alternative remedial proposals and nominations on
24
25 the following schedule:

26

ORDER - 2

Pl.App.204

1
2
    December 1, 2023 -- Deadline for the parties[1] to submit remedial proposals,[2]

3
supporting memoranda, and exhibits (including expert reports).

4
    December 1, 2023 – Deadline for the parties to jointly identify three candidates for

5
the Special Master position (including their resumes/CVs, a statement of interest,

6
availability, and capacity) and to provide their respective positions on each candidate.

7
    December 22, 2023 – Deadline for the parties to submit memoranda and exhibits

8
9
(including rebuttal expert reports) in response to the remedial proposals.

10
    January 5, 2024 – Deadline for the parties to submit memoranda and exhibits

11
(including sur-rebuttal expert reports) in reply.

12
13
14
    IT IS SO ORDERED.

15
16
    Dated this 4th day of October, 2023.

17
18
                    Robert S. Lasnik
                    Robert S. Lasnik
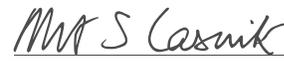
19
                    United States District Judge

20
21
22
---
[1] No party has identified an individual or entity that has unique information or perspective that could help the Court
23
beyond the assistance that the parties and their lawyers are able to provide, nor have they shown any other justification
for the allowance of amicus briefs.

24
[2] The parties shall discuss the format and functionality of the remedial proposals, but the Court generally favors
plaintiffs' suggestions that the maps include important roadways, important geographical markers, and voting precinct
25
boundaries, that the maps be in a zoomable pdf format, and that the proposals include demographic data (e.g., total
population per district and race by district of total population and citizen voting age population). Contemporaneous
26
with the filing, all counsel of record shall be provided shapefiles, a comma separated value file, or an equivalent file
that is sufficient to load the proposed plan into commonly available mapping software.

ORDER - 3

Pl.App.205

```
 1                    UNITED STATES DISTRICT COURT

 2              WESTERN DISTRICT OF WASHINGTON AT SEATTLE

 3    _____

 4                                    )
      SUSAN SOTO PALMER, et al.,       ) C22-5035-RSL
 5                                     )
                     Plaintiffs,       )
 6                                     )
      v.                               ) Seattle, WA
 7                                     )
      STEVEN HOBBS, in his             ) June 7, 2023
 8    official capacity as             )
      Secretary of State of           ) 8:30 a.m.
 9    Washington, et al.,              )
                                       ) TRIAL - Day 4
10                   Defendants,       )
                                       )
11    and                              )
                                       )
12    JOSE TREVINO, et al.,            )
                                       )
13        Intervenor-Defendants,       )
      _____   )
14    .                                )
      BENANCIO GARCIA III,             ) C22-5152-RSL-DGE-
15                                     ) LJCV
                     Plaintiff,        )
16                                     )
      v.                               )
17                                     )
      STEVEN HOBBS, in his             )
18    official capacity as             )
      Secretary of State of           )
19    Washington, et al.,              )
                                       )
20                   Defendants.       )
                                       )
21    _____

22               VERBATIM REPORT OF PROCEEDINGS
             BEFORE THE HONORABLE ROBERT S. LASNIK
23              HONORABLE DAVID G. ESTUDILLO
               UNITED STATES DISTRICT JUDGES
24             WESTERN DISTRICT OF WASHINGTON
              HONORABLE LAWRENCE J.C. VANDYKE
25             UNITED STATES NINTH CIRCUIT JUDGE

      _____
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Pl.App.206

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 2

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 8                             Mexican American Legal Defense
                               and Educational Fund
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                               Edwardo Morfin
11                             Morfin Law Firm PLLC
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14                             Campaign Legal Center
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                               Chad Dunn
17                             Brazil & Dunn
                               1900 Pearl Street
18                             Austin, TX 78705

19                             Sonni Waknin
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20                             3250 Public Affairs Building
                               Los Angeles, CA 90095
21

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                             Cristina Sepe
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22

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Pl.App.208

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 5                       CROSS EXAMINATION          752
                         BY MS. FRANKLIN
 6                       REDIRECT EXAMINATION       774
                         BY MR. DUNN
 7
      ALLISON O'ONEIL    DIRECT EXAMINATION         778
 8                       BY MR. MULJI
                         CROSS EXAMINATION          812
 9                       BY MR. HUGHES
                         CROSS EXAMINATION          815
10                       BY MR. HOLT

11    GABRIAL PORTUGAL   DIRECT EXAMINATION         820
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                         BY MR. MORFIN
14    JOHN ALFORD        DIRECT EXAMINATION         850
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15                       CROSS EXAMINATION          856
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16                       CROSS EXAMINATION          867
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17                       REDIRECT EXAMINATION       869
                         BY MR. HUGHES
18

19

20                     EXHIBIT INDEX

21

22   EXHIBITS ADMITTED                            PAGE

23

24

25
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Pl.App.209

1   to mispronounce any of the cities. But if I do mispronounce

2   them, it's going to be because I'm nervous.

3   So as you drive down 82 and you go from Yakima, to then

4   Wapato, then you go to Toppenish, and then you go -- you pass

5   Zillah. Then you go on to Granger. And what comes after

6   Granger? I think it's Grandview, then Sunnyside, and

7   Process. And as you go up to Pasco, and then you go up

8   Taylor Flats Road, and up 395, what is going to tie those

9   areas all together? Do you find that those areas are similar

10   enough?

11   A   Yes, I do. Like I said, the labor that we provide, the

12   Latino communities provide to all the farms, it's what keeps

13   us -- it's what connects us.

14   Q   Did I miss Sunnyside? I apologize.

15   JUDGE ESTUDILLO: You reversed it. You went from

16   Granger to Grandview.

17   MR. MORFIN: I apologize, Your Honors.

18   Q   I do want to ask you very directly, then. Do you think

19   that Yakima and Pasco should be in a Legislative District

20   together?

21   A   I think that would be good. That would be great. With

22   all respect to the Redistricting Commission, if they would

23   have done a better job to make sure that we're not split in

24   the community, that we bring it -- maybe over here. But in

25   the future, if we look at the two big areas, which is Yakima

1 and the Tri-Cities, that would be ideal for representation.

2   We do have lots of folks that work in the farms, but we

3 also want somebody to represent us in Olympia.

4 Q   So considering the history that you're familiar with, and

5 you actually lived it, so I appreciate -- let me take a

6 second, I appreciate you for all of the work that you've done

7 in the community.

8   But considering the history that you're familiar with

9 in the Yakima Valley and Central and Eastern Washington, when

10 considering the size of the Latino population, and

11 considering the amount of Latino representation there, in

12 terms of Latino-preferred candidates, do you think that

13 there's a fair amount of Latino representation in Central and

14 Eastern Washington?

15 A   Not in that area. That's exactly what we need. And

16 that's why we keep asking for ways to promote folks to get

17 involved, and inform themselves, and run for office.

18 Q   How does it make you feel -- and we're going to get back

19 to that in a second -- but how does it make you feel to know

20 that we are fighting so hard here in court, on either side,

21 for there to be a district in Central and Eastern Washington,

22 where Latinos are able to choose a candidate?

23 A   Well, it makes me feel that we have a long ways to go.

24 Q   So does representation matter?

25 A   Yes, it does.

1   about in this case, are more compact and contiguous than most

2   of the demonstration districts you've seen in the VRA cases

3   you've done?

4   A   Yes. Certainly more than most demonstration districts.

5   Q   For the *Gingles* second and third factors, did you

6   replicate Dr. Collingwood's ecological inference analysis?

7   A   I replicated, in the sense of running the same analysis,

8   with the same data, and then I did what I would consider a

9   different form of replication, using an alternative set of

10   voter data, reproduced those results again.

11   Q   And based on that analysis, did you find that Hispanic

12   voters have voted cohesively in the Yakima area?

13   A   Yes. In these elections, you see moderate cohesion in the

14   70 to 80 percent range.

15   Q   On *Gingles* 3, did you find the white voters vote

16   cohesively to block Latino-preferred candidates, at least in

17   the -- at least in partisan elections?

18   A   Yes. In partisan elections, again, moderately cohesive,

19   around 80 percent level, Anglo voters vote Republican, which

20   are not the candidates preferred by Hispanic voters.

21   Q   And did you find that white opposition to Latino-preferred

22   candidates was actually elevated when the Latino-preferred

23   candidate was Hispanic?

24   A   Yes. So I think it's important to look at the role of a

25   candidate's party. I think it's also important to look at

1   the role of a candidate's race or ethnicity. Here, there is

2   a significant effect for both.

3   Q   And why does that matter to you?

4   A   Where the pattern of voting difference can be -- cannot be

5   demonstrated to be anything beyond partisanship, my own view

6   is that's important information for the court to take into

7   account. I think, for example, with regard to totality of

8   the circumstance, that that's a very important issue. So I

9   think that's a useful analysis here. There is a significant

10   increase in the cohesion of Hispanic voters, when the

11   Democratic candidate is Hispanic; there's a significant drop

12   in the willingness to cross over among Anglo voters, when the

13   Democratic candidate is Hispanic. That's an unusual pattern,

14   in my experience, and shows that there is a real ethnic

15   effect on voting in this area.

16   Q   Now, Dr. Alford, we've been talking about partisan

17   elections. In nonpartisan elections, did you find the same

18   pattern of racially polarized voting held true?

19   A   No.

20   Q   What did you find?

21   A   With regard to *Gingles* 2, Hispanic voters -- it's a

22   limited set of --

23   Q   Two elections?

24   A   Four elections.

25   Q   My apologies. Four elections.

```
 1                    UNITED STATES DISTRICT COURT

 2              WESTERN DISTRICT OF WASHINGTON AT SEATTLE

 3   _____

 4                                  )
     SUSAN SOTO PALMER, et al.,      ) C22-5035-RSL
 5                                   )
                    Plaintiffs,      )
 6                                   )
     v.                              ) Seattle, WA
 7                                   )
     STEVEN HOBBS, in his            ) June 6, 2023
 8   official capacity as            )
     Secretary of State of          ) 8:30 a.m.
 9   Washington, et al.,             )
                                     ) TRIAL - Day 3
10                  Defendants,      )
                                     )
11   and                             )
                                     )
12   JOSE TREVINO, et al.,           )
                                     )
13       Intervenor-Defendants,      )
     _____  )
14   .                               )
     BENANCIO GARCIA III,            ) C22-5152-RSL-DGE-
15                                   ) LJCV
                    Plaintiff,       )
16                                   )
     v.                              )
17                                   )
     STEVEN HOBBS, in his            )
18   official capacity as            )
     Secretary of State of          )
19   Washington, et al.,             )
                                     )
20                  Defendants.      )
                                     )
21   _____

22              VERBATIM REPORT OF PROCEEDINGS
          BEFORE THE HONORABLE ROBERT S. LASNIK
23            HONORABLE DAVID G. ESTUDILLO
              UNITED STATES DISTRICT JUDGES
24            WESTERN DISTRICT OF WASHINGTON
              HONORABLE LAWRENCE J.C. VANDYKE
25        UNITED STATES NINTH CIRCUIT JUDGE
```

```
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 2


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                                Edwardo Morfin
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13
                                Annabelle Harless
14                              Campaign Legal Center
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                                Chad Dunn
17                              Brazil & Dunn
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Pl.App.215

```
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 5                           Attorney General's Office
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 6                           Olympia, WA 98504

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      Garcia and the         Holtzman Vogel Baran Torchinsky &
 8    Intervenor-            Josefiak PLLC
      Defendants:            2575 E. Camelback Road
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10                           Phoenix, AZ 85016

11                           Caleb Acker
                             Holtzman Vogel Baran Torchinsky &
12                           Josefiak PLLC
                             15405 John Marshall Highway
13                           Haymarket, VA 20169

14                           Andrew R. Stokesbary
                             Chalmers Adams Backer & Kaufman
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17                           Jason Brett Torchinsky
                             Holtzman Vogel Baran Torchinsky &
18                           Josefiak
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19                           Suite 643A
                             Washington, DC 20037
20

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 4                          CROSS EXAMINATION                452
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 5                          CROSS EXAMINATION                477
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 6                          REDIRECT EXAMINATION             508
                            BY MS. WAKNIN
 7                          RECROSS EXAMINATION              510
                            BY MR. STOKESBARY
 8
       MARK OWENS           DIRECT EXAMINATION               514
 9                          BY MR. TORCHINSKY
                            CROSS EXAMINATION                564
10                          BY MR. HERRERA
                            CROSS EXAMINATION                599
11                          BY MS. FRANKLIN

12     MATTHEW BARRETO      DIRECT EXAMINATION               608
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13                          CROSS EXAMINATION                647
                            BY MR. TORCHINSKY
14                          CROSS EXAMINATION                666
                            BY MS. SEPE
15                          REDIRECT EXAMINATION             674
                            BY MR. DUNN
16

17

18                          EXHIBIT INDEX

19

20    EXHIBITS ADMITTED                                     PAGE

21     Exhibit 417                                           674

22

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1   MR. HERRERA: I pass the witness.

2   THE COURT: Thank you. All right. Attorney General

3   Erica Franklin.

4   CROSS EXAMINATION

5   BY MS. FRANKLIN:

6   Q   Good afternoon, Dr. Owens. My name is Erica Franklin, and

7   I represent the State of Washington in both matters. And I

8   believe I met you virtually during your deposition.

9   A   Good to see you again.

10   Q   Good to see you, too.

11   Dr. Owens, is it your opinion that LD 15, as enacted,

12   is non-compact?

13   A   As a district? I think I did not identify an opinion

14   about that. I think it's that the Hispanic communities

15   within LD 15 are not compact.

16   Q   In reaching that conclusion, did you compare the shape of

17   enacted LD 15 to the shape of other comparable districts in

18   the state?

19   A   No, I didn't make those comparisons. Again, not about the

20   district.

21   Q   In your deposition, you said that you believed that vote

22   dilution, under Section 2 of the VRA, only occurs when voters

23   select candidates on the basis of the candidate's race or

24   ethnicity. Is that still your understanding?

25   A   I think that's one of the ways that we're able to look at

```
 1   has only token opposition against it, this shoestring

 2   campaign, that election might not tell you too much about

 3   what voters would prefer in a fair fight.  Would you agree?

 4   A   It is contextually different.  But what we still have

 5   ahead of us is knowing the partisanship of the candidates.

 6   Q   Sure.  So at the time of this supplemental, when you

 7   drafted the supplemental reports, were you aware that Senator

 8   Torres had previous experience in an elected office, before

 9   she ran for that position?

10   A   I would think; at the time, I can't recall.  I do know

11   that she has had that.

12   Q   At the time, did you know that Lindsay Keesling did not

13   have any prior experience in elective office?

14   A   We discussed that.  She had not.

15   Q   And at the time you submitted your first supplemental

16   report, were you aware that Lindsay Keesling was a write-in

17   candidate during the August 2022 primary election?

18   A   Of the primary?  No.  When I wrote the report, yeah, we

19   talked about that.

20   Q   So you didn't take her write-in status into account, in

21   preparing that report, right?

22   A   No, because she qualified for the election.

23   Q   And at the time you submitted your supplemental reports,

24   were you aware of how much -- or let's take your first

25   supplemental report.  Were you aware of how much Lindsay
```

1   Keesling and Nikki Torres had spent in that race?

2   A   No.

3   Q   Okay. Let's take a look. Can you please pull up the

4   information about these candidates from the website? This is

5   not an exhibit, but information that appears publicly on the

6   website for the Washington Public Disclosure Commission.

7   If we scroll down to the bar graph to campaign

8   expenditures. Let's take a moment to do that.

9   Can you tell me what Nikki Torres's total expenditures

10   were. I think if you keep scrolling, there's a table.

11   A $94,000.

12   Q   What about Lindsay Keesling's?

13   A   Over $4,000.

14   Q   So Senator Torres outspent Ms. Keesling by over 20 to 1,

15   right?

16   A   She spent more.

17   Q   So would you agree that Lindsay Keesling was at a

18   significant disadvantage in the November 2022 race?

19   A   In this factor of measure, yes.

20   Q   How did that factor into your analysis?

21   A   It did not.

22   Q   So when an experienced, well-funded candidate trounces a

23   write-in candidate, by outspending them more than 20 to 1, do

24   you really think that really tells you much about what

25   certain classes of voters prefer, more broadly?

```
 1                 UNITED STATES DISTRICT COURT

 2          WESTERN DISTRICT OF WASHINGTON AT SEATTLE

 3    _____

 4                                )
      SUSAN SOTO PALMER, et al.,   )  C22-5035-RSL
 5                                )
                     Plaintiffs,  )
 6                                )
      v.                          )  Seattle, WA
 7                                )
      STEVEN HOBBS, in his        )  June 2, 2023
 8    official capacity as        )
      Secretary of State of       )  9:00 a.m.
 9    Washington, et al.,         )
                                  )  TRIAL - Day 1
10                   Defendants,  )
                                  )
11    and                         )
                                  )
12    JOSE TREVINO, et al.,       )
                                  )
13        Intervenor-Defendants,  )
      _____ )
14       .
      _____

15
                 VERBATIM REPORT OF PROCEEDINGS
16           BEFORE THE HONORABLE ROBERT S. LASNIK
                UNITED STATES DISTRICT JUDGE
17              WESTERN DISTRICT OF WASHINGTON
      _____
18    APPEARANCES:

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Pl.App.223

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1   And then we'll put that on the arrow bar. So that's what we

2   do here in this case.

3   Q   And which voters do you present point estimates for in

4   your report?

5   A   Latino or Hispanic voters, and then white, non-Hispanic

6   voters.

7   Q   Pages 7 through 8 of Plaintiffs' Exhibit 1 lists the

8   elections that you examined for your racially polarized

9   voting analysis. Can you briefly describe the elections you

10 looked at?

11 A   I looked at statewide, a lot of statewide partisan

12 contests from 2016 to 2020, and then various legislative

13 district analyses in the jurisdiction, 15, 14, 13, with a bit

14 more of a focus on 15. And then I looked at some local

15 contests that are nonpartisan. And those contests featured a

16 Spanish surname candidate. I think one of the candidates is

17 non-Hispanic, white, but they have a Spanish surname. And so

18 I looked at those, as well. So I think overall, I looked at

19 25 elections, over something like a ten-year time period, or

20 so.

21 Q   And what impact does considering 25 elections, over a

22 ten-year time period, have on your analysis?

23 A   You have a lot of breadth. It often happens in these

24 studies where there's a certain unique election dynamic that

25 occurs, that is different. And you can see that in my own

1 results. And if you just happen to look at one contest or

2 two, you could draw an inference that's wrong, like a global

3 inference, not a statistical inference, but an analytical

4 global inference. So by looking at more contests with

5 variation, we have partisan, nonpartisan, primary, general,

6 different units, different parts of different areas. And for

7 the most part, it's all saying the same thing. I find that

8 compelling, for myself.

9 Q   On Pages 13 through 20 of Plaintiffs' Exhibit 1, you

10 report the results of your racially polarized voting analysis

11 for the Yakima Valley area. At a high level, what did you

12 find?

13 A   Pretty clear racially polarized voting. All of the

14 different analyses, more or less, correspond with one

15 another. And we're seeing polarization at the 70- to

16 80-percent level, on either side of the racial or ethnic

17 divide, most times. And so it's just hard to say that

18 there's not racially polarized voting in Yakima, as a general

19 situation.

20 Q   And how would you characterize this level of cohesion

21 among Latino voters?

22 A   It's high. It's high. It's occurring every single time

23 pretty much, with the exception of maybe two contests, you

24 see this cohesion going on.

25 Q   Let's pull up Figure 3, on Page 14 of Plaintiffs'

1 polarized voting analysis. So we're kind of in agreement, at

2 least as a principle.

3   So his findings pretty much strengthen my conclusion,

4 because -- basically finding the same thing.

5 Q   All right. Let's go back to Plaintiffs' Exhibit 1, and

6 we're going to turn to Page 28, Table 5.

7   At a high level, can you explain what analysis you

8 conducted here?

9 A   This is a decision timeline, with many different maps that

10 were proposed, you know, over several months.

11   And what it shows, or a couple things, just as a broad

12 picture, that the Commission did consider making this

13 District 14, but ultimately settled on 15. The Commission

14 also was aware of *Gingles* 1, here. As you can see, the

15 Latino CVAP for both 2019 and 2020 goes up, and then down,

16 over the 50 percent threshold, and then down at times.

17   Then also the Commission had available to them, at least

18 it's my understanding, of how the different statewide

19 candidates are doing in the different district

20 configurations. And so the Commission could have drawn a

21 district, they had it -- right? -- that would very likely

22 perform for Latino candidates. And they settled on one that

23 is quite a bit less likely to perform for Latino candidates,

24 based upon what they could have done.

25 Q   Let's turn to Page 31 of your expert report. Here you

1   conduct an additional analysis of the precincts included and

2   excluded in Legislative District 15, in the enacted plan.

3   Can you generally describe this analysis?

4   A   So there were some Latino precincts that could have been

5   in this district, that weren't. And so using my voter file

6   data that I had already coded up and had that ready to go, I

7   was able to compare the precincts that were included in the

8   ultimate enacted map, versus those that were excluded. The

9   population size. But also the voter turnout rate of whites

10 and Hispanics in those very specific areas. Right?

11   I think the method that I'm using is maybe the only way

12 you could do that, at that fine-grain level.

13   And what you basically see is that the -- even though

14 they're all Latino-heavy precincts, the white advantage of

15 voters who ultimately vote in the excluded precincts, is

16 quite a bit lower than the white advantage, in terms of

17 registration and turnout, and voting and voting power, than

18 the included precincts; which is to say white voting power

19 was higher in the included precincts, even though they're

20 high-density Latino, relative to the excluded precincts.

21 Q   Where were the included precincts that you analyzed

22 located?

23 A   This is Adams County. And I list out the precincts, 413,

24 415, 511, 512, and then Grant, 26.

25 Q   Where were the excluded precincts that you analyzed

```
 1  located?

 2  A   Those are in Yakima County.  Wapato, Toppenish, and

 3  Mabton.  Excuse my pronunciation.  The report lists them.

 4  901, 2101, 2102, 2103, 2501, and then 2502.

 5  Q   Are the results of this analysis reported in Table 9, on

 6  Page 32 of Plaintiffs' Exhibit 1?

 7  A   Yes.

 8  Q   What conclusion did you reach, from this analysis of

 9  included and excluded precincts in the Yakima Valley?

10  A   It effectively -- the excluded precincts relatively limit

11  Latino influence, relative to the included precincts,

12  relative to the possible precincts, but that were excluded.

13          MS. HARLESS:  Your Honor, I pass the witness for

14  cross examination.

15          THE COURT:  Thank you very much.  And the first cross

16  will be by Mr. Holt.

17          MR. HOLT:  Your Honor, I've conferred with counsel

18  for the AG.  We think they might be able to complete their

19  examination before lunch.

20          THE COURT:  Okay.  Mr. Hughes?

21                      CROSS EXAMINATION

22  BY MR. HUGHES:

23  Q   Mr. Collingwood --

24          THE COURT:  Could you move that microphone a little

25  closer to you?
```

1   The Honorable Robert S. Lasnik

2

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8   **UNITED STATES DISTRICT COURT**
                      WESTERN DISTRICT OF WASHINGTON
9   **AT SEATTLE**

10   SUSAN SOTO PALMER, et al.   NO. 3:22-cv-5035-RSL

11   Plaintiffs,   STATE OF WASHINGTON'S
                                                    TRIAL BRIEF
12   v.

13   STEVEN HOBBS, in his official capacity
      as Secretary of State of Washington, and
14   the STATE OF WASHINGTON,

15   Defendants,

16   and

17   JOSE TREVINO, ISMAEL G. CAMPOS,
      and State Representative ALEX YBARRA,
18
                Intervenor-Defendants.
19

20

21

22

23

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26

STATE OF WASHINGTON'S TRIAL   ATTORNEY GENERAL OF WASHINGTON
BRIEF   Complex Litigation Division
NO. 3:22-CV-5035-RSL   800 Fifth Avenue, Suite 2000
                                                           Seattle, WA 98104
                          Pl.App.230   (206) 464-7744

1   Order at 29, *Glatt*, No. 4:16-CV-05108-LRS, Dkt. # 40) ("It has been stipulated and this court

2   has found that voting in Pasco evidences racial polarization."). Lastly, in *Aguilar*, a challenge

3   against the at-large voting system used in Yakima County, the parties entered and the court

4   approved a settlement agreement finding that the conditions for a violation of the Washington

5   Voting Rights Act (WVRA), including a showing of racially polarized voting, had been met in

6   Yakima County. Exs. ## 605, 606. While *Montes*, *Glatt*, and *Aguilar* addressed slightly different

7   geographic areas than the area encompassed by LD 15, the findings of racial polarization in those

8   three cases lend support to Dr. Alford's conclusions of racially polarized voting in the Yakima

9   Valley area under the second and third *Gingles* factors.

10
         3.   **The State does not dispute that the evidence will establish that many of the**
11   **Senate Factors are satisfied**

12   As *Gingles* makes clear, "the most important Senate . . . [F]actors bearing on § 2

13   challenges . . . are the extent to which minority group members have been elected to public office

14   in the jurisdiction and the extent to which voting in the elections of the state or political

15   subdivision is racially polarized," factors that are largely incorporated into the precondition

16   analysis. *Gingles*, 478 U.S. at 51 n.15 (quotation omitted).[6] Thus, "it will be only the very

17   unusual case in which the plaintiffs can establish the existence of the three *Gingles* factors but

18   still have failed to establish a violation of § 2 under the totality of circumstances." *Jenkins v. Red*

19   *Clay Consol. Sch. Dist. Bd. of Educ.*, 4 F.3d 1103, 1135 (3d Cir.1993).

20   Here, the State does not dispute that the expert testimony and other evidence will

21   demonstrate that Hispanic voters in the Yakima Valley area are less able than white voters to

22   elect representatives of their choice. Dr. Alford's performance analysis underscores this

23   differential, indicating that while LD 15 is highly competitive, "[t]he preferred candidate of

24
         _____

25   [6] The *Gingles* Court went on: "If present, the other [Senate F]actors, such as the lingering effects of past
     discrimination, the use of appeals to racial bias in election campaigns, and the use of electoral devices which enhance

26   the dilutive effects of multimember districts when substantial white bloc voting exists . . . are supportive of, but *not*
     essential to, a minority voter's claim." *Gingles*, 478 U.S. at 51 n.15 (emphasis in original).

STATE OF WASHINGTON'S TRIAL   12   ATTORNEY GENERAL OF WASHINGTON
BRIEF   Complex Litigation Division
NO. 3:22-CV-5035-RSL   800 Fifth Avenue, Suite 2000
                                    Pl.App.231   Seattle, WA 98104
                                                              (206) 464-7744

Spanish-surnamed voters prevails in three of the ten contests." Ex. # 601 at p. 16. Publicly available data from Dave's Redistricting—the software Commissioners used to draft and share maps—confirms this conclusion, suggesting that LD 15 would have voted fairly consistently against Hispanic-preferred candidates in statewide races from 2016 to 2020, albeit by relatively narrow margins. WA 2022 State Legislatures, Dave's Redistricting LLC, available at https://davesredistricting.org/maps#viewmap::3e3c5f5c-3a83-4847-b1d8-5328fb3b9e31 (last accessed May 31, 2023).

Furthermore, successful Section 2 and WVRA lawsuits in Yakima, Yakima County, and Pasco provide compelling evidence that, historically, Hispanic voters in and around the Yakima Valley have been prevented from electing the candidates of their choice. *Montes*, 40 F. Supp. 3d at 1409–1415; Partial Consent Decree, *Glatt*, No. 4:16-CV-05108-LRS, Dkt. # 16; *Aguilar*, No. 20-2-0018019. A recent history of Section 2 violations is itself highly significant. But *Montes* also includes detailed findings under the Senate Factors. The Court there pointed to historical voting-related discrimination (most notably a 2004 lawsuit against Yakima County for failing to provide Spanish-language voting materials), evidence of racially polarized voting, significant statistical evidence of socio-economic disparities between whites and Hispanics in Yakima, and the lack of electoral success of Hispanic candidates in Yakima to conclude that the Senate Factors "weigh firmly" in favor of Section 2 liability. *Montes*, 40 F. Supp. 3d at 1414. The State cannot dispute that these factors point in the same direction here. *See* Ex. # 004 (Expert Report of Dr. Josué Estrada).[7]

In summary, the State has no basis to dispute that the evidence at trial will demonstrate that the *Soto Palmer* Plaintiffs have satisfied the three *Gingles* preconditions for a Section 2 vote

---

[7] This is not to say that the State agrees with or adopts the conclusions of *Soto Palmer* Plaintiffs' Senate Factors Expert, Dr. Josué Estrada, but merely that many of the facts that were dispositive in *Montes* are essentially undisputed here.

STATE OF WASHINGTON'S TRIAL BRIEF
NO. 3:22-CV-5035-RSL

13

Pl.App.232

ATTORNEY GENERAL OF WASHINGTON
Complex Litigation Division
800 Fifth Avenue, Suite 2000
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1   dilution claim and that, under the totality of the circumstances, Hispanic voters in LD 15 are less

2   able to participate in the political process and elect candidates of their choice than white voters.

3   **B.**   ***Soto Palmer* Plaintiffs Cannot Carry Their Burden to Prove That the Redistricting
              Commission Intentionally Discriminated Against Latino Voters**

4

5   While the State does not dispute that the *Soto Palmer* Plaintiffs can establish a

6   discriminatory result, *Soto Palmer* Plaintiffs will fall far short of proving discriminatory intent

7   within the meaning of Section 2.

8   *Soto Palmer* Plaintiffs face a daunting burden of proof. To prevail on this claim, they

9   must overcome "the presumption of good faith that must be accorded legislative enactments."

10 *Miller v. Johnson*, 515 U.S. 900, 916 (1995). This requires them to prove that "a discriminatory

11 purpose has been a motivating factor in the decision" to adopt LD 15. *Village of Arlington*

12 *Heights v. Metro. Hous. Dev. Corp.,* 429 U.S. 252, 265–66 (1977); *see Brnovich v. Democratic*

13 *Nat'l Comm*., 141 S. Ct. 2321, 2349 (2021) (applying *Arlington Heights* framework to

14 discriminatory intent claim under Section 2 of the VRA). "'Discriminatory purpose' . . . implies

15 more than intent as volition or intent as awareness of consequences . . . . ***It implies that the***

16 ***decision maker . . . selected or reaffirmed a particular course of action at least or in part***

17 ***'because of,' not merely 'in spite of,' its adverse effects upon an identifiable [minority] group***."

18 *Pers. Adm'r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979) (emphasis added) (internal citation

19 omitted); *accord Veasey v. Abbott*, 830 F.3d 216, 231 (5th Cir. 2016) (relying on *Feeney* in

20 considering a discriminatory intent claim under Section 2 and recognizing that "[l]egislators'

21 awareness of a disparate impact on a protected group is not enough: the law must be passed

22 *because of* that disparate impact"); *N.C. State Conf. of NAACP v. McCrory*, 831 F.3d 204, 220

23 (4th 2016) (similar); *see also Hunter v. Underwood*, 471 U.S. 222, 228 (1985) ("Proving the

24 motivation behind official action is often a problematic undertaking."). *Soto Palmer* Plaintiffs

25 cannot meet their burden to prove discriminatory purpose under this demanding standard.

26

STATE OF WASHINGTON'S TRIAL
BRIEF
NO. 3:22-CV-5035-RSL

14

Pl.App.233

ATTORNEY GENERAL OF WASHINGTON
Complex Litigation Division
800 Fifth Avenue, Suite 2000
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(206) 464-7744

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Hon. Robert S. Lasnik

SUSAN SOTO PALMER, et al.,

      Plaintiffs,

    v.

STEVEN HOBBS, in his official capacity
as Secretary of State of Washington, and
the STATE OF WASHINGTON,

      Defendants,

   and

JOSE TREVINO, ISMAEL G. CAMPOS,
and State Representative, ALEX YBARRA,

      Intervenor-Defendants.

Case No. 3:22-cv-05035-RSL

JOINT PRETRIAL STATEMENT
AND [PROPOSED] ORDER

I.   JURISDICTION

1.   The Court has federal jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §§ 1331; 1343(a)(3) and (4); 1357, 42 U.S.C. § 1983, and 52 U.S.C. § 10301. The Court has jurisdiction to grant relief pursuant to 28 U.S.C. §§ 2201 and 2202; the Declaratory Judgments Act, and Federal Rules of Civil Procedure 57 and 65.

2.   The Court has jurisdiction over Plaintiffs' claim for costs and attorneys' fees under Federal Rule of Civil Procedure 54, 42 U.S.C. § 1988, and 52 U.S.C. § 10310(e).

II.   CLAIMS AND DEFENSES

Plaintiffs will pursue the following claims at trial:

1.   Race and language minority discrimination with discriminatory results in violation of Section 2 of the Voting Rights Act, 52 U.S.C. § 10301.

Joint Pretrial Statement and [Proposed] Order   1
No. 3:22-cv-05035-RSL

84.   When HCR 4407 was brought up for a vote in the Washington State Senate, the

Senate Majority Leader, the first senator to speak about the measure, began his speech by stating

that "I want to start by talking about what this resolution is not. It is not an approval of the

redistricting map and the redistricting plans; it's not an endorsement of that plan. The Legislature

does not have the power to approve or endorse the redistricting plan that the Redistricting

Commission approved. What we do have the power to do is to make minor changes. And that

brings us to what this resolution does. This resolution makes over 70 small changes to the

redistricting plan. They're minor, mostly technical changes. Almost all of them were

recommended by the county auditors, who are the local elections officials. And they help to make

the maps work better."

85.   LD 15 in the Enacted Plan has a Hispanic or Latino CVAP of 50.02% and a white

CVAP of 44.9% according to 2019 5-Year ACS estimates. LD 15 in the Enacted Plan has a

Hispanic or Latino CVAP of 51.5% and a white CVAP of 43.2% according to 2020 5-year ACS

estimates.

Map Proposals

86.   The Census Bureau publicly released the 2020 5-Year ACS estimates in March

2022.

87.   None of the four legislative maps proposed by the Commissioners on September

21, 2021 included a district with majority-Hispanic or Latino CVAP.

88.   Plaintiffs use the term "southcentral Washington" to refer to the area encompassed

in Yakima, Adams, Benton, Grant, and Franklin Counties.

89.   The southcentral Washington (as defined by Plaintiffs) district with the highest

Hispanic or Latino CVAP percentage in Commissioner Graves's September 21, 2021 proposal,

Joint Pretrial Statement and [Proposed] Order   14
No. 3:22-cv-05035-RSL

Deposition of Benancio Garcia III

Garcia III v. Hobbs, et ano. / Palmer v. Hobbs, et al.

February 3, 2023

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Garcia III v. Hobbs, et ano. / Palmer v. Hobbs, et al.   Benancio Garcia III

Page 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE
_____

BENANCIO GARCIA III,   )
)
          Plaintiff,   )
)
     v.   ) No. 3:22-cv-5152-RSL
)
STEVEN HOBBS, in his official)
capacity as Secretary of State)
of Washington, and STATE OF   )
WASHINGTON,   )
)
          Defendants.   )
_____)
)
          and   )
)
SUSAN SOTO PALMER, et al.,   )
)
          Plaintiffs,   )
)
     v.   ) No. 3:22-cv-5035
)
SECRETARY OF STATE STEVEN   )
HOBBS, in his official   )
capacity as Secretary of State)
of Washington, et al.   )
)
          Defendants.   )
_____

VIDEOCONFERENCE DEPOSITION UPON ORAL EXAMINATION OF

BENANCIO GARCIA III
_____
          Tacoma, Washington
 (All participants appeared via videoconference.)
DATE TAKEN: FEBRUARY 3, 2023
REPORTED BY: CINDY M. KOCH, RPR, CRR, CCR #2357

Page 2

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Garcia III v. Hobbs, et ano. / Palmer v. Hobbs, et al.   Benancio Garcia III

Page 73

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 1    BY MR. GABER:
 2       Q.  And is that the case in the Pasco area as well?
 3       A.  Tri-Cities tends to do better, but I can't say
 4    that that is, because I wouldn't know, but I can say in
 5    Yakima, Lower Valley, free school lunch, you know.  You
 6    can see a lot of that and that purpose, but I can't say
 7    I would -- I could say, you know, Tri-Cities itself.
 8       Q.  Okay.  But the -- the Yakima and the Lower
 9    Valley, the Latino communities would share that in
10    common?
11       A.  Yeah, most would have that in common in that
12    demographic area.
13       Q.  And you were speaking in particular about how
14    you would be the only candidate in your primary race who
15    would be able to represent the Latino people.
16          Was it your impression that the candidates you
17    were running against were not really campaigning for
18    Latino votes in the primary?
19       A.  No.  What I'm trying to say is that I want more
20    participation, and it's time for -- to try to get
21    everybody registered, which is, you know, a large Latino
22    population.  You know, you want to see Latino
23    representation in leadership positions, but you want to
24    make sure that you do it through a fair process under
25    our constitution.
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 1          So you're representing everyone.  I want to
 2    make that clear.  You're representing everyone, and --
 3    and you're doing what's in the best interest of your
 4    district, you know, or 4th Congressional District, I
 5    should say.  So you're representing everybody.
 6          What I want to see is more inclusion across the
 7    board, you know, and that's why, when I went out there
 8    to try to register voters, I didn't care who you are.  I
 9    want you to register, please.  It's that important.
10       Q.  I agree with that.  I get that.
11          Is it your impression that, in particular,
12    there's lower voter registration among Latino voters in
13    Yakima County than is the case with the proportion of
14    white voters who are registered to vote?
15       A.  It's been proven in the past, and you can look
16    at some of the news articles that Yakima Herald has put
17    out, that, you know, even though there's a large
18    representation in the Latino population, that when it
19    comes time to vote, unfortunately, there hasn't been
20    large numbers in being able to vote for whatever
21    candidate.
22       Q.  Right.  So that's lower voter turnout among
23    Latino voters in Yakima area, as well as lower voter --
24       A.  Lower turnout in overall aspects.
25       Q.  Okay.
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 1       A.  Yeah, in the 4th District.
 2       Q.  Now, I read a newspaper article about a
 3    controversy surrounding telephone messages that
 4    supporters of yours wanted to be put out by the State
 5    Republican Party, and there was an article where you
 6    were criticizing the party for its actions there.
 7          Do you recall that?
 8       A.  That's correct.  Absolutely.  That's correct.
 9       Q.  And one of the things that you alleged was that
10    the State Republican Party was trying to suppress Latino
11    voters in the primary.
12          Do you recall that?
13       A.  Absolutely.  That is correct.
14       Q.  Can you just talk a little bit, explain that --
15    that event and -- and what --
16       A.  I will.  First of all, I was one of five
17    Latinos in the nation to get supported out of Latino
18    StrikeForce out of Texas.  Now, the RNC was involved to
19    help use the -- the phone bank system of the Republican
20    Party.
21          Now, we created our message, both in Spanish
22    and English, and we had approval to do this.  And so for
23    every registered 4th District Latino Republican, we put
24    on that phone bank.
25          Now, this phone bank system was to help us to
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 1    get our vote out.  And so the message was changed,
 2    re- -- an RNC member who worked with the Washington
 3    State Republican Party, with Caleb, who's the chairman
 4    of the Washington State Republican Party and his
 5    staffing, we had to get approval to use that, and we
 6    finally did.
 7          It was greatly delayed, for about three months.
 8    Not only was it delayed, but when we got the messaging
 9    out there for the voicemail, we had done over 10,000
10    plus phone calls.
11          And they switched the voicemail message.  And
12    so it looked like Washington State Republican Party, a
13    general message, instead of saying, vote for Benancio
14    Garcia, 4th Congressional District candidate, and here's
15    the reason why.
16          Now, the only reason we found out about that
17    was because an RNC member quit.  Gave me a phone call,
18    said, Ben, I quit because the Washington Republican
19    Party switched your voicemail.  That is suppressing the
20    Latino vote.
21          Then there is the second aspect of things,
22    number two.  They had funds -- Washington State
23    Republican Party had funds to hire two supervisors, one
24    in Yakima and one in Wenatchee, to register Republican
25    Latinos.  They hired nobody.
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19 (Pages 73 to 76)

Garcia III v. Hobbs, et ano. / Palmer v. Hobbs, et al.   Benancio Garcia III

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 1          Me being the only Latino representative, it
 2   would have favored.  Dan Newhouse would no longer be
 3   your congressional victor.  It probably would have been
 4   Culp.  But they greatly affected this election, the
 5   outcome, and suppressed the Latino vote.
 6          Q.  And was it your sense that that was sort of a
 7   coordinated effort in the State Republican Party, to
 8   suppress the Latino vote in the area?
 9          A.  What I will say is this:  They say it was a
10   mistake.  There's no mistakes in a congressional race
11   like this.  We have a third party out of Texas that told
12   them there was no misunderstanding to -- and --
13   misunderstanding about this.
14          As a matter of fact, you know, you probably
15   didn't see this, since you did your research on me.  Did
16   you see the fact that I saved somebody's life in a --
17          Q.  I did --
18          A.  -- mass shooting?  You know?
19          Q.  I did see that, and that was extraordinarily
20   impressive.
21          A.  You know, I thank God that I was there at the
22   right place, right time.  My -- my thing is like it was.
23   I didn't change.  I believe in seeing all people's
24   rights.  I believe strongly in the civil rights.
25          That's why I was Ebony Senate rep in college.
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 1   And I feel -- and it doesn't matter which party it is.
 2   I will do the right thing.  For our voice not to be
 3   heard and what I feel is suppression, we can disagree
 4   upon this, and I welcome a lawsuit, you know.
 5          We did not get fair representation in this 4th
 6   Congressional District race.  And it's not on the
 7   candidate.  This was done -- they can say, well, Ben,
 8   you know you need to pay for that.
 9          At no point in time, especially since I was
10   supported by a third party who is well connected to the
11   RNC, was that ever brought up.  Why didn't you ask me,
12   we can't do this, instead of having my volunteers phone
13   bank, and instead of having my voice message out, it was
14   for the Washington State Republican Party.  Not
15   acceptable.
16          Q.  And is it the case that you didn't find out
17   about this until after this had -- the decision had been
18   made not to use your message?
19          A.  It was before.  It was before the decision.  I
20   found out during the campaign process, but, you know,
21   those are -- are strong challenges when you've already
22   committed so many hours and so much in volunteers to
23   have to overcome.  You can't take that time back.
24          Q.  Right.
25          A.  The impact has already been done.
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 1          Q.  You said the RNC member told you he was
 2   quitting because of this; is that right?
 3          A.  That's my understanding.
 4          Q.  And that was because of the suppression of the
 5   Latino vote in your race?
 6          A.  Because of what happened in my race, yes,
 7   that's correct.
 8          Q.  Has anything been done to rectify the situation
 9   with the State Republican Party?
10          A.  What I -- what I do want to do is go ahead,
11   after I'm completely settled in in my home and -- and
12   take care of other personal matters, I will go ahead and
13   then write a letter to the RNC, write a letter to the
14   state chairman, and write a letter to the 4th District
15   chairmen, chairpersons, and let them know about what has
16   occurred, what has happened.
17          This isn't just my word.  You know, to be
18   supported, one in five in the nation, Latinos, that's a
19   privilege, and to know that the phone bank system does
20   work because they have a history of getting winning
21   candidates.
22          So I will be putting that out there, and I will
23   leave it in the hands of the Republican Party on what
24   they want to do, but I will certainly entertain the fact
25   that I may take legal aspects on this in some manner
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 1   because what occurred is not acceptable.  And I am a
 2   fighter, you know.  And if it's wrong, I will fight it.
 3          Q.  Did you hear from Latino voters who were upset
 4   that this had happened in your race?
 5          A.  A lot of people were upset.  I gave a speech
 6   about it in Ellensburg -- not Ellensburg.  I gave a
 7   speech about it -- oh, gosh, what district?  I gave a
 8   speech about it, and some of the candidates had
 9   questions, you know, like what are you talking about
10   exactly here?  You know.
11          And this, like I said, was later on toward --
12   you know, toward the end, where, you know, you had to
13   make it clear how the facts have occurred.  And the
14   people were upset, you know.
15          And what was wonderful is, you know, to see
16   some of the candidates say, what exactly are we talking
17   about here, whether it was Culp's people or whether it
18   was Sessler's people, you know, or it was people in
19   general that were there asking questions, you know, "Are
20   you saying this happened?"
21          I go, "Absolutely, and this is why."
22          And it's just not my word.  You don't give us
23   access to your phone bank system -- because they, like
24   the Democrat Party can go ahead and say, hey, let me
25   see -- look at your -- look at your phone system, you
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1   Q. Well, I can tell you your counsel's had them
2   for two weeks, and I understand the need for more time,
3   particularly given the circumstance with the fire at
4   your house.
5   I would, you know, request that we -- and would
6   you be agreeable to maybe sit with us again if we have
7   any questions based on what's in those documents?
8   A. I would. There were some text messages that
9   were sent, and, you know, I made -- we made some phone
10 calls to -- to the fact, you know, and it was basically
11 one reporter that basically, you know -- and it was just
12 a phone call.
13   So -- they were trying to understand how this
14 was suppressing the vote, you know, or they wanted a
15 complete, you know -- like, who's the one that did it?
16 Well, you know -- evidence on that.
17   And I'm like, wait a minute. We've got a video
18 on the training. We've got an email that -- from the
19 Latino StrikeForce. We had access to their phone
20 banking system.
21   We created our own district in the sense of all
22 registered Latino voters, Republican voters. 10,000
23 phone calls were made and the voicemail was switched.
24 You don't have access to all that, and not have their
25 permission for it, and there's no misunderstanding of

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1   why we're doing it.
2   So, you know, it's just not acceptable. If
3   they wanted to say no because maybe they have a
4   candidate dog in the fight, that they would hopefully
5   let you know, then just say no.
6   But I know -- I have a hard time trusting
7   politicians, and I have a hard time trusting lawyers,
8   you know. Just being honest. And -- so, you know, I
9   guess I'm the little guy fighting for the big dream, but
10 I -- I believe that I will be where I need to be in a
11 little while because I'm a big fighter.
12   Q. Well, I have no doubt about that. With respect
13 to the -- sorry. Back to the text messages. It sounds
14 like there's some texts that you exchanged with the
15 Latino Task Force people; is that --
16   A. StrikeForce.
17   Q. StrikeForce?
18   A. Latino StrikeForce out of Texas.
19   Q. Okay.
20   A. Yes, there is, you know.
21   Q. Okay.
22   A. Yes, there is.
23   Q. And you still have all of those?
24   A. I should have the texts because, like I said, I
25 was on the phone the moment I found out, and Manice had

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1   verbally given me the -- why he quit, but -- in his text
2   message, it was a little different, that they removed
3   the Spanish version, you know, on the text message.
4   So, you know, we both were pretty disheartened
5   in -- in what we want to see in leadership. How could
6   you not let the Latino StrikeForce know? How can you
7   not let the RNC member know? How can you not let my
8   staff or myself know? That's a big, big mistake. Out
9   of respect of me running for congress, how can you not
10 let any of these organizations know?
11   Q. And so the Spanish language part was removed as
12 well?
13   A. Yes.
14   Q. And just to clarify, the -- you know, I know
15 you're -- the Congressional District 4 is larger than --
16   A. It's the largest.
17   Q. Yeah.
18   A. It's the largest in the state.
19   Q. But it covers all of Yakima County; is that
20 right?
21   A. Yes.
22   Q. And then it also includes Benton County and
23 Grant County; is that right?
24   A. Yeah. All the way from the Canadian border,
25 from Okanogan, basically almost central, almost Central

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1   Washington, down to the Columbia. Klickitat, Benton,
2   Franklin, Adams, Grant, Okanogan, Yakima. At one point
3   it was parts of Walla Walla, a little tiny part, you
4   know.
5   Q. And so Pasco is in the district as well; right?
6   A. Absolutely.
7   Q. And Othello and Adams County?
8   A. Yes.
9   Q. And then all of -- all of Yakima. Mattawa's in
10 the district?
11   A. Yes.
12   Q. So there's quite a bit of overlap between
13 District 15 in the legislative map and District 4 for
14 the congressional plan?
15   A. Yeah.
16   Q. Now, I understand that you need time to look
17 for the documents. Have you looked through them at all
18 in response to the subpoena --
19   A. No.
20   Q. -- for today?
21   A. No, no.
22   Q. Okay.
23   A. And to be honest, I wasn't sure what -- what
24 you would want from me in documents, or how the
25 question -- you know, the -- seriously? She just banged

23 (Pages 89 to 92)

Soto Palmer, et al.
v.
Hobbs, et al.

* * * * *

Remote Deposition Upon Oral Examination of
Alex Ybarra
December 5, 2022

* * * * *

REPORTED BY:
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Alex Ybarra   December 5, 2022

Page 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

_____
)
SUSAN SOTO PALMER, et al.,   )
)
        Plaintiffs,   )
)
    v.   )
)
STEVEN HOBBS, in his official   )
capacity as Secretary of State)
of Washington, and the STATE OF)
WASHINGTON,   ) No. 3:22-cv-05035-RSL
)
        Defendants,   )
)
    and   )
)
JOSE TREVINO, ISMAEL G. CAMPOS,)
and State Representative   )
ALEX YBARRA,   )
)
        Intervenor-Defendants.)
_____)

REMOTE DEPOSITION UPON ORAL EXAMINATION OF
ALEX YBARRA

Monday, December 5, 2022
9:00 a.m. to 12:35 p.m.

REPORTED BY: LAKESIDE REPORTING
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 4    By Mr. Stokesbary                121
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 7              * * * * *
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 9           E X H I B I T S
10  NUMBER      DESCRIPTION        INTRODUCED
11    1    Intervenor-Defendants' Objections    114
           and Responses to Plaintiffs' First
12         Set of Interrogatories
13    2    Intervenor-Defendants' Objections    114
           and Responses to Plaintiffs' Second
14         Set of Interrogatories
15
16
17
18
19
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21
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23
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25
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Page 4

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 1       December 5, 2022, Remote Proceedings:
 2       PROCEEDINGS:  9:00 a.m.
 3          (Discussion off the record.)
 4          ALEJANDRO "ALEX" YBARRA,
 5  having been sworn/affirmed on oath to tell the truth, the
 6  whole truth, and nothing but the truth, testified as
 7  follows:
 8          E X A M I N A T I O N
 9  BY MS. LEEPER:
10  Q    Okay.  Good morning, Representative Ybarra.  We just
11  met off the record, but for the record my name is
12  Simone Leeper, and I'm counsel for the plaintiffs in the
13  Soto Palmer v. Hobbs case.
14       I'm going to identify some other individuals that
15  you'll see on your Zoom screen now, which is the other
16  attorneys in the room.  So obviously you know your
17  Representative Drew Stokesbary.  Also online is Kate
18  Worthington for the Secretary of State and Andrew Hughes
19  for the State of Washington.
20       Off video but also joining us are some additional
21  people from the counsel of the plaintiffs' team, and
22  that's Annabelle Harless, Ben Phillips, Mark Gaber,
23  Aseem Mulji, and Ellen Boettcher.  So they'll be joining
24  us today but staying off camera.
25       I'd love to go over just some of the ground rules of
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1 (Pages 1 to 4)

Alex Ybarra   December 5, 2022

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1 Q   Okay. Could you tell me what you know about the

2 process of redistricting in general?

3 A   Just in general, there's a law or -- a law out there

4 that says you shall get two Republicans, two Democrats are

5 part of the team. They're going to hire a chairman or

6 chairwoman to run the group.

7   And then these four folks get some staff to help

8 them draw the lines. They get software, and then they

9 start drawing the lines to make sure they have the same

10 amount of people in each district.

11 Q   Do you know anything in particular about the process

12 of redistricting state legislative districts in the state

13 of Washington?

14 A   Can you clarify --

15 Q   Yeah.

16 A   -- your question?

17 Q   So you sort of told me what you know about

18 redistricting in general, but do you have any more

19 specific information about the process of redistricting

20 specifically Washington's state legislative districts?

21 A   Well, I can tell you that there's some -- some

22 requirements about what the redistricting team has to do

23 is to make sure that, you know, the folks that live in a

24 particular area are kind of -- you know, stay together,

25 you know, for instance. At least that they try to do

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1 that.

2   They try to make sure if there's any physical

3 barriers, like the Cascade mountains, you don't want to

4 cross them because it's kind of hard to do, or things like

5 that. And they want to -- I think they have to be --

6 Every district has to be continuous. It can't be broken

7 up in pieces.

8   So those are kind of the general rules that they

9 have out there.

10 Q   And what's informing your understanding of state

11 legislative redistricting in Washington?

12 A   Because I think I -- I think there was a -- Somebody

13 gave me a paper or something, if I remember right, and

14 said, "How does it work?" And this is how it works, like

15 a two-pager.

16 Q   And was that during the 2021 redistricting process?

17 A   Yes.

18 Q   What do you know about the Federal Voting Rights

19 Act?

20 A   Not much.

21 Q   What little do you know?

22 A   The vote has to be fair, and fair depends on where

23 you're sitting. So if you're in Yakima, it's going to be

24 different than it would be in Quincy, so --

25 Q   You currently live in Legislative District 13; is

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1 that correct?

2 A   I do.

3 Q   And prior to the 2021 redistricting you lived in

4 Legislative District 13 as well; is that right?

5 A   State that again.

6 Q   And you also lived in Legislative District 13 prior

7 to the most recent round of redistricting; correct?

8 A   Yes.

9 Q   And as we've discussed, you currently represent

10 LD 13 in the Washington legislature; correct?

11 A   Yes.

12 Q   Do you have any objections to the configuration of

13 LD 13 that resulted from the 2021 redistricting process?

14 A   I wouldn't call them objections, but I want Mattawa

15 back and Schwana. They -- I live in Grant County. They

16 live in Grant County. Our utilities are Grant County PUD.

17   They live in -- They go to the Mattawa or the Waluke

18 School District, which is my -- As a school board member I

19 represent the Waluke School District. So they're a Grant

20 County community, not a Yakima County community.

21   And so being in the 15th, I think they're -- You

22 know, they may not get the representation that they may

23 receive if they were -- have representation from the 13th.

24 Q   And do you see LD 13 as representing Grant

25 communities more so than Yakima communities?

Page 80

1 A   To some extent, yes.

2 Q   What part of your district would you prefer to lose

3 to gain back Mattawa and Schwana?

4 A   Yakima -- Yakima areas.

5 Q   And why is that?

6 A   Because they're close. They're -- Because Yakima is

7 farther way from where my district is. It's the way far

8 south part of my district, my new district.

9   And so there's a piece right in the middle of my

10 district that is much closer to the center of the

11 District 13 than some of those Yakima areas.

12 Q   Do you believe that you would be harmed if the

13 configuration of LD 15 was to be changed right now?

14 A   Would I be harmed?

15 Q   Yes.

16 A   Yeah. Yeah, I think so.

17 Q   How so?

18 A   Well, I'm already starting to go to the new areas

19 that I represent and speaking with those constituents and,

20 you know, figuring out what their issues are and trying to

21 help them.

22   Session is coming up in January, and so there's a

23 lot of work to be done to support all my new communities

24 that I represent. And so all that work that I've been

25 putting in and the rest of the legislators of the 13th

20 (Pages 77 to 80)

Soto Palmer, et al. v. Hobbs, et al.
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Pl.App.243

Expert Report of Dr. Loren Collingwood

Loren Collingwood

2022-11-02

Executive Summary

I have been retained by plaintiffs as an expert and have been asked to analyze whether there is racially polarized voting (RPV) in the Yakima Valley and surrounding areas; to analyze demographic data and examine maps proposed or drafted during the 2021 redistricting process, the Enacted Plan, and Plaintiffs' demonstrative plans; and to conduct electoral performance analyses for a number of plans.

RPV refers to a sustained pattern of voting decisions where race or ethnicity determines electoral outcomes in whole or in part. RPV occurs when white voters cast ballots for the same set of candidates and minority voters cast ballots for a different set of candidates. Specifically, in order to determine the extent of RPV, I was asked to examine whether Latino voters in the Yakima Valley and surrounding areas are politically cohesive and whether white voters vote sufficiently as a bloc to usually prevent Latino voters from electing their candidates of choice.[1]

Across 25 elections in and around the Yakima Valley and surrounding areas, featuring statewide elections, state legislative elections, and county elections, several involving Latino candidates, I find very clear patterns of RPV between Anglo and Latino voters in 23 out of 25 (92%) contests. I describe the methods I used to examine RPV and findings in further detail below in my report.

I also conducted what is referred to as a performance analysis (or reconstituted elections analysis). An electoral performance analysis reconstructs previous election results based on new district boundaries to assess whether a minority-preferred or white preferred candidate is most likely to win in different district configurations (i.e., a newly adopted legislative district vs. a demonstrative plan). I only examined previous elections held in jurisdictions (i.e., statewide) that can cover the new enacted map or Plaintiffs' demonstrative plans because district boundaries change from one redistricting cycle to the next. I conducted a performance analysis for Legislative District 15 (LD 15) in the Enacted Plan, as well as three demonstratives for Legislative District 14 (LD 14) provided by Plaintiffs.

---

[1] Throughout the report I refer to white, Anglo, and non-Hispanic white voters interchangeably. I refer to Latino and Hispanic voters interchangeably.

Additionally, I analyzed redistricting criteria, like compactness, of the LD 15 Enacted and LD 14 demonstrative district plans. Across all criteria, the Demonstrative plans perform comparatively to the Enacted plan. I also reviewed a timeline of the draft maps from the Washington State Redistricting Commission. The timeline shows that several of the maps considered by the Commission would have produced a district in the Yakima Valley that would very likely provide Latino voters the ability to elect legislative candidates of choice.

Moreover, I conducted a voter turnout analysis by race/ethnicity. The results show that white voters gain a turnout advantage in off years (i.e., 2018) vs. in presidential years (i.e., 2020). Thus, the labeling of the district as LD 15 vs. LD 14 reduces Latino voters' ability to elect a candidate of choice. I also analyzed the precincts with large Latino populations that the Commission included in Adams and Grant Counties and those it excluded in Yakima County and find that the included precincts have lower Latino voter registration and disproportionately whiter electorates (relative to voter registration) than the excluded Yakima County precincts.

Based on my analysis, I conclude the following:

- RPV between white and Latino voters is present in 23 of 25 elections I analyzed across 5 election cycles.

- I analyzed votes in elections spanning the whole region as well as elections in specific parts of the region, including county district offices and relevant parts of legislative districts. The results are consistent: RPV is present.

- Latino voters are politically cohesive. Latino voters consistently vote as a group for the same candidates, regularly casting ballots between 75-80% for the Democratic candidate in the partisan contests I analyzed. Meanwhile, a similar share of white voters consistently cast ballots for the Republican candidate.

- I also analyzed a variety of contests featuring Spanish-surname candidates. Latino voters consistently vote as a group for the same candidates, regularly casting ballots between 65-90% for the Spanish-surname candidate. Meanwhile, a similar share of white voters consistently cast ballots for the non-Spanish-surname candidate.

- In the enacted Legislative District 15, white voters voted with sufficient cohesion to defeat the minority-preferred candidate in 7 out of 10 contests that I analyzed, for a block rate of 70%.[2] Thus, I conclude that white voters usually defeat Latino voters' candidates of choice.

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[2] Between my initial declaration and the drafting of this report, I updated my methodology for evaluating split precincts. I discuss the approach at length further into the report. The result is that one contest, the presidential 2020, switched from narrowly preferencing Trump to narrowly preferencing Biden. My updated approach produces almost identical performance results as those observed in Dave's Redistricting software – a free online

- In Plaintiffs' Demonstrative Map 1, Latino voters' preferred candidate prevailed in 10 of 10 contests that I analyzed.

- In Plaintiffs' Demonstrative Map 2, Latino voters' preferred candidate prevailed in 10 of 10 contests that I analyzed.

- In Plaintiffs' Demonstrative map 3; Latino voters' preferred candidate prevailed in 9 of 10 contests that I analyzed.

- Plaintiffs' demonstrative maps perform similarly on redistricting criteria as compared to the enacted map, including on compactness scores, contiguity, population deviation, and county and precinct splits. All three of Plaintiffs' demonstrative maps contain a Legislative District 14 with over 50% Latino Citizen Voting Age Population (CVAP).

- A review of the Commission timeline shows that several of the maps considered by the Commission would have produced a district in the region that would very likely provide Latino voters the ability to elect legislative candidates of choice. Instead, the Commission chose a district that maximally reduces Latinos' ability to elect candidates of choice.

- Anglo voters vote at higher rates than Latino voters in both the 2020 and 2018 general elections. However, the voter turnout gap between the two groups widens in 2018 (when LD 15 would be up for election) relative to 2020 (when LD 14 would be up). Further, the Commission failed to include several high-density Latino precincts into the plan, instead opting to include precincts with fewer Latinos who also vote at a lower rate.

My opinions are based on the following data sources: Washington State general election precinct returns from 2012-2020; individual-level voter file data produced from the Secretary of State's (SoS) office capturing voters who cast ballots in the 2012, 2014, 2016, 2018, and 2020 general elections; the 2012 and 2020 individual voter file capturing voting in those years' primary elections; 2010 and 2020 US Census block data; the 2010 Census surname database; the shape files for the Enacted Plan; and geojson, block assignment, or shape files for the Commission's draft maps and Plaintiffs' demonstrative maps provided by Plaintiffs' counsel. My opinions are also based upon my general expertise and experience. My work is ongoing in this matter, and my opinions are based on the information available to me as of the date of this report. I reserve the right to supplement or amend my findings based on additional information.

I am being compensated at a rate of $400/hour. My compensation is not contingent on the opinions expressed in this report, on my testimony, or on the outcome of this case.

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database analysts used to evaluate redistricting plans. The very minor change does not alter my overall opinions.

The rest of the report explains my methods and presents my results, including: 1) a review of the method I used to estimate precinct racial demographics; 2) a list of the elections analyzed, 3) 5-County RPV analysis using statewide contests and one congressional contest; 4) Spanish-surname candidate analysis; 5) electoral performance analysis of both enacted and alternative maps; 6) compactness and district characteristics analysis; 7) analysis of the redistricting commission's timeline; and 8) voter turnout analysis by race.

Background and Qualifications

I am an associate professor of political science at the University of New Mexico. Previously, I was an associate professor of political science and co-director of civic engagement at the Center for Social Innovation at the University of California, Riverside. I have published two books with *Oxford University Press*, 39 peer-reviewed journal articles, and nearly a dozen book chapters focusing on sanctuary cities, race/ethnic politics, election administration, and RPV. I received a Ph.D. in political science with a concentration in political methodology and applied statistics from the University of Washington in 2012 and a B.A. in psychology from the California State University, Chico, in 2002. I have attached my curriculum vitae, which includes an up-to-date list of publications, as Exhibit 1 to this report.

In between obtaining my B.A. and Ph.D., I spent 3-4 years working in private consulting for the survey research firm Greenberg Quinlan Rosner Research in Washington, D.C. I also founded the research firm Collingwood Research, which focuses primarily on the statistical and demographic analysis of political data for a wide array of clients, and lead redistricting, map-drawing, and demographic analysis for the Inland Empire Funding Alliance in Southern California. I was the redistricting consultant for the West Contra Costa Unified School District's independent redistricting commission in California, where I was charged with drawing court-ordered single-member districts. I am contracted with the Roswell, NM, Independent School District to draw single member districts.

I served as a testifying expert for the plaintiff in the Voting Rights Act Section 2 case *NAACP v. East Ramapo Central School District*, No. 17 Civ. 8943 (S.D.N.Y.), on which I worked from 2018 to 2020. In that case, I used the statistical software eiCompare and WRU to implement Bayesian Improved Surname Geocoding (BISG) to identify the racial/ethnic demographics of voters and estimate candidate preference by race using ecological data. I am the quantitative expert in *LULAC v. Pate* (Iowa), 2021, and have filed an expert report in that case. I am the BISG expert in *LULAC Texas et al. v. John Scott et al.*, No. 1:21-cv-0786-XR, 2022. I filed two reports and have been deposed in that case. I was the RPV expert for the plaintiff in *East St. Louis Branch NAACP, et al. v. Illinois State Board of Elections, et al.*, and filed two reports in that case. I was the Senate Factors expert for plaintiff in *Pendergrass v. Raffensperger* (N.D. Ga. 2021), and filed a report in that case. I served as the RPV expert for plaintiff in *Johnson, et al., v. WEC, et al.*, No. 2021AP1450-OA, and filed three reports in that case. I was the RPV expert for plaintiff in *Faith Rivera, et al. v. Scott Schwab and Michael Abbott*. I filed a report, was deposed, and testified at trial in that case. I served as the RPV expert for the intervenor in *Walen and Henderson v. Burgum and Jaeger*, No 1:22-cv-00031-PDW-CRH, where I filed a report and testified at trial. I am the RPV expert in *Lower Brule Sioux Tribe v. Lyman County*, where I filed a report and testified at trial.

I.   Racially Polarized Voting

RPV occurs when minority voters regularly vote for one candidate or set of candidates, and white voters regularly vote for another candidate or set of candidates. The favored candidate of minority voters is called a "candidate of choice." To assess RPV in the present case, we test whether Hispanic voters back the same candidate and whether Anglo voters favor a different candidate.

As a general rule, RPV scholars turn to precinct vote returns and estimates of racial demographics in the same geolocation to assess the presence or absence of RPV. I analyze multiple elections across five election years (2012, 2014, 2016, 2018, and 2020) to determine whether a pattern of RPV is present in the Yakima Valley region and surrounding areas and within specific electoral districts (i.e., previous legislative district 15). I look at these five years of elections because Secretary Hobbs provided historical voter files for those same years, which is my source of demographic voting data, and because these years feature Latino or Spanish-surname candidates.

RPV does not necessarily mean voters are racist or intend to discriminate. However, in situations where RPV is present, majority voters may often be able to block minority voters from electing candidates of choice by voting as a broadly unified bloc against minority voters' preferred candidate. At issue in this report, however, is whether the enacted state legislative map dilutes Latino voters' votes in and around Legislative District 15 in the Enacted Plan. Figure 1 highlights the specific counties in which I conduct an RPV analysis: Adams, Benton, Franklin, Grant, and Yakima.

Figure 1. Yakima Valley and surrounding areas, WA 5-County Focus Area.
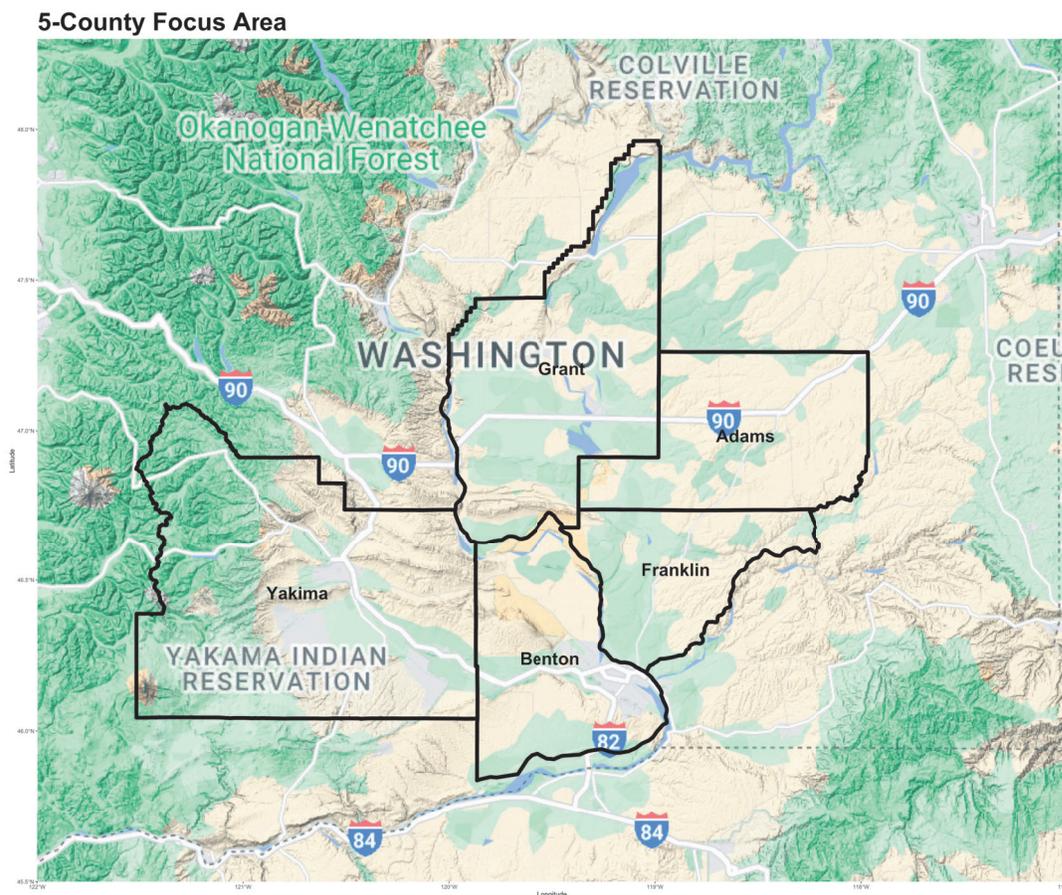
A. Racially Polarized Voting Estimation Approach

To determine if RPV exists in different geographic areas, it is generally necessary to infer individual level voting behavior from aggregate data – a problem called ecological inference. The analysis attempts to observe how groups of voters (i.e., Latinos or non-Hispanic whites) voted in a particular election based on precinct vote returns and the demographic composition of the people who live in those precincts.

There are several methods for analyzing whether RPV exists: homogeneous precinct analysis (i.e., taking the vote average across high density white precincts vs. high density Hispanic precincts), ecological regression (ER), ecological inference (EI), and ecological inference Rows by Columns (RxC). In this report, I rely on the ecological inference (EI) and the Rows by Column (RxC) methods to assess whether voting is racially polarized, using functions in the eiCompare R package (Collingwood et al. 2020). I focus my attention on the two top-of-the-ticket candidates in each contest. I present vote-choice estimates for Latino and non-Hispanic white voters.

My assessment is based on 21 general election contests and four primary contests using two different types of statistical analyses, each producing vote choice by race. The results of

my analysis show that RPV between Latino and non-Hispanic white voters is clearly present in 23 of the 25 contests I analyzed (92%).

B. List of General Elections Analyzed

Tables 1 and 2 list the 21 general and four primary elections I analyzed, with columns indicating year, contest, type (general or primary), whether the contest is partisan, Democratic and Republican candidate names in the context of partisan contests, Spanish-surname and non-Spanish surname in the case of non-partisan contests, and whether RPV is present. I focus on contests between 2012-2020 because those are the years for which I have historical voter file data that I use to generate precinct demographic estimates and because these are the most probative elections. I analyze the statewide contests subset to the 5-county region, but in some of the local contests I only analyze the results in one county (i.e., county supervisor). In my discussion of the results, I note the geography subsets explicitly.

Table 1. List of partisan contests analyzed, between 2012-2020.

Year	Contest	Type	Partisan	DemCandidate	GOPCandidate	RPV
2020	President	General	YES	Biden	Trump	YES
2020	Governor	General	YES	Inslee	Culp	YES
2020	Attorney General	General	YES	Ferguson	Larkin	YES
2020	Treasurer	General	YES	Pellicciotti	Davidson	YES
2018	U.S. Senate	General	YES	Cantwell	Hutchinson	YES
2018	U.S. Rep D4	General	YES	Brown	Newhouse	YES
2018	LD 15 State Senate	General	YES	Aguilar	Honeyford	YES
2016	U.S. Senate	General	YES	Murray	Vance	YES
2016	President	General	YES	Clinton	Trump	YES
2016	Governor	General	YES	Inslee	Bryant	YES
2012	LD 15 Position 2	Primary	YES	Gonzalez	Taylor	YES
2012	LD 15 State Rep.	General	YES	Gonzalez	Taylor	YES
2014	LD-15 State Senate	Primary	YES	Munoz	Honeyford	YES
2014	LD-15 position 2	Primary	YES	Martinez-Chavez	Taylor	YES
2014	LD 15 State Senate	General	YES	Munoz	Honeyford	YES
2014	LD 15 State Rep.	General	YES	Martinez-Chavez	Taylor	YES
2016	LD-14 Position 1	General	YES	Soto Palmer	Johnson	YES
2020	LD-13 Position 1	Primary	YES	Castaneda Diaz	Dent	YES
2020	LD 13 Position 1	General	YES	Castaneda Diaz	Dent	YES

Table 2. List of non-partisan contests analyzed, between 2012-2020.

Year	Contest	Partisan	SpanishSurname	NonSpanishSurname	RPV
2020	Franklin County Commish D2	NO	Peralta	Mullin	YES
2020	State Supreme Court, Seat 3	NO	Montoya-Lewis	Larson	YES
2020	Sup. of Public Instruction	NO	Espinoza	Reykdal	NO
2018	State Supreme Court, Seat 8	NO	Gonzalez	Choi	NO
2018	Yakima County Board D3	NO	Soto Palmer	Childress	YES
2016	Yakima County Board D2	NO	Manjarrez	Anderson	YES

C. Data Preparation

To conduct the RPV analysis, I gathered precinct election returns from the Washington Secretary of State election results website[3] and the Redistricting Data Hub.[4] I also downloaded precinct shape files from the Secretary of State's website,[5] and the Redistricting Commission's website.

Beginning with the precinct vote returns, for each election contest I analyze, I divide each candidate's vote by the total number of votes in that election, as well as the total number of estimated voters in that precinct. For example, in a precinct with 1,000 voters, if Biden scored 800 votes and Trump 200, I produce a Percent Biden value of 0.8 (80%) and a Percent Trump value of 0.2 (20%). However, my approach also lets me capture possible voter drop off for different election contests. Thus, while 1000 people might have voted in the presidential contest, maybe just 850 cast ballots for another contest in the same election year. Thus, I further account for no vote in these down-ballot races. In the statistical model, I then weight each precinct by its total vote size to account for variation in precinct population size.

Next, I generate the demographic statistics of each voting precinct. Analysts can generate precinct demographics in a variety of ways all containing some degree of estimation. One common approach is to use citizen voting age population (CVAP) data from the American Community Survey (ACS) 5-year estimates. The ACS is a roughly 2% sample of all American households per year. Thus, by stacking the ACS across five years, a mid-point estimate captures roughly 10% of American households. The advantage of the ACS over the U.S. Census is that it is ongoing instead of only every 10 years, and the ACS includes questions about citizenship status. This latter advantage is crucial in estimating Latino voting since

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[3] https://www.sos.wa.gov/elections/research/election-results-and-voters-pamphlets.aspx

[4] https://redistrictingdatahub.org/state/washington/

[5] https://www.sos.wa.gov/elections/research/precinct-shapefiles.aspx

many U.S. Latinos are not citizens and thus using voting age population as a demographic indicator can vastly over-estimate the size of the Latino electorate.

Using ACS data requires statisticians to estimate precinct demographics using spatial interpolation methods from block group to the precinct. This is because precinct lines and block groups do not overlap completely and/or are not nested.

Another method is to gather voter file data, which provides information about who actually voted in each election and in which precinct each voter lives. Because both the vote return data and the voter file contain precinct information, this method of precinct demographic composition does not suffer from the spatial interpolation challenge posed with ACS or Census demographic data. In some states, each voter's race is listed as a column in the voter file; however, this is not the case in Washington. Therefore, in order to generate an estimate of a precinct's racial demographics, I estimate each voter's racial distribution then aggregate all voters' racial distributions within a precinct together. I opt for this latter approach because it provides greater demographic composition precision – especially in the context of lower turnout primary elections. When estimating RPV across groups who vary significantly in population size and voter turnout (as is the case between whites and Latinos here, as I will show in the report's section on voter turnout), greater precision in who voted enables a more precise vote choice estimate by racial group.

To generate my demographic estimates, I gathered voter file data from the Secretary of State for general election years 2012, 2014, 2016, 2018, and 2020, and for the 2012, 2014, and 2020 August primaries. The files include all registered voters recorded shortly after that fall's general election (or the primary). The file includes first name, surname, address, and a column recording the date of each individual voter's last recorded vote. I subset each file to the relevant 5-county region, and further subset to people who cast a ballot in each general election contest. I then geocoded these data using Geocodio to extract each unique household's latitude and longitude (coordinates).[6] Geocodio is a leading geocoding service that interfaces with various statistical software programs for relatively straightforward individual record geocoding. Experts in my field can select a variety of geocoders (e.g., Geocodio, Google, Opencage). I have used all these services and they produce highly similar results.

I then forward geocoded these lat/long coordinates into the appropriate Census blocks, using 2010 blocks for 2012 and 2014, and 2020 blocks for 2016-2020. This entails a geospatial points-to-polygons approach where I locate each coordinate in its appropriate Census block by overlaying a spatial points layer onto a spatial polygons layer. This process adds the 13-digit Census block FIPS code to each record, which I need to conduct Bayesian Improved Surname Geocoding (BISG) – which is a straightforward method for

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[6] https://www.geocod.io/

probabilistically estimating an individual's race based on surname and neighborhood racial composition.[7]

The data now contain all the ingredients necessary to use the BISG algorithm to estimate individual-level race probabilities, including: surname, residential address, latitude, longitude, county, precinct, and vote history.

BISG is a widely used and reliable method researchers use to estimate individual-level race prediction. The California Secretary of State uses the method to help them better understanding voter turnout by race, and the Washington State Auditor's office recently used the approach in a performance audit. Furthermore, BISG uses publicly available data (publicly available lists of voters in this case, and Census block population counts) to transparently estimate individual-level race estimation. At a very basic level, for each voter in the voter file, the BISG formula combines information about that voter's surname and where that voter lives. We can do this because many surnames are indicative of race. This is especially the case for people with Spanish surnames. For instance, a surname such as Hernandez is much more likely to be held by a person of Hispanic descent, whereas a surname like Collingwood is more likely to be held by a non-Hispanic white person. The 2010 Census tabulated the racial distribution of all surnames occurring at least 100 times in the United States, and thus, this surname list serves as one data point as to each voter's race probability.[8]

The second bit of information draws on where each voter lives. I locate each voter within a Census block, which is the smallest geographic unit in which the Census provides demographic counts. Thus, if that same voter with the Hernandez surname lives in a block that is 97% Hispanic, the probability of them being Hispanic will increase. However, if that same voter with the surname Hernandez lives in a block that is just 25% Hispanic, then the probability that they are Hispanic will decrease. The BISG formula will provide five probabilities for each voter: the probability they are non-Hispanic white, Black, Hispanic, Asian/Pacific Islander, or Race Other.

Of the files I received from the Secretary of State's office, I rely on eight files of registered voters containing information on who voted (and who did not vote) in the last general election – or in the last primary election. Each file contains all registered voters in the state as of the date listed, and is the first file to list vote history for the previous relevant election. Thus, the 2016 file captures individual level behavior for the 2016 general election; the 2018 file captures individual level behavior for the 2018 general election; and the 2020 file captures individual level behavior for the 2020 general election. I gather the historical voter file closed to each date because it best captures what the electorate looked like at the time. It is not sufficient, for instance, to gather the latest Washington registered voter file,

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[7] Later in the report I conduct a voter turnout analysis on 2020 and 2018 general election registrants. For this part, I geocoded and performed BISG for all registered voters in the 5-county region.

[8] https://www.census.gov/topics/population/genealogy/data/2010_surnames.html

then subset to people who cast ballots in the requisite elections because people have since moved within and outside of the state, and within and outside of the various focus counties.

I use the bisg R package (Decter-Frain and Sachdeva 2021) – an extension of the eiCompare software suite–to estimate the race probability of all voters because I can use 2020 Census population data rather than 2010 Census counts. I also attach these Census counts onto each individual voter record so that I can validate BISG prediction accuracy. I loaded either 2010 or 2020 Census block level population estimates into my statistical software using the U.S. Census data file known as P.L. 94-171 data, which the U.S. Census Bureau created from the 2010 and 2020 Census data. These files contain population (i.e., demographic) counts for all Census blocks in the United States. The P.L. 94-171 data is the main dataset used in redistricting every 10 years. If, for instance, we want to know how many people live in Block X we must turn to the P.L. data for the answer. Because I am only interested in Washington voters, I narrow the P.L. data to Washington.

Using the P.L. 94-171 data, I develop block-level demographic counts for non-Hispanic single race white, Hispanic, non-Hispanic single race AAPI (Asian American Pacific Islander), non-Hispanic single race Black, and race other. These counts are then sent into the BISG algorithm and used as the geographic probability side of the BISG formula.

By way of validation, I aggregated the 2020 voter file with BISG probabilities attached by race to the Census Block by summing each racial group's probability. We should observe a robust positive relationship between BISG and population data at the aggregate level. To apply this to the subject data set, I calculated the percentage of individuals from each racial group per block and did the same at the population level. Figure 2 plots out the relationship between percent race by BISG and percent race by population (for non-Hispanic white and Hispanic). The correlation for the two ethno-racial population groups hovers between 0.92-0.94, the regression line (blue) is positive and statistically significant. This result indicates that the BISG formula worked correctly in this case and as we would expect, with a high correlation.

Figure 2. BISG vs. population scatterplots at the block level by classified non-Hispanic white and Hispanic voters.
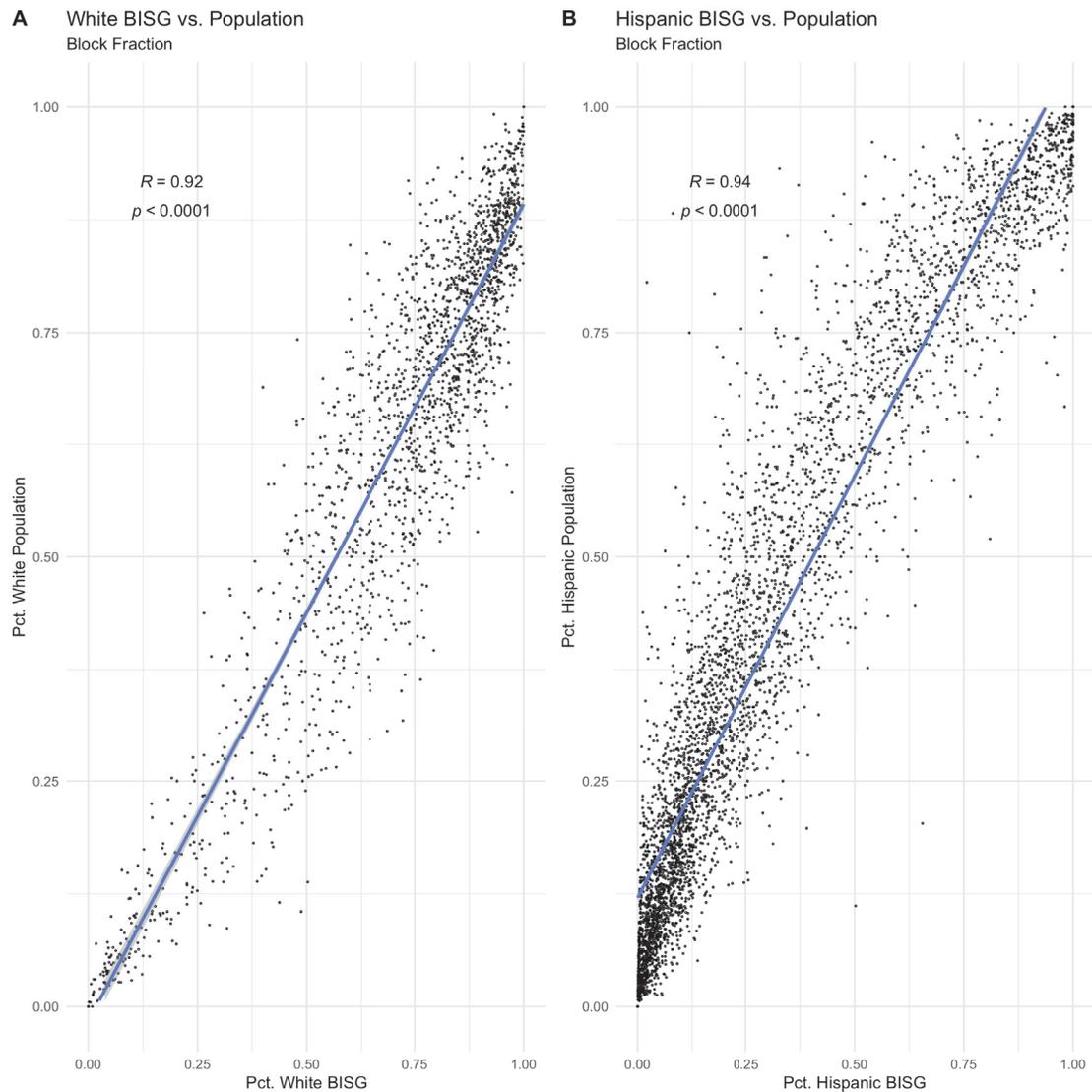
To enter the surname race probabilities, the BISG package incorporates the 2010 U.S. Census surname database. This database includes race probabilities for the same five racial categories of every name occurring in the United States at least 100 times. Names that are uncommon are imputed to the surname racial probability average. With these two bits of information, the BISG method uses Bayes' Theorem to produce a race estimate for the five aforementioned racial groups for every voter. The BISG Bayes formula in the Appendix provides the details of the formula.

The final step is to aggregate each racial probability to the precinct then join with the election data using unique county precinct identifiers. For example, in a precinct with 1,000 2020 voters, each voter will have a probability between 0-1 for white, Black, Hispanic,

AAPI, and other. For instance, there might be a Collingwood who lives in a block within this precinct. BISG might assign this voter a 0.917 probability of being white, a 0.059 probability of being Black, a 0.006 probability of being Hispanic, a 0.002 of being Asian, and a 0.015 probability of being race: other. To generate the percentage of voters in the precinct that are Hispanic, for instance, I sum each voters' probability of being Hispanic then divide by 1,000. That percentage is then my racial Hispanic demographic estimate in that precinct.

Finally, and as noted, I opt for the BISG method as my source of demographic input into the ecological model instead of using voting age population (VAP) or CVAP counts for reasons of turnout variation by race. According to U.S. Census estimates, 77% of eligible whites in Washington State cast ballots in 2020 general election, whereas 54% of eligible Hispanics cast ballots in the same election.[9] In the United States as a whole, 53.7% of citizen voting age Hispanics reported to have voted in the 2020 general election. Meanwhile, 70.9% of citizen voting age non-Hispanic whites reported to have voted in the same election. Further, as my turnout analysis later in the report demonstrates, this turnout gap between white and Hispanic voters grows further in off-year midterm elections. Thus, by relying on VAP or CVAP as my demographic input, I would not be able to account for this gap in racial turnout as cleanly.

D. Racially Polarized Voting

Once all the precinct data are cleaned and joined, for each contest, I subset the precincts to the appropriate geographic unit – either all five counties in the case of statewide contests and legislative seats fully contained in the 5-county region, or relevant portions of legislative seats within the region. I use two methods to estimate racially polarized voting between non-Hispanic whites and Latinos: 1) Ecological Inference (EI); and 2) Rows by Columns (RxC). These are two of the commonly used and reliable methods to estimate vote choice by race using precinct data. Both approaches produce very similar estimates: Out of the 25 contests, both methods produce RPV in 23 contests for a rate of more than 92%.

Figure 3 presents the EI results of the contests that do not feature Spanish-surname candidates. The colored bar and number represent the point estimate – the most likely vote estimate given the underlying data. The little black bars represent the statistical uncertainty inherent in the model, in this case the 95% confidence or credible interval. In short, with the confidence interval, we can be 95% confident that the true vote estimate lies somewhere in between the low and high point represented by the error bar. The top row presents the RPV results for the 2020 Treasurer contest. Column one reports results for the Democratic candidate, Column 2 results for the Republican candidate.

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[9] https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html

For example, EI estimates that in the 2020 Treasurer contest, Latino voters preferred Pellicciotti (77% - 23%) whereas white voters preferred Davidson (79% - 21%). In the 2020 presidential election, EI estimates that 78% of Latino voters backed Biden, whereas just 27% of whites did so. Turning to Column 2, the pattern is reversed with just 22% of Latinos backing Trump and 73% of whites backing Trump. These results are consistent with a pattern of racially polarized voting.

The gubernatorial contest (Row 3) reveals a similar pattern of RPV: 75% of Latino voters backed Inslee, whereas just 24% of white voters did so. Instead, white voters gave 76% of their support to Culp, whereas just 25% of Latinos did. A similar pattern emerges for attorney general: Bob Ferguson notched 79% of the Latino vote but just 25% of the white vote. Instead, white voters backed Larkin with 75% of their vote, and Latinos voted 21% for Larkin. Again, these results demonstrate racially polarized voting.

The 2018 statewide contests show once again a similar pattern: About 80% of Latino voters backed Senator Cantwell in her re-election contest against Hutchinson. White voters, however, preferred Hutchinson with about 74% of their vote. The Congressional District 4 contest also shows significant racial polarization: 78% of Latinos backed Brown, whereas 74.3% of white voters backed the Republican Newhouse.

Finally, the 2016 statewide contests subset to the 5-county region reveals strong Latino support for the Democratic candidates of Murray for U.S. Senate (84%), Clinton for U.S. President (79%), and Inslee for Governor (82%). White voters, however, backed the Republican candidate, respectively, 69% for Vance, 71% for Trump, and 73% for Bryant.

Figure 3. Racially Polarized Voting assessment in statewide contests subset to the Yakima Valley 5-county region: Adams, Benton, Franklin, Grant, Yakima. Ecological Inference (EI) method.

Racially Polarized Voting Analysis Results
Support for Preferred Candidates by Race
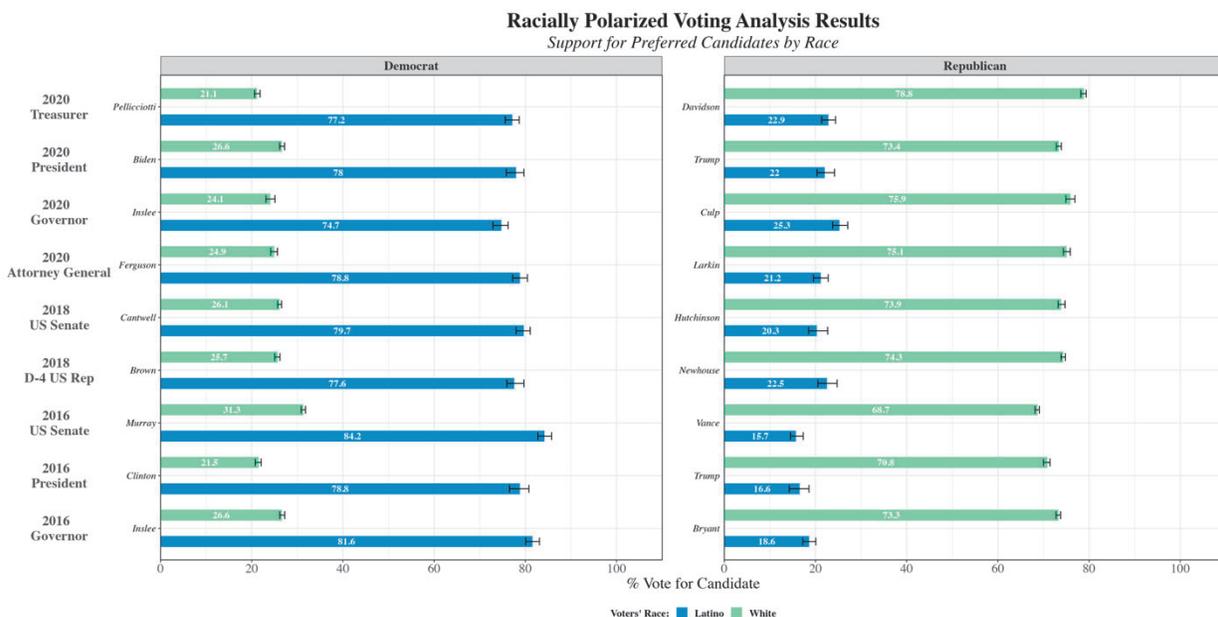
Figure 4 presents the same contests but analyzed with the RxC method. In the model, I incorporated variables for "other candidates" (often a smattering of candidates or write-ins achieving maybe 2% of the vote), no votes, and a catch-all "race other." For presentation, I only show the white and Latino estimates for the top two candidates. The results are exceedingly consistent with the ecological inference approach presented above and show high levels of racially polarized voting between Latino and white voters in the 5-County area.

Figure 4. Racially Polarized Voting assessment in statewide contests subset to the Yakima Valley 5-county region: Adams, Benton, Franklin, Grant, Yakima. Rows by Columns (RxC) method.
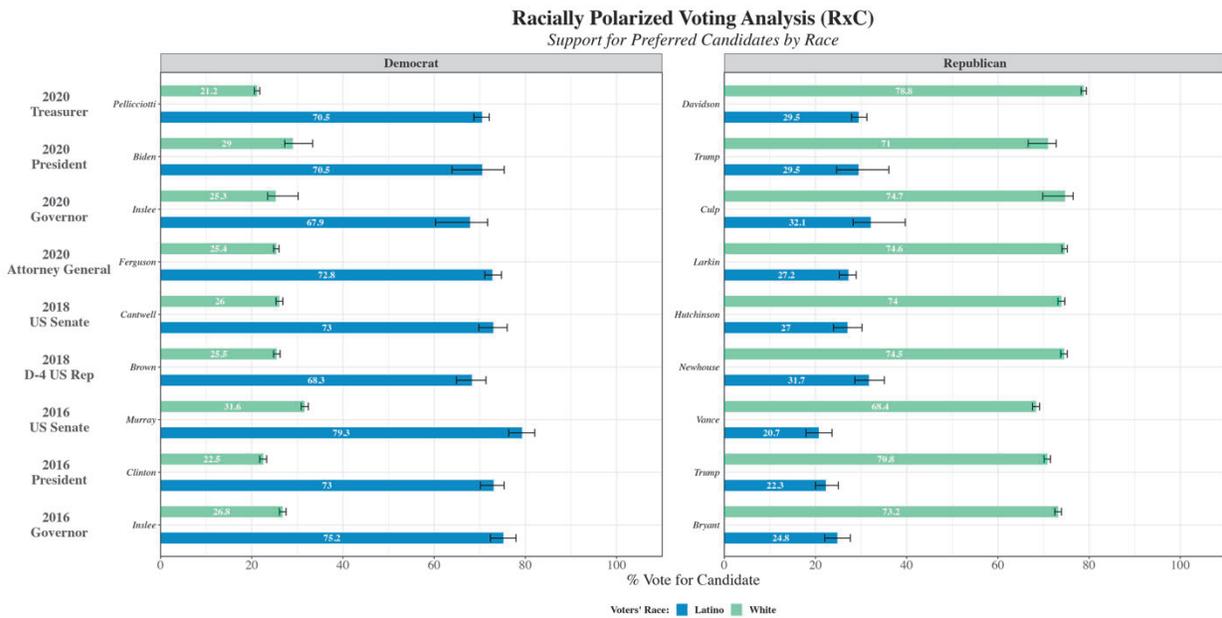
I then analyzed 16 contests featuring Spanish-surname candidates. Each of these candidates are Latino except for Manjarrez (Yakima County District 2), who is married to a Latino individual thereby taking his surname. Because we know that voters often proxy ethnicity based on surname (Barreto 2010), I include that candidate as well. Four of these contests are primary contests which are denoted "primary" in the left-hand contest label.

RPV exists in 14 of these 16 contests, with Latino voters strongly backing the Spanish-surname candidate in each contest. In just one contest do white voters also back the Spanish-surname candidate (Gonzalez in the 2018 non-partisan State Supreme Court Seat 8). However, in the 2018 state supreme court election, neither candidate was white, and the challenger (Choi) was not considered to be a serious challenger due to Choi's lack of fundraising, lack of endorsements, late start in campaigning, and a prior lawsuit where the Attorney General sued him for not making required campaign disclosures.[10] In the 2020

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[10] For example, see https://www.spokesman.com/stories/2018/sep/17/two-of-three-incumbents-unchallenged-in-state-supr/

Superintendent of Public Instruction election, whites nearly evenly split their vote. Specifically, in the 2020 contest for Superintendent of Public Instruction, 67.8% of Latinos backed the Latino candidate Espinoza, whereas 49.6% of whites did so.

Analyzing the elections with Spanish surname candidates, in the 2020 State Supreme Court Position 3 contest, 73% of Latinos backed Montoya, whereas Anglos preferred Larson by a margin of 66%. In the 2020 Legislative District 13 Position 1, 70% of Latino voters supported Castañeda Diaz whereas white voters backed Dent with 87% of their vote.[11] The 2020 Legislative District Position 1 primary produced fairly similar RPV results: 89% of white voters backed Dent, with 61% of Latino voters backing Castañeda Diaz. Note how the primary contest has larger statistical uncertainty (observed by the wider confidence bands) due to lower turnout which has the statistical effect of reducing the size of the Latino population across the precinct distribution.

In the 2020 Franklin County District 2 contest, Latino voters supported Peralta by a margin of 89%, with only 11% for Mullen. Anglo voters, however, backed Mullen by a margin of 87%, with only 13% for Peralta.

Turning next to three 2018 contests, I analyzed Yakima County District 3, State Supreme Court Position 8, and State Senate Legislative District 15. In Yakima D3, 83% of Latino voters backed Soto Palmer, whereas 77% of non-Hispanic white voters backed Childress. In the State Supreme Court contest, 75% of Latino voters preferred Gonzalez, but so did 51% of Anglo voters (see additional analysis above). Finally, in the State Senate 15 contest, Latinos preferred Aguilar (81%), whereas Anglos preferred Honeyford (82%).

In 2016, I analyzed Yakima County District 2, where 74% of Latino voters supported Manjarrez while 62% of whites preferred Anderson. In Legislative District 14 Position 1 (Yakima County only), 88% of Latino voters preferred Soto Palmer, but 83% of white voters preferred Johnson.

I analyzed four 2014 contests and two 2012 contests. In the 2014 State Senate District 15 primary election contest, Munoz received 69% of Latino support, whereas Honeyford attracted 86% of white support. In the 2014 State Representative District 15 primary election, Martinez Chavez notched 79% of the Latino vote, whereas the white vote preferred Taylor with 88%.

In the 2014 State Senate District 15 general election contest, Munoz received 65% of Latino support, whereas Honeyford attracted 86% of white support. In 2014 State Representative District 15 general election, Martinez Chavez notched 68% of the Latino vote, whereas the white vote preferred Taylor with 85%.

Finally, in the 2012 State Representative District 15 contest, Gonzalez received 89% of the Latino vote, whereas Taylor scored 85% of the white vote. In the primary that same year,

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[11] In this analysis I include only precincts located in Grant County, because that region is included is part of the 2021 enacted and/or plaintiff's demonstrative map.

RPV is present between the same candidates: Latino voters supported Gonzalez (92%) while Anglo voters supported Taylor (85%).

Together, these results show that Latino voters at high levels prefer the same candidates for political office, and white voters consistently prefer different candidates. Further, white voters are politically cohesive with one another and vote as a bloc against the Latino preferred candidates, leading to the defeat of the Latino candidates of choice, at least within the subset 5-county area.

Figure 5. Racially Polarized Voting assessment in contests featuring Spanish-surname candidates. Ecological Inference (EI) method.
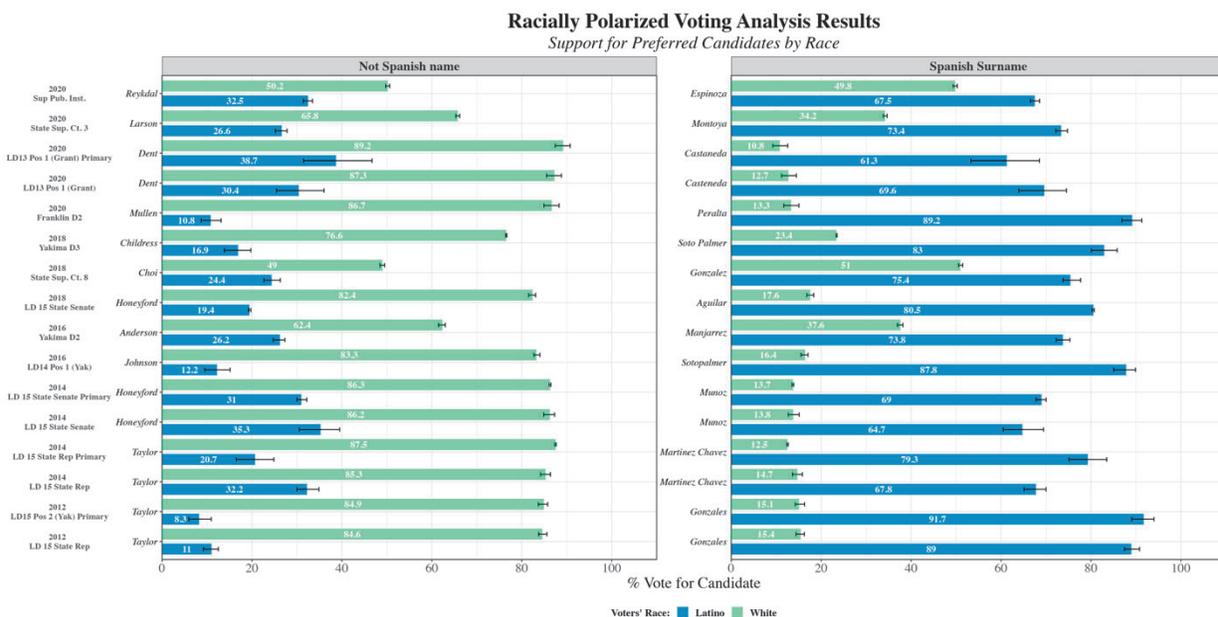
Figure 6 presents the RxC estimates. The results are consistent with the EI model, and show that a high level of RPV is present in 14 of the 16 contests considered.

Figure 6. Racially Polarized Voting assessment in contests featuring Spanish-surname candidates. Rows by Columns (RxC) method.

Racially Polarized Voting Analysis (RxC)
Support for Preferred Candidates by Race
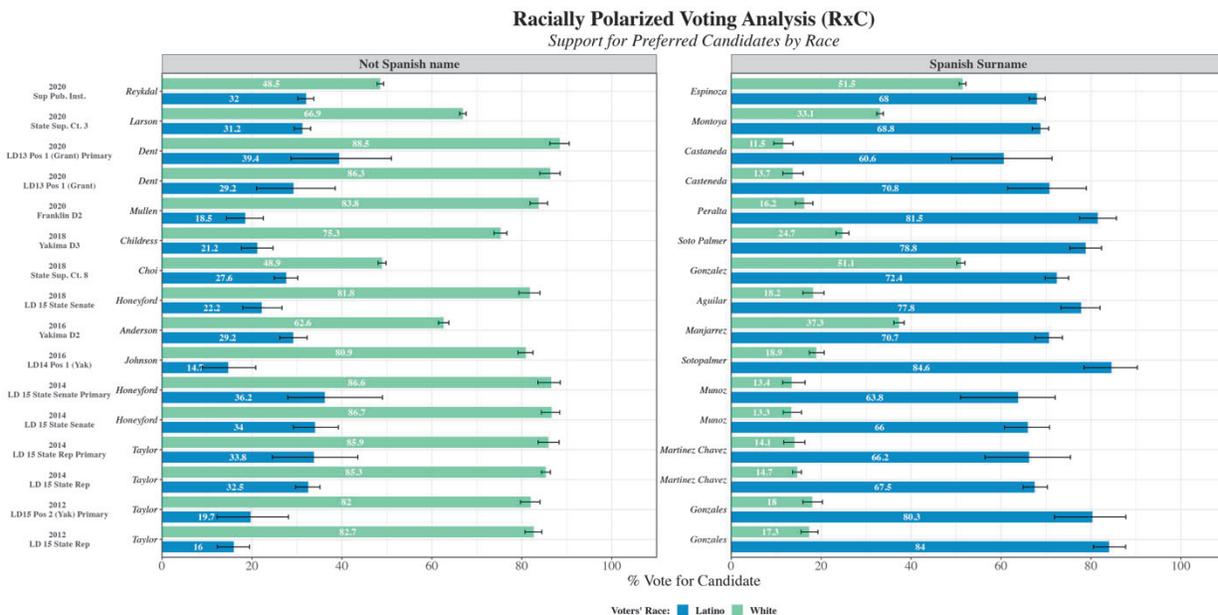
E. Performance Analysis of Enacted Plan vs. Plaintiffs' Demonstrative Plans

I was also asked to determine whether the white majority usually blocks Latino voters from electing candidates of choice. I assess this in two ways.

First, I assess whether the white- or Latino-preferred candidates win in the aforementioned Spanish-surname local contests. If the white-preferred candidate wins that means that white voters are blocking Latino voters' ability to elect candidates of choice. However, if on average, Latino voters' preferred candidate usually wins, that means white block voting is not present. I conduct this analysis for the local contests that cover only part of the jurisdiction.

Table 3 lists the results. For each row, I present the election year, the contest, the type (primary or general), whether the contest is partisan, the Spanish-surname candidate and their vote percent, the non-Spanish-surname candidate and their vote percent, and whether white voters blocked the Latino-preferred candidate. In every single contest, white voters voted as a bloc to defeat the Latino-preferred candidate, providing strong evidence for Gingles III.

Table 3. List of legislative or county/local elections featuring contests with Spanish Surnames, between 2012-2020, candidate vote totals, and whether White voters blocked the Latino-preferred candidate from winning.

Year	Contest	Type	Partisan	SpanishSur	PercentSp	NonSpanishSur	PercentNsp	Blocked
2020	LD-13 Position 1	Primary	YES	Castaneda Diaz	22.81	Dent	74.35	Yes
2020	LD 13 Position 1	General	YES	Castaneda Diaz	28.57	Dent	71.33	Yes
2020	Franklin Commish D2	General	NO	Peralta	40.79	Mullen	59.07	Yes
2018	LD 15 State Senate	General	YES	Aguilar	39.41	Honeyford	60.59	Yes
2018	Yakima Board D3	General	NO	Soto Palmer	40.29	Childress	59.71	Yes
2016	LD-14 Position 1	General	YES	Soto Palmer	33.95	Johnson	66.05	Yes
2016	Yakima Board D2	General	NO	Manjarrez	48.22	Anderson	51.78	Yes
2014	LD-15 State Senate	Primary	YES	Munoz	24.49	Honeyford	75.51	Yes
2014	LD-15 position 2	Primary	YES	Martinez-Chavez	24.67	Taylor	75.33	Yes
2014	LD 15 State Senate	General	YES	Munoz	27.24	Honeyford	72.76	Yes
2014	LD 15 State Rep.	General	YES	Martinez-Chavez	27.59	Taylor	72.41	Yes
2012	LD 15 Position 2	Primary	YES	Gonzalez	38.92	Taylor	61.08	Yes
2012	LD 15 State Rep.	General	YES	Gonzalez	29.97	Taylor	70.03	Yes

Second, I examine whether the minority-preferred candidate wins in contests featuring racially polarized voting in statewide/exogenous elections subset to the enacted LD 15 and to several demonstrative plans. Specifically, I test whether majority-bloc voting is sufficient to prevent minority voters from electing their candidate of choice by analyzing whether alternative district maps can be drawn that are more likely to result in minority voters electing their preferred candidates of choice than under the enacted district map.

To do so, I conducted electoral performance analyses on Legislative District 15 in the Enacted Plan, as well as a set of demonstrative alternative plans provided to me by counsel for the Plaintiffs. An electoral performance analysis reconstructs previous election results based on new district boundaries to assess whether a minority or white preferred candidate is most likely to win in a given jurisdiction under consideration (i.e., a newly adopted legislative district).

This type of inquiry informs a RPV analysis in districts that have not yet had elections because it tests whether different plans would provide a more equal ability for minority voters to participate in the electoral process and to elect candidates of choice. Thus, the performance analysis shows that a remedy is possible.

I gathered precinct results across the same set of statewide elections (and the 4th congressional district) in which I conducted my RPV assessment.[12] To examine how a candidate performs in the enacted District 15, I then subset the precincts to only those falling within the new District 15 boundary. I use the same method to assess Plaintiffs' demonstrative districts with different boundaries.

This approach often results in a generally small number of precincts being split across district boundaries, leaving the choice as to whether to allocate all votes in that precinct to

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[12] Note, I do not include the two statewide contests in which RPV is not present because blocking is not possible in those instances.

District 15, none, or some. This concern is resolved by taking an additional step with regard to precincts that are split across district boundaries. I overlaid the voting tabulation district (vtd) polygon shape file with the 2020 block polygon shape file and join population-level data including voting age population (VAP). Because blocks are fully nested inside vtds in this instance, I can make adjustments to precinct vote totals by weighting split precinct votes by total voting age population. In precincts that split between districts, I take blocks on the one side of the district boundary to estimate the share of the VAP that is inside/outside of the district.[13] This helps to improve the vote estimate.

As a point of comparison, one way to address this issue may be to turn to geographic distribution instead of population distribution. For example, a precinct might be geographically split 50-50 between a hypothetical District 4 and District 8. If there are 100 votes in the precinct, I could assign 50 votes to the part of the precinct in the district, and divide all candidate votes in half. If Trump had received 70 of the precinct's initial 100 votes, and Biden 30, I would assign Trump 35 votes (70*0.5) and Biden 15 (30*0.5) totaling 50 votes.

A more appropriate method is to take account of where the population lives within the precinct by using blocks – a much smaller and more compact geographic unit. Each block contains a tally for voting age population (VAP); therefore, I can sum the VAP for all blocks for the part of the precinct falling inside of District 4, and for the part of the precinct outside of D4. This method more adequately accounts for population distribution within the precinct instead of relying on geographic area alone. It could be the case that 70% of the VAP resides in the part of the precinct falling into D4, and 30% in a neighboring district. So instead of multiplying the initial 100 votes by 0.5, for District 4, I multiply the precinct's initial 100 votes by 0.7. In this scenario, Trump would receive 49 of the 70 votes and Biden 21 votes. While the candidate vote share ratio might be the same the Trump net differential moves from plus 20 (35-15) to plus 28 (49-21).

Once I have accounted for split precincts, I combine all precincts and their candidate votes together. For each contest, I then sum votes for candidate 1 and candidate 2, respectively, and divide by total votes cast. I replicate this procedure for the enacted and three Plaintiff demonstratives maps.

Summary of Electoral Performance Results

This section presents electoral performance plots showing comparisons between the Enacted Plan (Legislative District 15) and the three demonstrative plans Plaintiffs provided for an alternative Legislative District 14. The question I am examining is whether the enacted plan and alternative demonstrative plans provide Latino voters a greater ability to elect candidates of choice in the Yakima Valley and surrounding areas.

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[13] https://www.census.gov/cgi-bin/geo/shapefiles/index.php?year=2020&layergroup=Blocks+%282020%29; https://redistrictingdatahub.org/dataset/washington-block-pl-94171-2020/

I found that the enacted LD 15 does not provide Latino voters in the district an equal opportunity to elect candidates of choice, while the Plaintiffs illustrative maps do provide Latino voters with an ability to elect such candidates.

To determine the competitiveness of the district, I examined eight elections subset to the district boundaries. The maps of the district boundaries I analyzed are shown below in Figures 7 - 10.
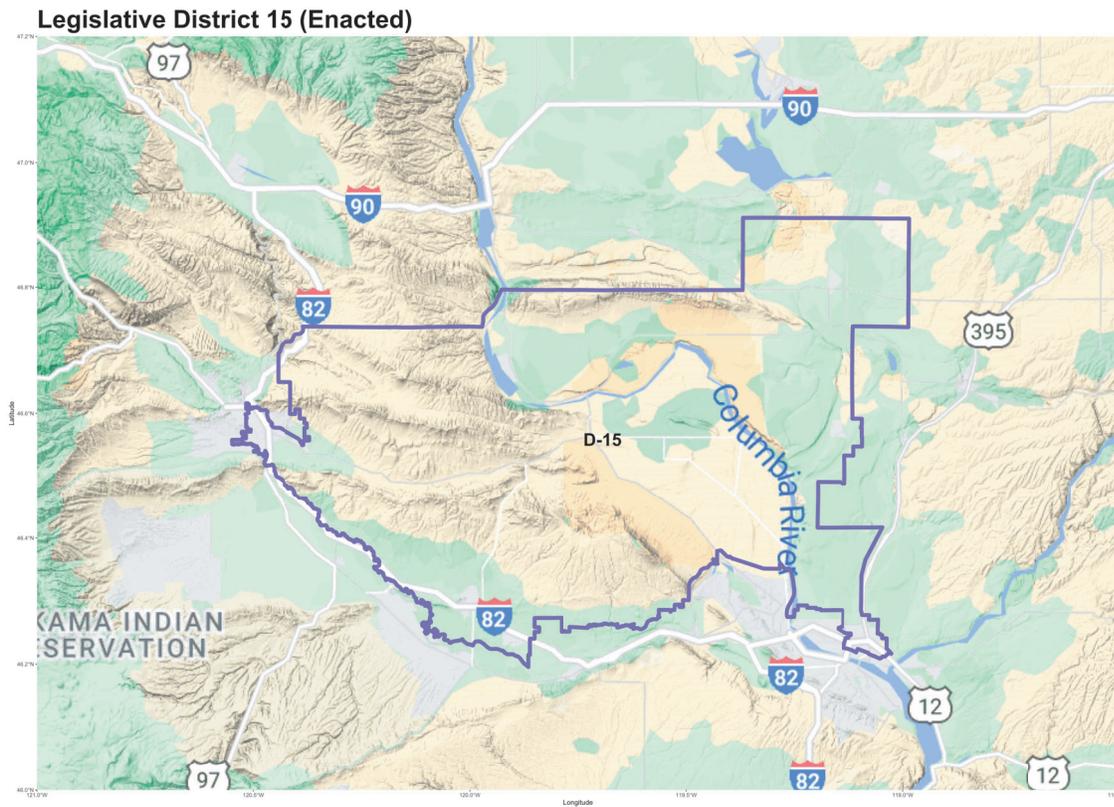
Figure 7. Enacted Washington House Legislative District 15.

Legislative District 15 (Enacted)

Figure 8. Washington House Legislative District 14, Plaintiffs' Demonstrative 1.

Legislative District 14 (Demonstrative 1)
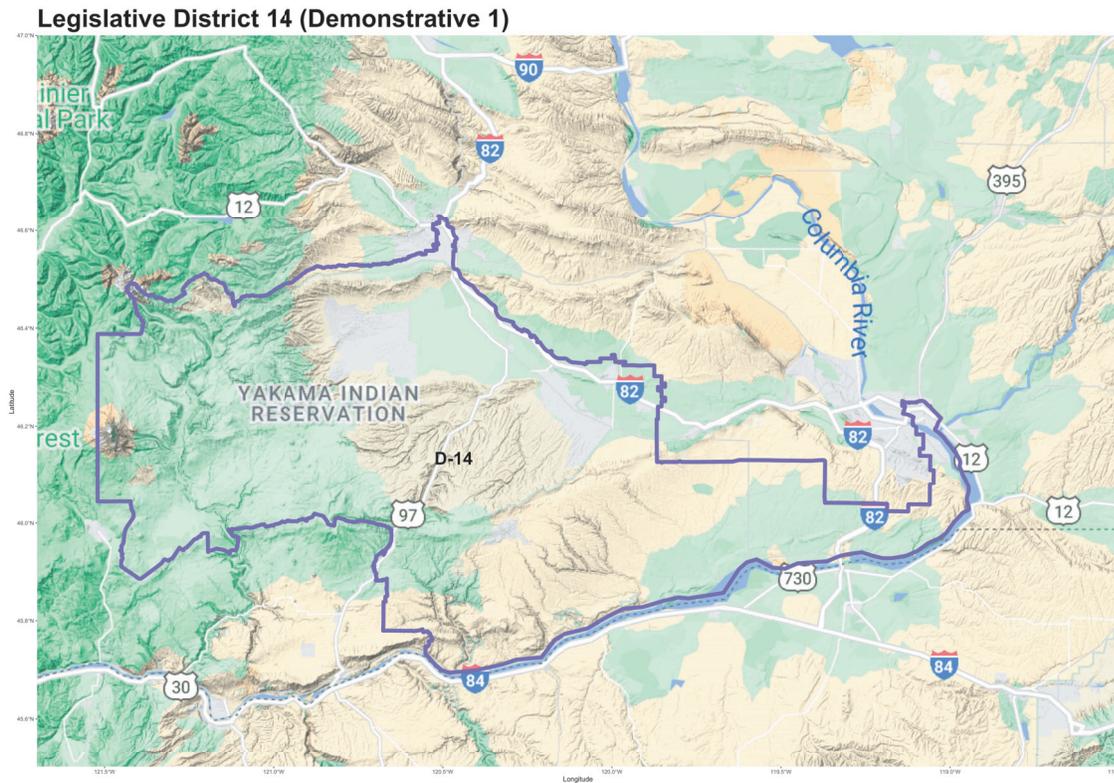
Figure 9. Washington House Legislative District 14, Plaintiffs' Demonstrative 2.

Legislative District 14 (Demonstrative 2)
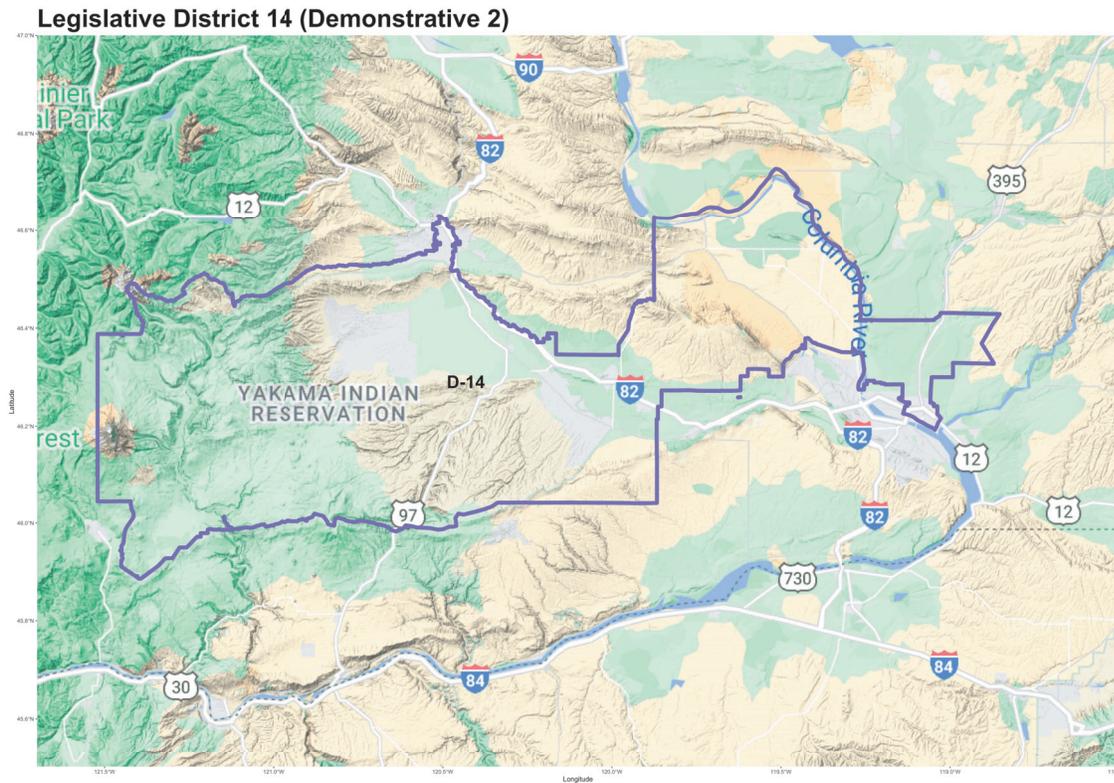
Figure 10. Washington House Legislative District 14, Plaintiffs' Demonstrative 3.

Legislative District 14 (Demonstrative 3)
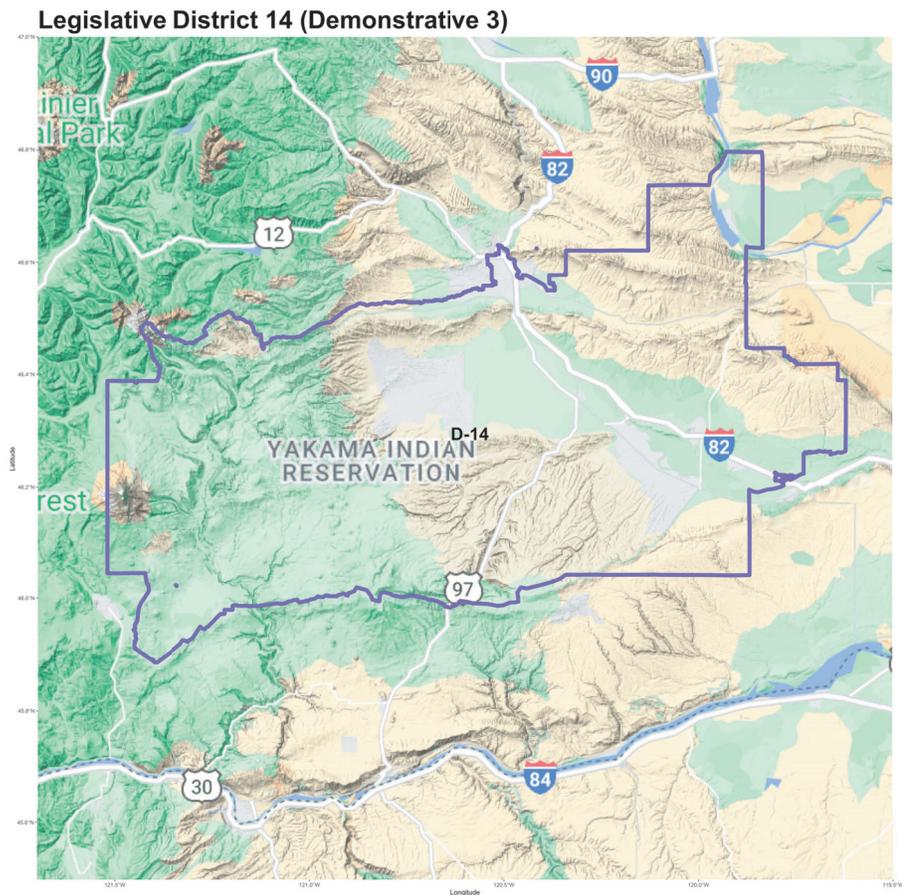
Turning to the results, Figure 11 shows four columns: Column 1 presents results subset to the enacted map, Column 2 is Plaintiffs' Demonstrative map 1, Column 3 is Plaintiffs' Demonstrative map 2, and Column 4 is Plaintiffs' Demonstrative map 3.

Performance analysis of the enacted map shows the white-preferred candidate winning 7 of 10 contests. Latino-preferred candidates win in only three contests: the 2020 Presidential election, the 2020 State Supreme Court Position 3, and the 2016 U.S. Senate race. Thus, the Latino-preferred candidate loses 70% of the time.

Plaintiffs' demonstrative plans provide Latino voters with a much greater chance of electing candidates of choice and gaining representation in this geographic area. Both Plaintiffs' demonstratives 1 and 2 show the Latino-preferred candidates winning all 10 contests for a win-rate of 100%. Plaintiffs' Demonstrative map 3 shows the Latino-preferred candidates winning 9 of 10 contests for a win-rate of 90%.

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Figure 11. Electoral Performance analysis, 2016-2020 statewide general elections, paneled by enacted LD 15, LD 14 Plaintiff Demonstratives 1-3.
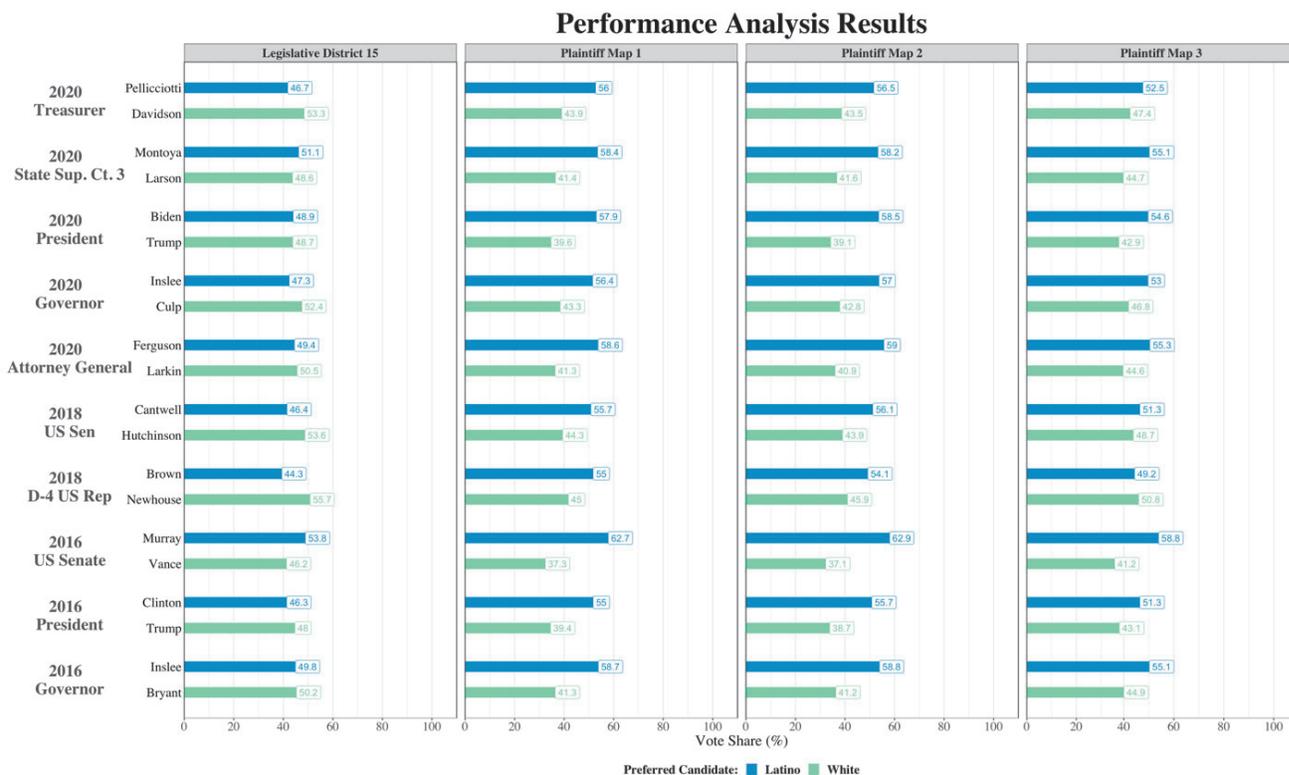
The performance analyses of the enacted and demonstrative plans provide strong evidence of white bloc voting – that is, the enacted LD 15 map will enable the white majority to block Latino voters' ability to elect candidates of choice. However, Plaintiffs' alternative districts provide Latino voters with an opportunity to elect candidates of their choice.

II.   District Characteristics Analysis

Using Dave's Redistricting software,[14] I gathered statistics about the enacted LD 15 as well as the Plaintiffs' three demonstrative plans showing their level of adherence to traditional redistricting criteria. Table 3 outlines several statistics about each plan, including: total population, population deviation, percent white CVAP, percent Latino CVAP, district compactness (Reock and Polsby), overall plan compactness (Reock and Polsby), county-district and district-county splits, and precinct splits.

Compactness scores range from 0-1, with 1 being perfect compactness, like a circle. County-district splits measure how much the map splits counties across districts and vice

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[14] Dave's Redistricting is a free and publicly available software and database map drawers use to develop redistricting plans. Washington's own Redistricting Commission employed this software during the map drawing process.

versa for district-county splits. In both cases, for splits the smaller the number, the more desirable from a mapping perspective.

Overall, on measures of population deviation, demographics, compactness, and splits, the Plaintiffs' demonstrative maps perform similarly to or better than the enacted LD 15. The population deviation of the enacted LD 15 and Plaintiffs' demonstratives are all very close to zero and virtually identical.

Table 4. Enacted and Demonstrative map statistics.

Statistic	Enacted	Alt 1	Alt 2	Alt 3
Population	157253	157247	157269	157223
Pop. Dev.	-0.0001	0	0.0001	-0.0002
WCVAP20	43.2	37	35.7	40.1
LCVAP20	51.5	52.5	53.6	50.2
District Reock	0.3226	0.2142	0.1766	0.3312
District Polsby	0.2372	0.2131	0.1812	0.3168
Map Reock	0.3993	0.3883	0.3918	0.395
Map Polsby	0.3204	0.3119	0.3114	0.3189
County-District	1.61	1.56	1.6	1.61
District-County	1.25	1.21	1.25	1.25
Precinct Splits	284	279	280	280

As Table 4 demonstrates, LD 14 in all three of Plaintiffs' demonstrative maps has a Latino CVAP of over 50%. Demonstrative 1 has LD 14 with a 52.5% Latino CVAP, Demonstrative 2 has LD 14 with 53.6% Latino CVAP, and Demonstrative 3 has LD 14 with a Latino CVAP of 50.2%.

On population deviation, all three of Plaintiffs' demonstrative plans match or beat enacted LD 15. For compactness scores for the relevant district, Plaintiffs' Demonstrative 3 has a higher Reock and Polsby-Popper score than the Enacted LD 15. Plaintiffs' Demonstrative 1 and 2 have slightly lower Reock scores, but Polsby-Popper scores that are very similar, and all of the demonstrative districts' compactness scores are reasonable. Further, all of the statewide demonstratives provided by Plaintiffs have higher or very similar Reock and Polsby-Popper scores for the overall map.

In terms of splits, all three of Plaintiffs' demonstrative districts contain the same or fewer county-district or district-county splits as the enacted map. And as shown in Figure 12, LD 14 in Demonstrative 3 splits only 4 counties (Yakima, Benton, Franklin, and Grant), while enacted LD 15 splits 5 (Benton, Yakima, Franklin, Adams, and Grant). Plaintiffs' demonstrative districts include a portion of Klickitat County to match the boundary of the Yakama Nation Reservation. Finally, all three of Plaintiffs' demonstratives contain fewer precinct splits.

Figure 12. County View of Plaintiffs' Demonstrative 3, LD 14.
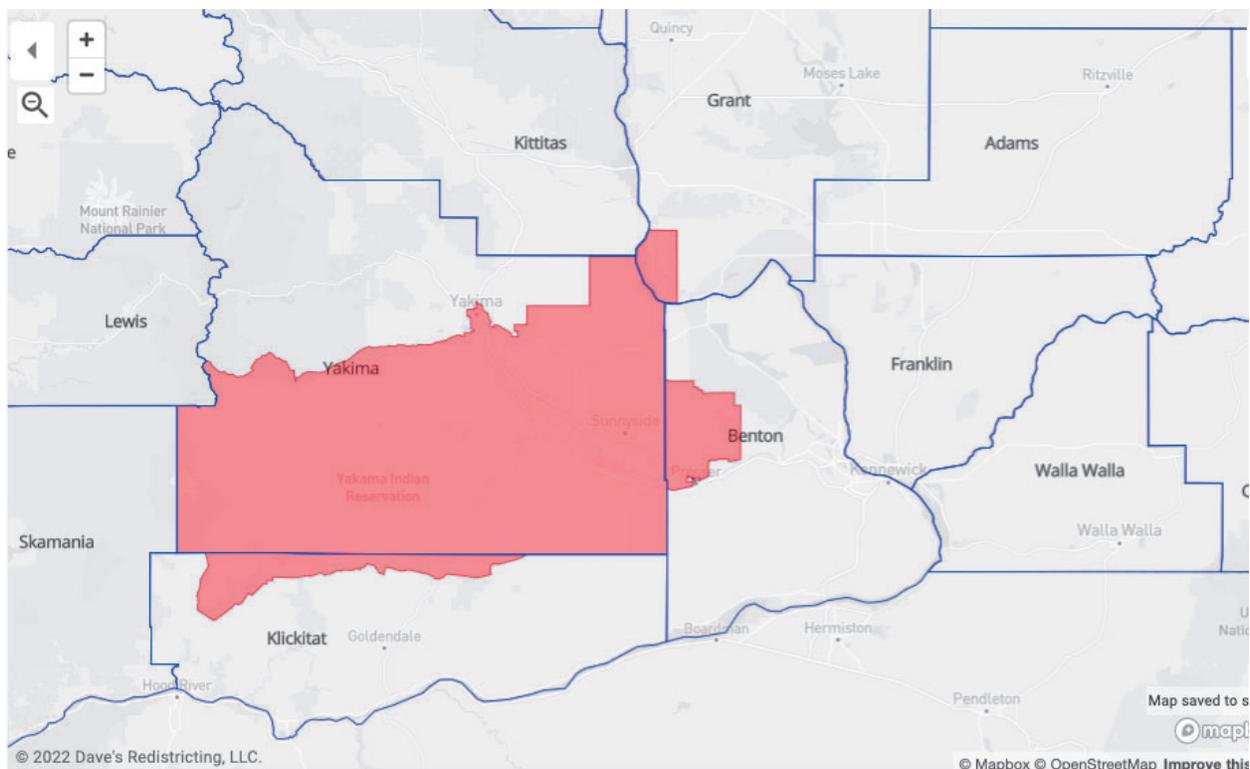
III. Commission's Draft Maps and Decision Timeline

The Washington State Redistricting Commission consisted of five people: 1 independent non-voting chair, Sarah Augustine; two Democratic appointees, April Sims and Brady Walkinshaw; and two Republican appointees, Paul Graves and Joe Fain. In the redistricting process, the commissioners and/or their staff drafted and considered a number of maps, including various configurations of LD 14 and LD 15. Plaintiffs' counsel provided me with the links and shapefiles/block assignment files for these maps.

Table 5 compares these LD 14 and 15 drafts, including the name of each draft, the district numbering (whether 15 or 14), the Latino CVAP according to the 2019 5-Year ACS data (the data considered by commissioners during their map-drawing process), the Latino CVAP according to the most recent 2020 5-Year ACS data, and the Latino-preferred candidate's vote share across eight statewide election contests. These eight election contests are drawn from the statewide contests that I used to assess performance above, and for which I have identified a Latino-preferred candidate, and thus they allow us to see whether the draft maps perform for Latino voters.

Table 5. Decision Timeline.

Map	Dist #	'19 5-Yr ACS Latino CVAP %	'20 5-Yr ACS Latino CVAP %	Vote Share of Latino-Preferred Candidate (shaded if > white-preferred candidate's vote share)							
				2020 Pres% Biden	2020 Gov% Inslee	2020 AG% Ferguson	2020 Treas.% Pellicciotti	2018 U.S. Senate% Cantwell	2016 Pres% Clinton	2016 Gov% Inslee	2016 U.S. Senate% Murray
9.8 LD Draft Dominique Meyers to Sims	15	44.9	46.4	53	51.5	53.6	50.9	50.1	49.4	53.4	56.8
9.21 Fain Proposal Fain public release	15	33.8	35.5	46.2	44.4	46.2	43.3	43.7	41.9	46.7	49.8
9.21 Graves Proposal Graves public release	15	34.2	36.3	40.6	38.8	40.7	37.7	38.8	37.3	42.1	45.7
9.21 Sims Proposal Sims public release	15	44.7	46.1	54.1	52.5	54.6	51.9	51.4	50.4	54.4	58
9.21 Walkinshaw Prop Walkinshaw public release	14	40.4	41.5	55.4	53.7	55.8	53.1	53.7	51.5	55.3	59.4
10.25 Sims Proposal Sims public release	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
10.25 Walkinshaw Prop Walkinshaw public release	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.3 Graves LD 14 (2) Graves proposal	14	50.6	52.0	55.6	53.9	56.3	53.6	53.2	52.8	56.4	60.3
11.7 New leg proposal Anton Grose to Paul Graves	14	50.9	52.6	50.7	49.3	51.3	48.7	48.2	48.3	51.7	55.7
11.8 Fain V2 Fain proposal	15	50.6	52.0	52.4	50.8	52.9	50.2	50.0[15]	50.0	53.4	57.4
11.10 BW 11.10 new VRA Walkinshaw proposal	14	52.6	54	58.8	57.3	59.5	56.9	56.8	56.0	59.6	63.6
11.11 Base proposal Brady Walkinshaw	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.11 Graves1110LD Anton Grose to Graves, Sims	14	50.3	52	49.7	48.2	50.3	47.6	47.3	47.4	50.8	54.8
11/12[16] April Sims to Paul Graves	15	49.2	50.6	47.9	46.3	48.3	45.7	45.4	45.4	48.9	52.8
11.12 Graves Draft Nov12 (1) Paul Graves and staff	15	50.2	51.6	49.0	47.4	49.5	46.8	46.5	46.5	50.0	53.9
11.13 BW leg proposal Ali O'Neil to Fain staff	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.15 Copy of 11/14 7:30pm Merged D Map Walkinshaw/Sims	15	49.2	50.5	47.9	46.3	48.4	45.7	45.5	45.4	48.9	52.8
11.15 R Prop Rebalanced Osta Davis to Ali O'Neil	15	50	51.5	48.9	47.3	49.4	46.7	46.4	46.3	49.8	53.8
Enacted Plan	15	50	51.5	48.9	47.3	49.4	46.6	46.3	46.3	49.8	53.7

[15] Light shade indicates a percentage tie (50%-50%).

[16] The numbers here are different than those presented in my initial report submitted in August. In discovery, Plaintiffs' counsel discovered that the Dave's Redistricting App file I previously used had been modified after November 12. Plaintiffs' counsel received the correct version of the file in a production from DRA in response to a subpoena and gave me the appropriate geojson file which I used to generate these numbers.

This analysis first shows that commissioners proposed and considered maps that would have provided Latino voters at least an equal opportunity to elect candidates of choice, although the commissioners ultimately did not select those. In addition, the drafts demonstrate that proposals making the Latino opportunity district LD 14, rather than LD 15, were considered and presented by commissioners. Finally, the drafts in the table, which are displayed chronologically, show that as the map-drawing progressed and negotiations continued, the performance for Latino preferred candidates was systematically reduced, ending with the Enacted Plan.

IV. Voter Turnout Comparison and Justification for Even District Number

The commission's decision to label the Latino opportunity district LD 15 versus LD 14 has ramifications for whether Latino voters will be able to elect candidates of choice in this seat. This is because Latino turnout in the 5-county region is lower than white turnout in non-presidential years (LD 15) compared to presidential years (LD 14), and LD 14 has more elections in the presidential election year.

For each LD in Washington, there are three seats (two house representatives, and one state senator). Each state representative is elected every two years, while state senators are elected every four years. But the election years vary by district. For instance, all three of LD 15's positions will be up for election in 2022 (off-year); the next state house election will then be in 2024, while the next state senate election will be in the off-year 2026. By comparison, only two of LD 14's positions will be up for election in 2022 (the house seats), but all three seats will then be up for election in 2024 (with the senate seat always lined up with the presidential and gubernatorial election).

Turnout as Percent of Voter Registration

Using BISG voter file calculations from the 2018 and 2020 general elections, Table 6 presents estimated voter turnout by race/ethnicity (Anglo, Latino) in the 5-county region. To calculate turnout, I split the voter file based on who voted in 2020 and who did not, then sum the probability white column across the region. I then divide the total estimated number of white voters by the total number of estimated white registrants. I then do the same for the probability Hispanic column.

The 2020 general turnout information is presented in the first two columns of Table 6, followed by the 2018 general turnout information in the third and fourth columns. Overall, the findings show that registered Anglos are more likely to vote in both the 2020 general and the 2018 general. The overall 2020 white advantage in turnout is 21%. Specifically, 80% of white registered voters voted in the 2020 general, whereas just 59% of Latino voters did.

Voter turnout for both groups declined in the 2018 general election. I estimate that 65.4% of white registrants voted in the 2018 general election compared to just 38.4% of Latino voters, resulting in a white advantage of 27 percentage points. Compared to the 2020

general, white voters have an additional 6.1% turnout advantage over Latino voters in the 2018 general. Thus, by labeling the district LD 15 rather than LD 14, regardless of the CVAP numbers, white voters will have a disproportionately larger electoral composition advantage than if the commission had chosen to label the district LD 14, given that LD 14 holds more elections in line with the presidential election year.

Table 6. Voter turnout comparison across 2020 and 2018 general elections by Anglo and Hispanic/Latino registrants. Data calculated using BISG on voter files for both years.

Race	Pct. Voted 20G	White - Hisp. 20G	Pct. Voted 18G	White - Hisp. 18G	Diff 18G - Diff 20G
White	0.798		0.654		
Hispanic	0.589	0.209	0.384	0.27	0.061

Turnout as a Percent of Citizen Voting Age Population (CVAP)

I also calculated voter turnout as a function of Citizen Voting Age Population (CVAP). To do so, I take the estimated number of white and Latino actual voters, respectively, and divide by the CVAP estimates for the same groups. I gathered county-level CVAP data from the Redistricting Data Hub Washington State page, which provides 2016-2020 CVAP estimates, and 2014-2018 CVAP estimates based on the 5-year American Community Survey (ACS).[17]

The results are similar to the voter registration results, although somewhat attenuated in terms of differences in turnout across the two groups and across the two years.

Table 7 shows the 2020 general election turnout differences across Anglo and Hispanic voters relative to 2020 CVAP in the 5-county region. The table also includes a relative turnout difference between the two racial groups across the two election years. In 2020, I estimate that 200,501 white and 51,596 Latino registrants, respectively, cast a ballot. Taking these numbers and dividing by each group's CVAP, I place white turnout at 74.3% and Latino turnout at 51.1%, for a white turnout advantage of 23.2%.

Table 7. Voter turnout comparison in 2020 general elections by Anglo and Hispanic/Latino, as percent of CVAP. Data calculated using BISG on voter files for both years and CVAP as denominator.

Total CVAP	White CVAP	Hispanic CVAP	White Vote	Hispanic Vote	White TO	Hispanic TO	Difference	Off Year Adv.
398735	269880	100960	200501	51596	0.743	0.511	0.232	0.022

Table 8 shows the 2018 general election turnout differences across Anglo and Hispanic voters relative to 2018 CVAP in the 5-county region. In 2018, I estimate that 154,316 white and 29,033 Latino registrants, respectively, cast a ballot. Taking these numbers and

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[17] https://redistrictingdatahub.org/state/washington/.

dividing by each group's 2018 CVAP estimates, I place white turnout at 57.5% and Latino turnout at 32.1%, for a white turnout advantage of 25.4%.

Table 8. Voter turnout comparison in 2018 general elections by Anglo and Hispanic/Latino, as percent of CVAP. Data calculated using BISG on voter files for both years and CVAP as denominator.

Total CVAP	White CVAP	Hispanic CVAP	White Vote	Hispanic Vote	White TO	Hispanic TO	Difference
384995	268330	90365	154316	29033	0.575	0.321	0.254

Comparing Latino Electoral Composition in Included vs. Excluded Precincts

Finally, I analyzed Latino and white turnout rates and electoral composition in high-density Latino communities from Grant and Adams Counties that are included in the enacted LD 15, and compare that against other nearby high-density Latino communities in Yakima County that were excluded from the district. While these are all high Latino CVAP areas, my analysis shows that the included areas produce a higher white electoral composition than do the excluded regions of the map. In other words, while the high-density Latino communities from Grant and Adams Counties that were included in the district were necessary to achieve a bare HCVAP majority, those communities' electorates are disproportionately white compared to the Yakima County precincts that were excluded from the district.

The enacted map includes the following high-Latino precincts: Adams (413, 415, 511, 512) and Grant (26). These include parts of the communities of Othello and Mattawa. A 2018 general election voter file analysis reveals that these precincts contain about 633 registered Anglo voters, and 1,881 registered Latino voters.

However, due to turnout differential in the 2018 general election, (white = 64%, Hispanic = 37%), white voters made up 36% of election day voters despite being 25% of registrants. The pattern is replicated in the 2020 general election, where white voters were 28% of the electorate despite being 23% of registrants. This illustrates the deleterious effect of the decision to give the district the number 15 rather than 14: the electorate in these precincts is 8 points whiter in the off-year election than in the presidential election.

By contrast, the enacted plan excludes from the district the following neighboring high-density Latino precincts in Yakima County: 901, 2101, 2102, 2103, 2501, 2502. These include parts of the communities of Wapato, Toppenish, and Mabton. I estimate that as of the 2018 general election 428 white voters were registered in these precincts, while 4,579 Latino voters were on the rolls. Therefore, whites only comprised about 8% of registered voters. Accounting for turnout, the white composition of the 2018 electorate bumped up a bit to 11%. By 2020, the white share of registered voters dropped slightly to 7%, with electoral composition at 8%.

Table 9 below illustrates these findings.

Table 9. Comparison of included versus excluded precincts.

Precincts	Registered Voter Share (2018)	2018 Election Electorate Composition	Net White Advantage over Registration Share (2018)	Registered Voter Share (2020)	2020 Election Electorate Composition	Net White Advantage over Registration Share (2020)
Included Adams & Grant Latino Precincts	73% Latino, 25% white	61% Latino, 36% white	+23%	75% Latino, 23% white	70% Latino, 28% white	+10%
Excluded Yakima Latino Precincts	83% Latino, 8% white	80% Latino, 11% white	+6%	84% Latino, 7% white	83% Latino, 8% white	+2%

The commission's choice to include the Adams and Grant County precincts and exclude the Yakima County precincts has two notable effects. First, the Adams and Grant County precincts have lower shares of Latino registered voters compared to the Yakima precincts (73% v. 83%). Second, the Adams and Grant County precincts have disproportionately white *electorates* relative to their voter registration, whereas in the Yakima County precincts Latino vote share narrowly trails Latino registration. This is particularly pronounced in the 2018 off-year election, where the white advantage in the Adams and Grant County precincts is four times greater than in the Yakima County precincts.

The commission's decision of which high-density Latino precincts to include and exclude, coupled with the decision to label the district LD 15 with senate elections in off-years, thus helps explain why the district will not perform to provide Latino voters an equal opportunity to elect their candidates of choice.

Conclusion

In conclusion, racially polarized voting between white and Latino voters is present in the Washington Yakima Valley and surrounding 5-county region. The pattern is overwhelming. I examined 25 elections, and 23 demonstrate clear patterns of RPV using both the ecological inference and the rows by columns methods.

Further, in past elections, white voters voted sufficiently as a bloc to usually defeat minority voters preferred candidates in 7 of 10 statewide (plus congressional) elections analyzed in this report. When I examined white blocking of Latino preferred candidates, I observed 11 white voting blocks in 11 legislative or county/local elections. Despite this, the state drew legislative boundaries that affords these same minority voters fewer opportunities to elect candidates of choice than what their population and voting strength suggests.

In addition, Plaintiffs provided three demonstrative plans that contain majority-Latino configurations of LD 14, which compare similarly or superior to the enacted plan on redistricting criteria, and that allow Latino candidates an equal opportunity to elect their candidates of choice. In contrast, the enacted plan has produced a map that blocks minority voters' ability to elect candidates of choice, although draft maps proposed and considered during the redistricting process provided districts in the Yakima Valley and surrounding areas that would have provided Latino candidates with an equal opportunity to elect candidates of choice. Moreover, the choice to label the relevant district LD 15 rather than LD 14, especially given the number of elections in presidential years in each legislative district and lower Latino voter turnout especially in the off-year, further limits the ability of Latinos to elect candidates of their choice in LD 15. Finally, the nonperformance of the district is illustrated by the commission's decision to include Latino precincts with lower registration and turnout rates than neighboring Latino precincts that were excluded from the district.

Appendix

BISG Formula

Given the voter's surname $s \in \mathcal{S}$, geographic area $g \in \mathcal{G}$, and race $r \in \mathcal{R}$, the probability of a voter i being of race $R_i = r$ given their geographic area $G_i = g$ and surname $S_i = s$ is given by Bayes' Theorem as:

$$\Pr(R_i = r | S_i = s, G_i = g) = \frac{\Pr(G_i = g | R_i = r)\,\Pr(R_i = r | S_i = s)}{\sum_{r' \in \mathcal{R}} \Pr(G_i = g | R_i = r')\,\Pr(R_i = r' | S_i = s)}$$

References

Barreto, Matt. 2010. *Ethnic Cues: The Role of Shared Ethnicity in Latino Political Participation.* University of Michigan Press.

Collingwood, Loren, Ari Decter-Frain, Hikari Murayama, Pratik Sachdeva, and Juandalyn Burke. 2020. "eiCompare: Compares Ecological Inference, Goodman, Rows by Columns Estimates." *R Package Version* 3 (0).

Decter-Frain, Ari, and Pratik Sachdeva. 2021. *Bisg: Bayesian Improved Surname Geocoding.*

Pursuant to 28 U.S.C. § 1746, I, Loren Collingwood, declare that the foregoing is true and correct.
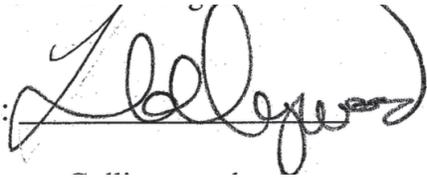
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Dr. Loren Collingwood
Dated: November 2, 2022

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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SUSAN SOTO PALMER, *et al.*,

                            Plaintiffs,

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                    v.

8

STEVEN HOBBS, *et al.*,

9

                            Defendants.

Cause No. C22-5035RSL

ORDER GRANTING MOTION TO
INTERVENE

10

11   This matter comes before the Court on a "Motion to Intervene" filed by Jose Trevino (a

12   resident of Granger, Washington), Ismael Campos (a resident of Kennewick, Washington), and

13   Alex Ybarra (a State Representative and resident of Quincy, Washington). Dkt. # 57. Plaintiffs

14   filed this lawsuit to challenge the redistricting plan for Washington's state legislative districts,

15   alleging that the Washington State Redistricting Commission ("the Commission") intentionally

16   configured District 15 in a way that cracks apart politically cohesive Latino/Hispanic[1]

17   populations and placed the district on a non-presidential election year cycle in order to dilute

18   Latino voters' ability to elect candidates of their choice. Plaintiffs assert a claim under Section 2

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[1] The Complaint and this Order use the terms "Hispanic" and "Latino" interchangeably to refer
to individuals who self-identify as Hispanic or Latino and to persons of Hispanic Origin as defined by
the United States Census Bureau and United States Office of Management and Budget.

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1 of the Voting Rights Act ("VRA"), 52 U.S.C. § 10301(a), and request that the Court enjoin

2 defendants from utilizing the existing legislative map and order the implementation and use of a

3 valid state legislative plan that does not dilute, cancel out, or minimize the voting strength of

4 Latino voters in the Yakima Valley.

5   Plaintiffs named as defendants Steven Hobbs (Washington's Secretary of State), Laurie

6 Jinkins (the Speaker of the Washington State House of Representatives), and Andy Billig (the

7 Majority Leader of the Washington State Senate). The claims against Representative Jinkins and

8 Senator Billig were dismissed on the ground that plaintiffs failed to plausibly allege an

9 entitlement to relief from either of them. Dkt. # 66 at 4-5. Secretary Hobbs does not have an

10 interest in defending the existing districting plan and has taken no position regarding the merits

11 of plaintiffs' Section 2 claim. The intervenors assert that they are registered voters who intend to

12 vote in future elections and that they have a stake in this litigation. Mr. Trevino falls within

13 District 15 as drawn by the Commission, Mr. Campos falls within District 8 and could find

14 himself in District 15 if new boundaries are drawn, and Representative Ybarra represents

15 District 13, the boundaries of which may shift if plaintiffs' prevail in this case.

16 **A. Intervention as of Right**

17   Rule 24 of the Federal Rules of Civil Procedure establishes the circumstances in which

18 intervention as a matter of right is appropriate:

19   (a) Intervention of Right. On timely motion, the court must permit anyone to
       intervene who:

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21   (1) is given an unconditional right to intervene by a federal statute; or

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2   (2) claims an interest relating to the property or transaction that is the subject of
the action, and is so situated that disposing of the action may as a practical matter
impair or impede the movant's ability to protect its interest, unless existing parties

3   adequately represent that interest.

4   The Ninth Circuit has distilled four elements from Rule 24(a): intervention of right applies when

5   an applicant "(i) timely moves to intervene; (ii) has a significantly protectable interest related to

6   the subject of the action; (iii) may have that interest impaired by the disposition of the action;

7   and (iv) will not be adequately represented by existing parties." *Oakland Bulk & Oversized*

8   *Terminal, LLC v. City of Oakland*, 960 F.3d 603, 620 (9th Cir. 2020) (citation omitted).

9   Plaintiffs argue that intervenors cannot satisfy the first, second, or fourth criteria. "While an

10   applicant seeking to intervene has the burden to show that these four elements are met, the

11   requirements are broadly interpreted in favor of intervention." *Citizens for Balanced Use v.*

12   *Montana Wilderness Ass'n*, 647 F.3d 893, 897 (9th Cir. 2011) (citation omitted).

13   **(1) Timeliness**

14   Intervenors' motion to intervene was timely filed. The motion was filed a week after it

15   became apparent that none of the named defendants were interested in defending the existing

16   redistricting map, and it had had no adverse impact on the resolution of the then-pending motion

17   for preliminary injunction.

18   **(2) Significant Protectable Interest**

19   A proposed intervenor "has a significant protectable interest in an action if (1) it asserts

20   an interest that is protected under some law, and (2) there is a relationship between its legally

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1   protected interest and the plaintiff's claims." *Kalbers v. United States Dep't of Justice*, 22 F.4th

2   816, 827 (9th Cir. 2021) (citation omitted). "The interest test is not a clear-cut or bright-line rule,

3   because no specific legal or equitable interest need be established. . . . Instead, the 'interest' test

4   directs courts to make a practical, threshold inquiry and is primarily a practical guide to

5   disposing of lawsuits by involving as many apparently concerned persons as is compatible with

6   efficiency and due process." *United States v. City of Los Angeles*, 288 F.3d 391, 398 (9th Cir.

7   2002) (internal quotation marks, citations, and alterations omitted). "The relationship

8   requirement is met if the resolution of the plaintiff's claims actually will affect the applicant."

9   *Id.*

10   Intervenors Trevino and Campos claim "an interest in ensuring that any changes to the

11   boundaries of [their] districts do not violate their rights to 'the equal protection of the laws'

12   under the Fourteenth Amendment . . . ." Dkt. # 57 at 6. Representative Ybarra claims "a

13   heightened interest in not only the orderly administration of elections, but also in knowing

14   which voters will be included in his district." *Id*. All three intervenors claim an interest in the

15   boundaries of the legislative districts in which they find themselves and "in ensuring that

16   Legislative District 15 and its adjoining districts are drawn in a manner that complies with state

17   and federal law." *Id*. at 6-7.

18   As an initial matter, under Washington law, intervenors have no right or protectable

19   interest in any particular redistricting plan or boundary lines. The legislative district map must

20   be redrawn after each decennial census: change is part of the process. Intervenors, in keeping

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1 with all other registered voters in the State of Washington, may file a petition with the state

2 Supreme Court to challenge a redistricting plan (RCW 44.05.130), but they have no role to play

3 in the redistricting process. Nor is there any indication that a general preference for a particular

4 boundary or configuration is a legally cognizable interest.

5   Intervenors do not allege that their right to vote or to be on the ballot will be impacted by

6 this litigation. Nor have they identified any direct and concrete injury that has befallen or is

7 likely to befall them if plaintiffs' Section 2 claim is successful. Rather, they broadly allege that

8 they have an interest in ensuring that any plan that comes out of this litigation complies with the

9 Equal Protection Clause, state law, and federal law. But a generic interest in the government's

10 "proper application of the Constitution and laws, and seeking relief that no more directly and

11 tangibly benefits [the intervenors] than it does the public at large[,] does not state an Article III

12 case or controversy" (*Lujan v. Defenders of Wildlife*, 504 U.S. 555, 573-74 (1992)), and it would

13 be premature to litigate a hypothetical constitutional violation (*i.e.*, being subjected to a racial

14 gerrymander through a remedial map established in this action) when no such violative conduct

15 has occurred. With the possible exception of Representative Ybarra (discussed below),

16 intervenors have not identified a significant protectable interest for purposes of intervention

17 under Rule 24(a).

18   **(3) Adequacy of Representation**

19   In addition to the uncognizable interest in legislative district boundaries and the generic

20 interest in ensuring that any new redistricting map complies with the law, Representative Ybarra

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1 claims an interest in avoiding delays in the election cycle and in knowing ahead of time which

2 voters will be included in his district. The Court assumes, for purposes of this motion, that these

3 interests are significant enough to give Representative Ybarra standing to pursue relief in this

4 litigation. He cannot, however, show that the existing parties will not adequately represent these

5 interests.

6   "The most important factor to determine whether a proposed intervenor is adequately

7 represented by a present party to the action is how the intervenor's interest compares with the

8 interests of existing parties. . . . Where the party and the proposed intervenor share the same

9 ultimate objective, a presumption of adequacy of representation applies, and the intervenor can

10 rebut that presumption only with a compelling showing to the contrary. . . ." *Perry v.*

11 *Proposition 8 Off. Proponents*, 587 F.3d 947, 950-51 (9th Cir. 2009) (internal quotation marks,

12 citations, and alterations omitted). The arguably protectable interests asserted by Representative

13 Ybarra were ably and successfully urged by Secretary Hobbs in opposition to plaintiffs' motion

14 for a preliminary injunction. Concerns regarding delays in the election cycle that might arise if

15 district boundaries were redrawn this spring and the disruption to candidates who were

16 considering a run for office were identified by Secretary Hobbs and played a part in the Court's

17 decision.

18   Because Representative Ybarra's arguably protectable interests are essentially identical to

19 the arguments that were actually asserted by Secretary Hobbs, Representative Ybarra may defeat

20 the presumption (and evidence) of adequate representation only by making a compelling

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1   showing that Secretary Hobbs will abandon or fail to adequately make these arguments in the

2   future. *See Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003) (assessing the proposed

3   intervenor's efforts to rebut the presumption in terms of three factors: "(1) whether the interest

4   of a present party is such that it will undoubtedly make all of a proposed intervenor's arguments;

5   (2) whether the present party is capable and willing to make such arguments; and (3) whether a

6   proposed intervenor would offer any necessary elements to the proceeding that other parties

7   would neglect"). Representative Ybarra has not attempted to show that Secretary Hobbs will fail

8   to pursue arguments regarding election schedules and the need for certainty as this case

9   progresses. The intervenors have therefore failed to show that the protectable interests they have

10 identified will not be adequately represented in this litigation.[2]

11 **B. Permissive Intervention**

12   Pursuant to Rule 24(b), "[o]n timely motion, the court may permit anyone to intervene

13 who . . . has a claim or defense that shares with the main action a common question of law or

14 fact. . . . In exercising its discretion, the court must consider whether the intervention will

15 unduly delay or prejudice the adjudication of the original parties' rights." In the Ninth Circuit,

16 "a court may grant permissive intervention where the applicant for intervention shows

17

18   [2] Representative Ybarra also argues that he will be able to add to the litigation by providing a "valuable perspective on the close interaction between race and partisanship" in opposition to plaintiffs

19 Section 2 claim, and that none of the existing parties is prepared to make such arguments. Dkt. # 57 at 9. That a proposed intervenor has testimony or other evidence that is relevant to a claim or defense does

20 not mean that they have a significant protectable interest for purposes of Rule 24(a), however. It is only protectable interests that must be adequately represented in the litigation when considering intervention

21 as a matter of right.

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1 (1) independent grounds for jurisdiction; (2) the motion is timely; and (3) the applicant's claim

2 or defense, and the main action, have a question of law or a question of fact in common." *City of*

3 *Los Angeles*, 288 F.3d at 403 (citation omitted). If the initial conditions for permissive

4 intervention are met, the court is then required to consider other factors in making its

5 discretionary decision on whether to allow permissive intervention.

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> These relevant factors include the nature and extent of the intervenors' interest, their standing to raise relevant legal issues, the legal position they seek to advance, and its probable relation to the merits of the case. The court may also consider whether changes have occurred in the litigation so that intervention that was once denied should be reexamined, whether the intervenors' interests are adequately represented by other parties, whether intervention will prolong or unduly delay the litigation, and whether parties seeking intervention will significantly contribute to full development of the underlying factual issues in the suit and to the just and equitable adjudication of the legal questions presented.

12 *Spangler v. Pasadena City Bd. of Ed.*, 552 F.2d 1326, 1329 (9th Cir. 1977) (internal footnotes

13 omitted). Plaintiffs argue that intervenors' motion is untimely, intervention would risk undue

14 delay and would unfairly prejudice plaintiffs, and intervenors' chosen counsel is likely to be a

15 witness in this matter and has already filed a lawsuit challenging Legislative District 15 that is

16 inconsistent with his representation here. Plaintiffs request that, if intervenors are permitted to

17 participate in this litigation at all, it should be in the role of *amicus curiae*, not as parties.

18 **(1) Timeliness**

19 For the reasons stated above, intervenors' motion to intervene was timely filed.

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1   **(2) Undue Delay and Unfair Prejudice**

2   Plaintiffs argue that the resolution of their Section 2 claim will be unduly delayed and

3   they will be unfairly prejudiced if they are forced to expend resources responding to intervenors'

4   arguments. Plaintiffs acknowledge, however, that intervenors – unlike the defendants they chose

5   to name – intend to oppose plaintiffs' request for relief under Section 2. It is unclear how forcing

6   a litigant to prove its claims through the adversarial process could be considered unfairly

7   prejudicial or how the resulting delay could be characterized as undue. "That [intervenors] might

8   raise new, legitimate arguments is a reason to grant intervention, not deny it. *W. Watersheds*

9   *Project v. Haaland*, 22 F.4th 828, 839 (9th Cir. 2022). The presence of an opposing party is the

10   standard in federal practice: intervenors' insertion into that role would restore the normal

11   adversarial nature of litigation rather than create undue delay or unfair prejudice. To the extent

12   plaintiffs' opposition to intervention is based on their assessment that intervenors' arguments are

13   meritless or irrelevant, the Court declines to prejudge the merits of intervenors' defenses in the

14   context of this procedural motion.

15   **(3) Complications Arising From Counsel's Participation**

16   Plaintiffs do not cite, and the Court is unaware of, any authority supporting the denial of a

17   motion to intervene because of objections to the intervenors' counsel. At present, the Court does

18   not perceive an insurmountable conflict between the claims set forth in *Garcia v. Hobbs*, C22-

19   5152RSL, and intervenors' opposition to plaintiffs' Section 2 claim. If it turns out that counsel's

20   representation gives rise to a conflict under the Rules of Professional Conduct or if he is a

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1   percipient witness from whom discovery is necessary, those issues can be heard and determined

2   through motions practice as the case proceeds.

3   **(4) Other Relevant Factors**

4   After considering the various factors set forth in *Spangler*, 552 F.3d at 1329, the Court

5   finds that, although intervenors lack a significant protectable interest in this litigation, the legal

6   positions they seek to advance in opposition to plaintiffs' Section 2 claim are relevant and, in the

7   absence of other truly adverse parties, are likely to significantly contribute to the full

8   development of the record and to the just and equitable adjudication of the legal questions

9   presented.

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11   For all of the foregoing reasons, the motion to intervene (Dkt. # 57) is GRANTED.

12   Intervenors shall file their proposed answer (Dkt. # 57-1) within seven days of the date of this

13   Order. The case management deadlines established at Dkt. # 46 remain unchanged.

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15   Dated this 6th day of May, 2022.

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17   Robert S. Lasnik
     United States District Judge

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