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

IN THE MATTER OF THE)
2021 REDISTRICTING PLAN.)
_____)

FELISA WILSON, GEORGE)
MARTINEZ, and YARROW)
SILVERS,)
Plaintiffs,)

v.)

Case No. 3AN-21-08869CI

ALASKA REDISTRICTING)
BOARD,)
Defendant.)
_____)

MEMORANDUM OF AMICI

INTRODUCTION

Amici, the Alaska Black Caucus, National Association for the Advancement of Colored People Anchorage, Alaska Branch #1000, Enlaces, and the Korean American Community Association, Inc., submit this amici memorandum as authorized by the court. Native Movement and First Alaskans Institute join in this memorandum conditionally; their motion to participate as additional amici is filed contemporaneously with the filing of this memorandum.

Amici address the single issue of the constitutionality of the house district pairings in Anchorage and Eagle River that resulted in two senate seats that each combine a district in Eagle River/Chugiak with a district in Anchorage, rather than creating one senate seat

for Eagle River/Chugiak and a separate senate seat for Anchorage. Amici contend that the Redistricting Board's pairings violate the guarantee of equal protection in Article I, section 1 of the Alaska Constitution.

STATEMENT OF FACTS

The Proclamation House Districts

The house districts in the 2021 Proclamation keep the communities within the Anchorage Bowl separate from communities in Eagle River and other points to the north. Two house districts, HDs 22 and 24, between them include all of the civilian (non-JBER) neighborhoods located within the Municipality of Anchorage but north of the Anchorage Bowl.¹ For convenience sake, in further discussion of the districts at issue, this memorandum adopts local usage and often refers to the Anchorage Bowl area as "Anchorage" to distinguish it from the neighborhoods to the north that refer to themselves as Eagle River, Peters Creek, Birchwood, and Chugiak. This brief often refers to the northern neighborhoods collectively as "Eagle River/Chugiak."

During the redistricting process, some preliminary maps drawn by the Board or submitted by others proposed house districts that contained both a portion of Anchorage (typically part of Downtown, Government Hill, Mountain View, or East Anchorage) and a portion of Eagle River or other neighborhoods north of the Anchorage Bowl.² These

¹ See ARB 13-14, 40 (HD 22), 42 (HD 24).

² See, e.g., ARB 635-36 (Doyon proposal), 657 (AFFER proposal). 1027 (Board's v.3).

proposals drew substantial opposition from the public. Large numbers of both Anchorage residents and Eagle River residents – approximately 300 people – submitted comments asking the Board to keep their areas separate and not mixed in a district with the other.³

Many comments emphasized the diversity of East Anchorage and its differentness from Eagle River. Sample comments include:

Eagle River is much more affluent with more single-family homes and the Muldoon Community with lower income and a much larger amount of dense housing. [Bob Reupke (ARB 3519-20)]

We [in East Anchorage] are one of the most ethnically, racially, and socioeconomically diverse areas in the United State along with being the most population dense area of all of Alaska. We are a strong distinct community. [Paul Robarge (ARB 3539)]

[T]he Mountain View and Muldoon districts have a sort of identity of their own based on demographics and the communities that have formed there. Their needs and priorities might be very different from those of a more conservative, higher income district that doesn't have as diverse a population. [Kimberly Hunt (ARB 2652)]

The communities of Chugiak/Eagle River are distinct culturally and socio-economically from the Anchorage Bowl and there is a well-organized movement for them to leave the Municipality of Anchorage and form their own borough (Eagle Exit). [Melody Bechberger (ARB 1895-96)]

[Opposing any district straddling Anchorage and Eagle River]: People who live in each respective area have different concerns and their prospective representatives should be able to represent those concerns wholistically and not be torn between two contrary stakeholder groups. [Laura Perry (ARB 3415)]

Near the end of the redistricting process, Member Marcum developed a new

³ Cites to many of these comments are provided in Table 1 (attached).

proposal that would join in a single house district portions of Anchorage and portions of Eagle River/Chugiak. [11/4 Tr. 128-29, 137-41 (ARB 9108, 9110); 11/5 Tr. 4-7 (ARB 7744-45)] At the next public hearing session, 14 people testified orally (in person or telephonically) to urge that distinct communities in Anchorage not be broken up and that the Board reject the suggestion to create house districts that blended Anchorage and Eagle River communities.⁴ Just four people testified in favor of Marcum's proposal.⁵

Both before and after this last-minute suggestion to combine Anchorage and Eagle River communities within a house district, Eagle River residents were particularly vocal against being joined with Anchorage. Typical comments included:

Eagle river needs to be on its own. We do not want to be part of east anchorage. [Casey Albanese (ARB 1801)]

Eagle River needs to be separate from JBER and East Anchorage. [Denise Allen (ARB 1808)]

Eagle River wants to be separate from Anchorage for a reason! If we wanted Anchorage involvement, then we'd live there. Leave us alone. [MB (ARB 1855)]

Eagle River should stay own district. [JoAnne Beches (ARB 1901)]⁶

⁴ See 11/5 Tr. 51-54 (Yarrow Silvers), 56-57 (Joelle Hall), 58-59 (Felisa Wilson), 67-68 (Donna Mears), 72-74, 79 (David Dunsmore), 93-94 (Erin Willahan), 102-05 (Celeste Hodge-Growden), 121 (Alex Gimarc), 122-24 (Zack Fields), 126-27 (Kendra Kloster), 129-30 (Tanner Amdur-Clark), 151-52 (Lacey Hemming, 154-55 (John Nelson), 156-58 (Kirk Rose) [ARB 7756-58, 7760-61, 7763, 7766-67, 7769, 7773-76, 7781-83].

⁵ See 11/5 Tr. 80-81 (Chris Nelson), 124-25 (Kelli Toth), 134-37 (Jamie Allard), 150-51 (Ann Brown) [ARB 7763, 7774, 7777, 7781].

⁶ Under the 2013 Proclamation Plan, Eagle River had its own house and senate seats. See ARB 1576. The request to "stay own district" was oft-repeated.

[Combining Eagle River and East Anchorage in a house district] is only to corrupt Anchorage voting. Democrats are trying to ruin our beautiful state. This is like mixing Beverly Hills with Compton. [Tara Davis (ARB 2220)]

Downtown is cosmopolitan & crime ridden whereas Eagle River is more a family orientated area. . . . [T]hey each have their own identity and needs. [Mariann Falcone (ARB 2335)]

Eagle River is a community within itself with different needs and considerations than those of Anchorage. Many of us have specifically chosen to live here over Anchorage because the community is different and has a uniqueness of its own. The people here want to be represented differently than the rest of Anchorage. [Jessica Flournoy (ARB 2380)]

Eagle River is a separate entity and culture. East Anchorage is a loss [sic] collection of neighborhoods. These do not go well together. [Debra Isel (ARB 2845)]

Eagle River is nothing like Anchorage, as we have totally different issues . . . Rural versus city, small town versus big town, conservative versus liberal, etc. Things would be SO much better if Eagle River were totally separate from Anchorage[.] [Cathy Medland (ARB 3207)]

As a resident of Chugiak, I do not feel that Anchorage represents my values. [Michael Miller (ARB 3232)]

Eagle River should remain its own district and in no way be combined with east Anchorage. Eagle River/Chugiak has a very different set of concerns and community mind frame. [Rebecca Raso (ARB 3487)]

The people of Eagle River do not want our district to be combined with Anchorage. . . . Our values are completely different than Anchorage. [Corinne Rollman (ARB 3573)]

It would be hard to fault a reader from perceiving in many of the comments a sense of superiority and disdain expressed by Eagle River residents toward Anchorage residents. Throughout the redistricting process, of course, residents of one area often discussed

wanting their communities to stay together and not be joined with other communities that they perceived as different. However, the undercurrent of animosity and lack of respect for neighbors' "otherness" is largely absent in comments from other parts of the state.

Naturally, public response to the various house district proposals was not uniform. Some people wrote to support certain combined districts, or to support one combination rather than another – for example, favoring adding an East Anchorage neighborhood to a largely Eagle River district instead of combining Eagle River with a portion of Downtown, if it were determined that Eagle River could not be kept entirely separate. But it is fair to say that the comments favoring any combination of Eagle River and Anchorage were vastly outnumbered by comments that opposed any combination and begged to have these very different neighborhoods kept in entirely separate house districts.⁷ It appears that no citizen affirmatively encouraged the Board to design a house district combining portions of Eagle River with Anchorage, if keeping the areas in separate districts was an option.

The Board evidently listened to the public. Recognizing that it could comply with the constitutional requirements for house districts without combining Anchorage and Eagle River neighborhoods in a single district, the Board drew compliant house districts that kept Anchorage and Eagle River in separate house districts.⁸

While the Board was considering house districts, it made no official

⁷ See ARB 1709-4347 (full file of comments submitted to the Redistricting Board website).

⁸ See ARB 13-14, 36-42 (HDs 18-24).

pronouncements about possible pairings to form senate districts. Some of the maps submitted by community groups were explicit about proposed pairings,⁹ and some people commented favorably about proposed house districts that would allow a separate senate seat for Eagle River/Chugiak, leaving the Anchorage districts to be combined with each other.¹⁰ Few, if any, at this stage of the process, wrote or testified specifically in favor of a plan for senate seats that would pair an Eagle River district with an Anchorage district.

The Proclamation Senate Districts

The Board finalized its work on the 40 Proclamation House Districts on Friday, November 5, so on Monday, November 8, it turned officially to discussion of how to pair them into 20 Proclamation Senate Districts. [11/8 Tr. 4 (ARB 6191)] The Board took public testimony on November 8. Ten people spoke about how they thought the Anchorage and Eagle River house districts should be paired into senate seats. Of these, nine supported pairing Anchorage seats with each other, and not with Eagle River.¹¹ Only one (a well-known Republican strategist) spoke in favor of pairing each of the Eagle River/Chugiak

⁹ See, e.g., ARB 646 (Alaska Democratic Party proposal), 684-87 (AFFR proposal).

¹⁰ Some such comments include the statements at ARB 1863, 1895-96, 1941, 1955, 2045, 2241, 2285-86, 2322, 2355, 2387-89, 2454, 2495, 2505-06, 2533, 2551, 2590, 2603, 2887, 2912, 2981, 3160, 3254, 3255, 3269, 3350-51, 3352, 3530, 3535, 3551, 3698, 3871, 3885, 3886, 3913, 4058-59, 4251.

¹¹ See 11/8 Tr. 8-9 (Alex Barker), 12-14 (Jeremy Houston), 22-24 (David Dunsmore), 33-36 (Yarrow Silvers), 37-38 (Roger Branson), 51-53 (Tahnee Seccareccia), 88 (Donna Mears), 96-98 (Christopher Constant), 98-99 (Felisa Wilson) [ARB 6192-94, 6196, 6198-2000, 6203, 6212, 6214-15].

districts with an Anchorage district.¹²

Besides those who testified, numerous people wrote to express opinions on forming senate seats, including on how to pair the house districts in the Anchorage and Eagle River area. The written comments overwhelmingly favored keeping the Eagle River/Chugiak districts together and the two Muldoon districts together, and opposed pairing an Eagle River district with any part of Muldoon, Government Hill, Mountain View, or Downtown.¹³

In formal session, Board members discussed and reached quick consensus on a few of the most obvious pairings in Southeast, Northern and Western Alaska, and in Fairbanks. [11/8 Tr. 124-30 (ARB 6221-23)] When Board members spoke to justify particular proposed pairings, they emphasized the similarities between the house districts they proposed to join to make a senate district. [E.g., 11/8 Tr. 125, 129 (ARB 6221, 6222)] Before the Board began its formal discussion of the rest of the state, the Board took a break so that Board members could review the comments that had been submitted as of that time. [11/8 Tr. 133 (ARB 6223)]

The Board then went into a work session where members worked alone or in pairs to develop proposals for pairings for the areas of the state for which the Board had not yet

¹² See 11/8 Tr. 65-69 (Randy Ruedrich) [ARB 62-6-07].

¹³ See, *supra*, at 7 n.10; *infra* at 11-15 (quoting some of the comments); Tables 2 and 3 (attached) (providing citations to comments about the proposed pairings involving Eagle River and Anchorage districts).

determined the senate districts. [11/8 Tr. 136-37 (ARB 6224)]

Then, back in formal meeting mode, the Board worked its way around the state, discussing pairings region-by-region. [11/8 Tr. 138-213 (ARB 6225-43)] Where disagreements were voiced, justifications for proposed pairings again focused primarily on the similarities between the districts being paired and the goal of making logical pairings. [E.g., 11/8 Tr. 138-43, 145-54 (ARB 6225-31)]

When the Board was ready to address the Anchorage area, Member Bahnke opened the discussion, presenting a plan that paired the two Eagle River/Chugiak districts with each other for one senate seat, and paired the two Muldoon districts with each other for another senate seat. She explained that she based her plan on the large amount of testimony asking that the Board not split either Eagle River or Muldoon. [11/8 Tr. 165-67 (ARB 6231-32); see ARB 1104 (Bahnke's map)] Member Borrromeo supported Bahnke's plan. [11/8 Tr. 168 (ARB 6231)]¹⁴

Member Marcum next described her alternative plan. She said she started with the "physical and socio-economic connection" between JBER and Eagle River, which she found supported pairing House Districts 23 and 24 (using the final numbers), thereby

¹⁴ Explaining the decision to start by pairing the two Eagle River seats with each other, Borrromeo stated: "It makes complete logical sense that Eagle River should be united in a Senate seat. I don't know why you would ever consider splitting Eagle River unless you were trying to expand Eagle River's reach in the Senate, which I'm not suggesting that that would be something the Board should ever entertain, as a matter of fairness." [11/8 Tr. 168-69 (ARB 6232)]

combining Government Hill, JBER, and a portion of Northeast Anchorage with North Eagle River/Chugiak. [11/8 Tr. 174-76 (ARB 6234); *see* ARB 1103 (Marcum's map)] Marcum proffered no rationale for pairing JBER with North Eagle River rather than with South Eagle River. As a consequence of pairing one of the Eagle River house districts with an Anchorage house district, Marcum had to pair the other Eagle River house district with a different Anchorage house district; she paired HD 22 (South Eagle River) with HD 21 (South Muldoon). [11/8 Tr. 187-88 (ARB 6237)] When asked about the ties *between* the two Eagle River districts that were not being respected, Marcum replied:

Eagle River has its own two separate House districts. This actually gives Eagle River the opportunity to have more representation, so they're certainly not going to be disenfranchised by this process. [11/8 Tr. 176 (ARB 6234)]

Marcum also described what she believed were the "strong ties" between Eagle River and Muldoon:

When people from Eagle River come to town, they drive down Muldoon. . . . That is where we stop and where we shop and where we get gas, and we're going back and forth to Eagle River. And so there are very strong socioeconomic ties between that part of Anchorage and the other part of Anchorage further out the highway. [11/8 Tr. 189 (ARB 6237)]

Borromeo, in response, noted the lack of evidence that East Anchorage residents go to Eagle River to shop, and she reminded others of the substantial opposition the Board had heard to splitting either Eagle River or East Anchorage. [11/8 Tr. 189, 196-97 (ARB 6237, 6239)]

Without a formal vote or any clear statement on record of the preference of Member

Simpson or himself, Chair Binkley stated he understood that a majority favored Marcum's proposal [11/8 Tr. 202-03 (ARB 6241)], and the Board moved on to discuss pairings in and around Fairbanks.

Community reaction to the idea of pairing each of the two Eagle River/Chugiak house districts with an Anchorage house district, rather than pairing the Eagle River/Chugiak districts with each other, was swift and strongly opposed to this plan. The opposition to pairing Eagle River and East Anchorage came from *both* sides. Residents of both communities asserted a strong desire to be kept in separate senate districts, where each would be joined with a neighbor more like itself, rather than being forced into sharing a senate district with people who objectively and subjectively are very different.¹⁵

Typical comments favoring keeping East Anchorage intact as a community and separate from Eagle River included:

I'd like to encourage the board to keep the two Eagle River area house seats (24 and 22) together. These two communities are the most socioeconomically integrated, share many of the same school districts, sports centers, community activities, community councils, and much more. . . . [Eagle River and East Anchorage] are entirely distinct, share no school district boundaries or community councils, and are very different communities. East Anchorage is incredibly diverse and tends to be on a far lower socioeconomic mark than Eagle River which has among the highest average household income in the state. Pairing these two districts would result in conflicting interests in many cases which would make it unfair to share a senator. Looking at the possible pairings, it seems unnecessary as well. [Erik Gunderson (ARB 2507)]

¹⁵ See Table 2 (attached).

East ANC is a vastly different community than ER. Look at the demographics, election results, school compositions, etc. East ANC is unique, and it is important that it is represented by members actually within the community and understanding of and ready to work with and for the diverse population. I'm concerned about the further potential marginalization of East ANC constituents, many minority, when set in the same box as ER. [Tanner Johnson (ARB 2902)]

East Anchorage, along Muldoon, has a bustling and diverse community that works together. There are many people of color and immigrants in that area. Splitting them up and pairing them with the predominantly white ER weakens their representation and violates the spirit if not the letter of the VRA. [Steven Aufrect (ARB 1850-51)]

Leaders from Eagle River reject affordable housing and social service programs that directly benefit underserved communities like East Anchorage. They treat socio-economically diverse areas of Anchorage with disdain and as a dumping ground for what they don't want in Eagle River. East Anchorage needs representation with a deep appreciation that recognizes the social-economic diversity of the area and a willingness to connect with community members where they are at[.] [Brenda Bergsrud (ARB 1923)]

[T]he houses in both Muldoon districts are very similar with an abundance of multi family homes, apartments, and zero lot lines. Eagle River homes are notorious for spacious lots and few multi family dwellings. [Katherine McDonald (ARB 3178)]

East Anchorage should have its own representation as it is culturally diverse and lower income, opposite features of Eagle River. [Beverly Churchill (ARB 2101)]

East Anchorage is a completely different living environment and population than Eagle River. [Mike Coumbe (ARB 2170)]

Eagle River and East Anchorage are incredibly distinct areas – economically, culturally, and racially. Trying to join these communities into a district is an attempt to silence the diverse Muldoon area with overwhelmingly white Eagle River. . . . [The] only justification for doing so is partisan gain. [Burke Croft (ARB 2187)]

Government Hill is an urban, racially diverse neighborhood that has nothing in common with the overwhelmingly White exurban community of Chugiak. [Zack Fields (ARB 2353)]

[T]he board's proposal to pair Eagle River's House district with Northeast Anchorage and JBER . . . further marginalizes the voice of our communities that have historically been oppressed and pushed away from the decision making processes . . . These communities also have distinct identities and characteristics and it would be a disservice to them by dismissing these differing qualities. . . . [Other available pairings] would respect the distinct voices of the people from Eagle River and East Anchorage. [Su Chon (ARB 2096)]

East Anchorage contains many of the most diverse neighborhoods and schools in the country, and pairing East Anchorage districts with South Anchorage or Eagle River would deny these diverse communities their right to be fairly represented[.] [E.J.R. David (ARB 2208)]

These pairings severely dilute the voices of already under-represented majority minority districts in East Anchorage and go against the spirit of dozens of voices from both Eagle River and East Anchorage who have testified to keeping their communities together. [Indra Arriaga (ARB 1836)]

Trying to honor any supposed ties between JBER and ER comes at the expense of socio economic ties throughout the rest of town, including East Anchorage, Spenard/Turnagain, Downtown/Government Hill and JBER. Trying to redistrict in this way based on the fact that people from ER drive to Anchorage to shop is not a legitimate reason in the least to redistrict in this way and disregard all the ways in which Anchorage residents/voters would be negatively affected. Please choose pairings that more accurately represent all areas and don't marginalize those who are diverse and not rich. [Jonathan Marsh (ARB 3131)]

East Anchorage [residents] have been suffering from lack of adequate Senate representation for the past 10 years and with this pairing, will suffer even more grievously for another ten years. The idea that driving down Muldoon to go shopping in Anchorage makes ER socio-economically tied to East Anchorage is about the most convincing evidence there is that Eagle River, a community that is largely affluent and white, cannot even begin to understand the issues and concerns faced by a district that has high racial

diversity, lower on average economic status, and may not be able to afford 3 meals a day[.] [Yarrow Silvers (ARB 3892-93)]

Because Eagle River residents commute via Muldoon Road on their way to other parts of Anchorage does not mean they have an appreciation for the needs in that part of the community. . . . [T]here are no circumstances under which a rational person would have reached this conclusion [as to senate districts]. [LuAnn Piccard (ARB 3435-36)]

[A]ny senator who must represent both Anchorage and Eagle River is signed up for a near impossible task, because . . . the needs and socio-economic status are vastly different. [Derek Reed (ARB 3499)]

I am distressed to hear that a white, anti-masker would represent my community where more people of color have died from Covid. [Mary Ruebelmann (ARB 3588)]

[T]his is a clear attempt to keep my neighbors and my family from having a Senator who represents and fights for Muldoon. I know that my neighbors in Muldoon care about the same issues that I do – no meaning in terms of partisanship but in terms of caring about the economic development, safety, parks, & trails in our community and the schools shared by our kids. . . . To split our community in half for the purpose of grabbing power undermines the Board’s claim to making fair maps and decimates my, and the public’s, confidence that these maps were fairly drawn. [Charles Seaca (ARB 3649)]

Eagle River is distinct geographically, demographically, and the area’s politics are so different that there is active support for a resolution to separate Eagle River from the rest of the MOA EaglExit. [Michelle Turner (ARB 4060-61)]

You are making it impossible to have a voice putting my side of town under Lora Reinbold keep Eagle River in Eagle River and East side with the East side . . . last time you did this it took Senator Bettye Davis from us and from having a voice. . . . It is really sad that you are not taking your residents of color into consideration it seems as though you are just having a white supremacy mindset. [Rozlyn Grady (ARB 2479)]

Eagle River is a racist hotbed. East Anchorage are full of the very people Eagle River politicians hate. People with brown skin. [Boggs Family (ARB 1951)]

Given the absence of any strong on-record justification for not adopting the more logical pairing of the two northern communities, some people suspected that the real motive was partisan: by linking the more conservative Eagle River neighborhoods with more swing districts in Anchorage, the plan seemed designed specifically to increase the likelihood of electing two senators from Eagle River/Chugiak who would vote for the more conservative, more Republican perspective of those areas.¹⁶

Only a handful wrote to support the pairings that Marcum proposed.¹⁷

Notwithstanding the strong public opposition to Marcum's plan and the existence of a viable alternative, by a 3-2 vote, the Board formally adopted Marcum's proposal for the Anchorage area senate seats. [11/9 Tr. 2-4 (ARB 6970)] Borromeo moved to reconsider, observing that any claim for a connection between Eagle River and Anchorage would apply at best to North Muldoon, yet Marcum's plan paired Eagle River with South Muldoon. [11/9 Tr. 8-9 (ARB 6971)] The Board voted 3-2 against reconsidering the senate seats [11/9 Tr. 13-24 (ARB 6972-73)], and the next day the Board voted 3-2 to adopt the 2021 Final Proclamation that contained the contested house district pairings. [11/10 Tr. 2-

¹⁶ See *supra* (quoting a handful of such comments); Table 2 (attached) (citing comments that include similar accusations).

¹⁷ See Table 3 (attached) (reflecting only 9 people wrote to support the house district pairings that Marcum proposed).

8 (ARB 7208-14)]

The Eagle River/Chugiak districts are very different from the Anchorage house districts with which they are joined

As the public comments illustrate, people who wrote to oppose the pairings that the Board adopted wrote with personal knowledge about fundamental differences between the Eagle River/Chugiak area and the Anchorage house districts with which they were paired.

Data support residents' perceptions that Eagle River and Chugiak (HDs 22 and 24) are demographically quite different from the Anchorage house districts to which they were joined. The Eagle River/Chugiak districts are predominantly White, while South Muldoon and Government Hill/JBER/Northeast Anchorage (HDs 21 and 23) are much more diverse.

Looking at Voting Age population, the Board's data establish:

South Muldoon	HD 21	56.35% White	43.65% Minority
South Eagle River	HD 22	76.91% White	23.09% Minority
Govt. Hill/JBER	HD 23	53.37% White	46.63% Minority
N. ER/Chugiak	HD 24	76.41% White	23.59% Minority ¹⁸

Looking at *total* population, as distinct from *voting age* population, the minority percentages in HDs 21 and 23 are higher: HD 21 is 49.17% minority, and HD 23 is 48.11% minority.¹⁹ To describe the character of a neighborhood, probably the total population figure provides a better picture.

¹⁸ See Alaska Redistricting Board's Opposition to East Anchorage Plaintiffs' Motion to Amend Complaint, Exhibit D (summarizing certain census data) [hereinafter "Board Opp. Exh. D"].

¹⁹ See *id.*

For purposes of amici's arguments, the precise racial make-up is not the point, the way it would be if a formal Voting Rights Act challenge had been raised. Even though HDs 21 and 23 are not majority minority districts, it is undisputed that they, along with HDs 20 and 18, with which these districts logically could be paired,²⁰ are ethnically extremely diverse districts, whereas HDs 22 and 24 are among the most predominantly White districts anywhere in the state.²¹ Moreover, had the pairings that Bahnke proposed been adopted, both the combined Muldoon senate seat and the combined Government Hill/JBER and Mountain View/Fairview senate districts would have been majority minority.²²

Beyond being significantly more diverse than the Eagle River districts – and proud of their diversity – the two Anchorage districts that were each joined with an Eagle River district have much more in common with other adjacent Anchorage districts than they do with the Eagle River districts, just as the Eagle River districts have much more in common with each other than with any adjacent Anchorage district. As the public comments

²⁰ HD 20 (North Muldoon) has a voting age population that is 58.97% minority. HD 18 (Mountain View/Fairview) has a voting age population of 66.01% minority. [Board Opp. Exh. D]

²¹ Only 11 of the 40 house districts have a voting age population that is less than 24% minority. [*Id.*]

²² Simple math shows that a senate district combining HDs 20 and 21, the North and South Muldoon districts, would have had a voting age population that was 51.12% minority, based on the data in Board Opp. Exhibit D. A senate seat combining HDs 18 and 23 (Mountain View/Fairview and Government Hill/JBER) would have had a voting age population that was 55.94% minority, based on the data in Exhibit D.

uniformly stated, the house districts in North and East Anchorage are lower income on average and have denser housing, with more apartments and other multi-family dwellings and fewer single family homes on large lots.

Marcum's primary claim for a socio-economic linkage between Eagle River and Anchorage rested on where Eagle River people drive and shop when they come to Anchorage. As multiple people explained, this is largely a one-way link: Eagle River residents drive into Anchorage to work and to shop, but not vice versa. More important, as a few writers perceptively explained, the commuter pattern that brings suburban residents into a city to work or shop does not at all indicate that commuters and locals share the kinds of values, concerns, and political interests that voters want asserted by their senator in Juneau.

Finally, the voting patterns, described below through an historical lens, confirm the sharp differences in political perspective between Eagle River/Chugiak and East Anchorage. These differences support the many claims that the pairings for senate seats seem to have been adopted to serve partisan interests.

An historical example validates Amici's fears that their voices will be diluted when diverse Anchorage neighborhoods are joined with richer, Whiter suburban districts in Eagle River.

Amici's fears that their voices will be drowned out, and their right of equally effective representation will be denied as a result of the Board's final pairing of house districts, are borne out by history.

In 2000, Bettye Davis was elected as Alaska's first Black woman senator. Davis' district was then called Senate District K; it was comprised of former House Districts 21 and 22, which covered neighborhoods in central and East Anchorage, as well as a largely uninhabited area of Chugach State Park.²³ These were "swing" districts, which in the then-recent past sometimes elected a Democrat and sometimes elected a Republican, though, perhaps reflecting the increasing diversity of the communities, they were increasingly tending Democratic.²⁴

All legislative districts were subject to redistricting following the 2000 census, but the voters included within Senate District K did not change substantially. Davis's term was not truncated in 2002, as would have been required if there had been a substantial change in her constituency.²⁵ The Amended Final Proclamation, which was approved by

²³ See Orlansky Affidavit, Exhibit A (attached). As explained in the affidavit, the lettered exhibits referred to in this section of the memorandum are based on documents prepared by the Alaska Division of Elections. Copies are attached for the court's convenience. For simplicity, each is cited in this memorandum simply as "Exh. ___."

²⁴ In 1996, Davis, running as a Democrat, lost a bid to be elected in Senate District K, and HDs 21 and 22 both elected Republican representatives. See Exh. B. In 1998, HD 21 elected a Democrat, while HD 22 chose a Republican. See Exh. C. In 2000, when Davis won her senate seat with 50.76% of the vote, both HD 21 and HD 22 elected a Democrat to the state legislature, with 53-55% of the vote. See Exh. D.

²⁵ See 11/9 Tr. 17-21 (ARB 6973-74) (explaining guidelines for truncating senate terms); see generally *Egan v. Hammond*, 502 P.2d 856, 873-74 (Alaska 1972) ("A need to truncate the terms of incumbents may arise when reapportionment results in a permanent change in district lines which either excludes substantial numbers of constituents previously represented by the incumbent or includes numerous other voters who did not have a voice in the selection of that incumbent.").

the courts,²⁶ paired the Baxter Bog house district (an area encompassing neighborhoods in South Muldoon and other neighborhoods to the west) with the University/Airport Heights house district.²⁷ Running in this district, Davis was re-elected in 2004 and in 2008.²⁸

Redistricting following the 2010 census dramatically shifted the boundaries of Davis's district. The 2011 Proclamation put Davis into a district referred to as Senate District M, which consisted of House Districts 25 and 26.²⁹ HD 25 was a South Muldoon district, but HD 26 combined a small portion of North Muldoon with Eagle River.³⁰ In 2012, Davis was opposed in her bid for re-election by Anna Fairclough, who lived in Eagle River.³¹ Forced to contend in a district that combined portions of East Anchorage with population from Eagle River, Davis lost decisively – 62.12% to 37.66%.³²

After the 2012 election, the Supreme Court declared the 2011 Proclamation Plan unconstitutional.³³ A redrawn plan, labeled the 2013 Proclamation Plan, created a senate

²⁶ See *In re 2001 Redistricting Cases*, 47 P.3d 1089 (Alaska 2002).

²⁷ See Exh. E.

²⁸ See Exhs. F, G. Reflecting the continued “swing” nature of the district, Davis's margin of victory each time was relatively small – 52.98% in 2004 and 56.81% in 2008. The Democratic candidates in HDs 21 and 22 also prevailed in those years, but never with more than 61% of the vote. The votes in the Baxter Bog district were closer than in the more affluent University/Airport Heights district. See Exhs. F, G.

²⁹ See Exh. H.

³⁰ See *id.*

³¹ See *id.*

³² See Exh. I.

³³ See *In re 2011 Redistricting Cases*, 294 P.3d 1032 (Alaska 2012); *In re 2011*

district for Fort Richardson and Eagle River (Senate District G), and a separate senate district in Anchorage (labeled Senate District H), consisting of areas in North and East Anchorage.³⁴ Most senate district boundaries changed significantly. Under the 2013 Proclamation, which governed elections through 2020, Senate District G contained HD 13 (Ft. Richardson/North Eagle River) and HD 14 (Eagle River/Chugach State Park). New Senate District H was most like Davis's former district; it combined HD 15 (a portion of North Muldoon) and HD 16 (to its west). Mountain View and Downtown, HDs 19 and 20, were grouped together in Senate District J.³⁵ South Muldoon was put into HD 27, which was combined with a South Anchorage/Hillside neighborhood to form Senate District N. [ARB 1576]

Election results show that from 2014 through 2020, Senate District G (the Eagle River district) remained solidly Republican, electing Anna Fairclough in 2014 and Lora Reinbold in 2018.³⁶ And both house districts within Senate District G elected a Republican in each election between 2014 and 2020.³⁷

Senate District H was much more of a swing district during all those years. Davis did not run again, but in 2016 voters in the new Senate District H elected Bill

Redistricting Cases, 274 P.3d 466 (Alaska 2012).

³⁴ See Exh. J.

³⁵ See *id.*

³⁶ See Exh. K (2014 results); Exh. M. (2018 results).

³⁷ See Exh. K (2014 results); Exh. L (2016 results); Exh. M. (2018 results); Exh. N (2020 results).

Wielechowski, a Democrat, and re-elected him in 2020; he received approximately 57% of the vote both times.³⁸ In the two Senate District H house districts, HD 15 chose a Republican legislator in each election between 2014 and 2020, while HD 16 chose a Democrat – but the results in all instances were close.³⁹ Senate District I (Mountain View and Downtown) was solidly Democratic in those years, for both legislative seats (HDs 19 and 20) and the senate seat.⁴⁰ South Muldoon (HD 27) was a swing district, narrowly electing a Republican in 2016 and 2018, and a Democrat in 2020.⁴¹

The written and oral testimony described earlier reveals how East Anchorage residents feared that re-pairing their community with a community in Eagle River would result in the same loss of representation of their interests as occurred in 2012. This time even more people are concerned, because now there are *two* sets of Anchorage neighborhoods that have been joined with significantly Whiter, more affluent, and more conservative neighborhoods to the north.

³⁸ See Exh. L (2016 results); Exh. N (2020 results).

³⁹ See Exh. K (2014 results); Exh. L (2016 results); Exh. M. (2018 results); Exh. N (2020 results).

⁴⁰ See Exh. K (2014 results); Exh. L (2016 results); Exh. M. (2018 results); Exh. N (2020 results).

⁴¹ See Exh. L (2016 results); Exh. M. (2018 results); Exh. N (2020 results).

ARGUMENT

THE REDISTRICTING BOARD VIOLATED THE ALASKA CONSTITUTION'S GUARANTEE OF EQUAL PROTECTION BY DEFINING SENATE SEATS THAT INTENTIONALLY SPLIT THE COMMUNITY OF EAST ANCHORAGE AND GIVE DISPROPORTIONATE VOTING STRENGTH TO EAGLE RIVER.

The goals and requirements for redistricting in Alaska are established in Alaska's Constitution. At the Constitutional Convention, delegates emphasized that "the goal of all reapportionment is simple: the goal is adequate and true representation by the people in their elected legislature, true, just, and fair representation."⁴² This goal is the antithesis of any effort by a redistricting board to manipulate the reapportionment for partisan gain or to favor any one group over another.

The Supreme Court has restated the lofty goals of the Constitution:

[T]he fundamental principle involved in reapportionment [is] truly representative government where the interests of the people are reflected in their elected legislators. Inherent in the concept of geographical legislative districts is a recognition that areas of a state differ economically, socially and culturally and that a truly representative government exists only when those areas of the state which share significant common interests are able to elect legislators representing those interests. Thus, the goal of reapportionment should not only be to achieve numerical equality but also to assure representation of those areas of the state having common interests.⁴³

To effectuate the goal of "true, just, and fair representation," the Alaska Supreme Court, in its decades of reviewing redistricting plans, has made clear that any redistricting

⁴² 3 Proceeds of the Constitutional Convention 1835 (Jan. 11, 1956), quoted in *Hickel v. Southeast Conference*, 846 P.2d 38, 44 (Alaska 1992).

⁴³ *Groh v. Egan*, 526 P.2d 863, 800 (Alaska 1974) (Erwin, J., dissenting), quoted in *Hickel*, 846 P.2d at 46.

plan must satisfy not only the minimum requirements of Article VI, but also the requirements of the Alaska Constitution's equal protection clause.⁴⁴ The equal protection clause of the Alaska Constitution provides that "all persons are equal and entitled to equal rights, opportunities, and protection under the law."⁴⁵ In the context of redistricting, the guarantee of equal protection means, first, that house and senate district lines must be drawn to give each district essentially equal population, so that all eligible voters in the state have a mathematically equal vote.⁴⁶ Second, equal protection requires that each group of people receives "fair and effective representation," so that all voters have "an equally meaningful vote," and thus that the voting strength of one identifiable group is not minimized in comparison to the voting strength of another group.⁴⁷ In *Hickel*, the Supreme Court summarized these two aspects of equal protection as an individual's "right to an equally weighted vote" and "the right of group effectiveness or an equally powerful vote."⁴⁸

The "qualitative" requirement of an equally powerful vote can be violated even when the "quantitative" requirement of an equally weighted vote is satisfied:

Under this qualitative principle, certain mathematically palatable apportionment schemes will be overturned because they systematically circumscribe the voting impact of specific population groups. This principle

⁴⁴ See *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1370-73 (Alaska 1987).

⁴⁵ Alaska Constitution, art. I, § 1.

⁴⁶ See *Hickel*, 846 P.2d at 47-48; *Kenai Peninsula Borough*, 743 P.2d at 1366-67.

⁴⁷ *Kenai Peninsula Borough*, 743 P.2d at 1367.

⁴⁸ *Hickel*, 846 P.2d at 47.

recognizes the danger that racial and political groups will be fenced out of the political process and their voting strength invidiously minimized.⁴⁹

Much of Alaska’s redistricting litigation has focused on the lines that determine house districts for the state legislature – but the Alaska Supreme Court has made clear that these equal protection principles also apply to state senate seats.⁵⁰ In other words, as to senate seats as well as house seats, similarly situated communities must be treated in a similar manner, and the voting strength of one identifiable group cannot be diminished compared to the voting strength of another group except when necessary to achieve the other goals of redistricting.⁵¹

Sometimes, given Alaska’s geography, only one permissible pairing of house districts exists, and voters in two house districts must share a senator even when the residents of the two districts have little in common. But where there are choices, Alaska la require that the Board choose pairings that respect the equal protection rights of all groups, especially, as the Court said in *Hickel*, when racial and political groups otherwise might be fenced out of the political process.⁵² Or, as the superior court judge in *Hickel* put it succinctly: “There is an Alaska equal protection guarantee against hodge-podge senate

⁴⁹ *Id.* at 49 (internal quotation marks omitted).

⁵⁰ *See Kenai Peninsula Borough*, 743 P.2d at 1367-72; *see also In re 2011 Redistricting Cases*, 274 P.3d 466, 469 (Alaska 2012) (recognizing that a plaintiff could state a voter dilution claim with respect to a senate seat).

⁵¹ *See Kenai Peninsula Borough*, 743 P.2d at 1371.

⁵² *See Hickel*, 846 P.2d at 48.

pairings.”⁵³

In deciding whether a particular redistricting plan violates the guarantee of equal protection, this court must apply the familiar three-step analysis developed by the Alaska Supreme Court.⁵⁴

The first step is to determine the weight of the constitutional interest that is impaired.⁵⁵ Placing a neighborhood into one senate district rather than another does not affect the right to vote per se, but it can implicate the right of members of an identifiable group or community to have their votes protected against disproportionate dilution by the votes of another geographic group or community.⁵⁶ According to the Supreme Court, the right to a geographically equally effective vote is not a fundamental right, but it is “a significant constitutional interest.”⁵⁷

When government action infringes on a significant or important right, at the second step of the equal protection analysis, the court must determine whether the action was taken in order to serve a government interest that is both legitimate and important.⁵⁸ If the record

⁵³ See *id.* at 73 (reprinting the opinion of the superior court).

⁵⁴ See *Kenai Peninsula Borough*, 743 P.2d at 1370-72.

⁵⁵ See *State v. Planned Parenthood of the Great Northwest*, 375 P.3d 1122, 1137 (Alaska 2016); *Kenai Peninsula Borough*, 743 P.2d at 1371.

⁵⁶ See *Kenai Peninsula Borough*, 743 P.2d at 1371.

⁵⁷ *Id.* at 1372.

⁵⁸ See *Watson v. State*, 487 P.3d 568, 571 (Alaska 2021) (“When an important individual right is implicated, we require a close relationship between the challenged classification and an important government interest in the classification.”); *Malabed v. North Slope Borough*, 70 P.3d 416, 421 (Alaska 2003) (where an important interest is

makes clear that the Board's intent was to dilute the voting power of one geographical group as compared to another, that is an illegitimate purpose – and the equal protection challenge prevails.⁵⁹ If an actual discriminatory intent is not proved, but there is an appearance of an intent to dilute the voting strength of one group as compared to another, then the burden shifts to the Board to prove it had a proper purpose.⁶⁰

For purposes of finding an equal protection violation based on discrimination against one group as compared to another, the Alaska Supreme Court expressly adopted a less demanding test than the federal courts apply. Federal courts require proof of both intentional discrimination against an identifiable group and demonstration of an actual discriminatory effect on that group.⁶¹ By contrast, in Alaska law, if discriminatory intent is shown, statistical proof that the group claiming discrimination is in fact less likely to be able to elect its chosen candidates is not required.⁶²

To assess whether a record establishes a discriminatory intent, the Alaska Supreme Court follows the “neutral factors test” espoused by Justice Powell in *Davis v. Bandemer*.⁶³

implicated, the State's interest must be “not only legitimate but important” and “the nexus between the enactment and the important interest it serves [must] be close”).

⁵⁹ See *Kenai Peninsula Borough*, 743 P.2d at 1372.

⁶⁰ See *id.* at 1372.

⁶¹ See *id.* at 1368-69.

⁶² “[O]nce the Board's discriminatory intent is evident, its purpose in redistricting will be held illegitimate unless that redistricting effects a greater proportionality of representation.” *Id.* at 1372.

⁶³ See *id.* at 1372, citing *Davis v. Bandemer*, 478 U.S. 109, 161-62 (1986) (Powell, J.,

In Justice Powell’s words, “[D]istrict lines should be determined in accordance with neutral and legitimate criteria. When deciding where those lines will fall, the State should treat its voters as standing in the same position, regardless of their political beliefs or party affiliation.”⁶⁴ Using the “neutral factors” test, the courts must assess whether the totality of circumstances indicates an intent to discriminate against voters in a particular geographic area. To do this, the reviewing court looks both at the Board’s process and at the substance of its decision.⁶⁵ Secretive procedures suggest an illegitimate purpose.⁶⁶ So do district boundaries that “selectively ignore political subdivisions and communities of interest, and evidence of regional partisanship.”⁶⁷ When the totality of circumstances suggests an intent to discriminate against one geographic area, the burden of proof shifts to the Redistricting Board, which must justify its decision as having been taken to ensure proportional representation.⁶⁸

At the third step in an equal protection analysis, a court evaluates the “fit” between the government’s interest and the means it chose to achieve its legitimate interest.⁶⁹ At the

concurring and dissenting).

⁶⁴ See *Davis*, 478 U.S. at 167 (Powell, J., concurring and dissenting).

⁶⁵ See *Kenai Peninsula Borough*, 743 P.2d at 1372.

⁶⁶ See *id.*

⁶⁷ *Id.*

⁶⁸ See *id.*

⁶⁹ See *State v. Planned Parenthood of the Great Northwest*, 375 P.3d 1122, 1137 (Alaska 2016); *Kenai Peninsula Borough*, 743 P.2d at 1371.

low end of the sliding scale, the fit between means and end must be “substantial.”⁷⁰ Higher on the scale, the fit between the means chosen and the legitimate purpose must be “much closer.”⁷¹ Again, the Alaska equal protection test demands more of the government than does the federal test.⁷²

Here, the interest of East Anchorage voters in a geographically equally meaningful vote, as compared to other voters such as those in Eagle River, is “a significant constitutional interest.”⁷³ The record shows that this interest is infringed by the Board’s plan for senate districts that denies the East Anchorage community an opportunity to vote as a unit and instead splits that community. Consequently, the Board must have an important reason for choosing the pairings that it did, and there must be a close fit between that important interest and the pairings that the Board chose.⁷⁴

The Board’s decision to split East Anchorage clearly fails at the third step. There is no close fit between any legitimate goal of redistricting and the decision not to pair two sets of similar house districts with their most obvious partners and instead to create two

⁷⁰ See *Kenai Peninsula Borough*, 743 P.2d at 1371.

⁷¹ *Id.* (internal quotation marks omitted); see also *Watson*, 487 P.3d at 571 (“When an important individual right is implicated, we require a close relationship between the challenged classification and an important government interest in the classification.”); *Malabed*, 70 P.3d at 421 (where an important interest is implicated, “the nexus between the enactment and the important interest it serves [must] be close”).

⁷² See *Kenai Peninsula Borough*, 743 P.2d at 1371.

⁷³ See *id.* at 1372.

⁷⁴ See, *supra*, n.71.

senate seats by combining two sets of dissimilar districts.

There may be an even easier analysis, under which this court need not get to the third step of the analysis. The Redistricting Board's house district pairings cannot pass muster at the second step. Quite like in the *Kenai Peninsula Borough* case, the record reflects that one Board member (Bethany Marcum) articulated an improper purpose behind the pairings she proposed: to give Eagle River extra representation. [11/8 Tr. 176 (ARB 6234)] When this statement was called to her attention [11/9 Tr. 9-11 (ARB 6971-11)], Marcum did not disavow it or claim she was misunderstood. [*Id.*] The Board then voted 3-2 to adopt the senate plan that Marcum had proposed. [11/9 Tr. 13-14 (ARB 6972-73)] Although Marcum made some attempts to defend her choice to combine Government Hill, JBER, and a part of Northeast Anchorage with Chugiak, and to pair South Muldoon with Eagle River, neither she nor anyone else ever contended that splitting two strongly-identified communities of interest – Eagle River/Chugiak and East Anchorage – was necessary to achieve proportional representation. Further, no one explained why splitting two communities in ways that dozens of people from both communities opposed was preferable to the easily available alternative pairings that preserved both communities. The Board is entitled to choose between two equally justifiable pairings, but no case insulates a pairing that impairs the interest of one geographic group in having an equally meaningful vote, when an alternative exists that does not impair the interests of anyone.

Even apart from Marcum's statement, the totality of circumstances evidences an

intent to discriminate against East Anchorage. First, Marcum’s proposal for pairing house districts was not developed in a public session. [11/8 Tr. 136-37, 174-76 (ARB 6224, 6234)] No other Board member spoke on record in favor of Marcum’s proposal, and two members vigorously opposed it, yet Chair Binkley somehow knew that a majority favored Marcum’s plan over Bahnke’s. [11/8 Tr. 202-03 (ARB 6241)] Second, the adopted pairings “selectively ignore political subdivisions and communities of interest.”⁷⁵ For the most part, the Board was quite intentional about pairing similar house districts and respecting communities of interest when they could. [*E.g.*, 11/8 Tr. 125, 129, 138-43, 145-54 (ARB 6221-22, 6225-31)] But they abandoned this principle when pairing Eagle River districts with Anchorage districts. A huge amount of public testimony established that the North and South Muldoon House Districts together form one community of interest, and the two house districts in Eagle River and Chugiak together form another community of interest.⁷⁶ Both of these communities of interest were split, even though an alternative plan was on the table that created senate seats by combining contiguous districts in an obvious way that kept both of these communities of interest intact, and did not disregard strongly voiced desires of other communities to remain together.

⁷⁵ *Kenai Peninsula Borough*, 743 P.2d at 1372.

⁷⁶ *See supra* at 3-5, 11-15 (quoting selected comments); Tables 1 and 2 (citing hundreds of public comments attesting to the differences between these communities, the desires of residents of each community to keep their area within a single voting district, and the opposition from both communities to being combined in a voting district with residents of the other community).

Astute observers suspected that the true goal of Marcum’s pairings was to bestow a political advantage on the Whiter, richer, more conservative voters of Eagle River, giving them the chance to dominate two senate seats when their population combined provides sufficient population for just one senate seat.⁷⁷ That only person, a well-known Republican strategist, testified in the final session in favor of Marcum’s proposal [1 1/8 Tr. 65-69 (ARB 206-07)] reinforced the inference that the true motive for splitting both communities of interest was to dilute the voices of East Anchorage in favor of the voices of Eagle River.

The Board has argued that any two house districts within the Municipality of Anchorage are socio-economically integrated as a matter of law and thus that no more is required. In its view, this court is essentially powerless to review the make-up of senate districts within a municipality.

But the Supreme Court’s discussion of equally meaningful geographic representation is not limited to ensuring that all boroughs have an equally powerful vote. *Hickel* explicitly addresses the importance of protecting “racial and political groups” that risk being fenced out of the political process. In practice, such groups are most likely to reside *within* a municipality or borough.

Eagle River and East Anchorage are unquestionably geographically distinct areas, even if (for the moment) both are within the boundaries of the Municipality of Anchorage. Both therefore are entitled to an equally meaningful vote, unless important countervailing

⁷⁷ See, e.g., *supra* at 11-15 (quoting a few such comments); Table 2 (including citations to other comparable statements).

interests make this impossible. It is not reasonable to treat the residents of Eagle River and East Anchorage as “the same” for purposes of an equal protection analysis, where the record establishes that these distinct geographic areas are very different racially, ethnically, economically, and politically. Both sets of voices deserve an equal chance to be heard on election day.

Both sides of the divide were very vocal in support of having a senator who would live among them and share their values and work for their interests. Several commented that any senator trying to advocate for both Eagle River and East Anchorage would have an impossible task.

The record also supports the belief of East Anchorage residents that it is their voices – not the voices of Eagle River residents – that will be diluted in a combination senate district. East Anchorage has been a “swing” district in the recent past; voters sometimes have chosen a Republican candidate and sometimes have chosen a Democrat. When a Democrat wins, the percentage is often narrow. Eagle River, on the other hand, votes solidly Republican. The combination inevitably will give an edge to the more conservative, more Republican voters: a 55 or 60% progressive vote from South Muldoon will never prevail over a 65 or 75% conservative vote from Eagle River. This is what happened historically when the district that elected Bettye Davis was redefined and she was forced to run in a senate district that combined East Anchorage and Eagle River.

With an East Anchorage senate district formed from the two Muldoon house

districts, there would be no guarantee that the next senator would be a Democrat rather than a Republican. This would remain a swing district. But there would be a guarantee that the senator would be a resident and a part of the community, someone who understands its concerns and values and who does not need to compromise those concerns in order also to protect the interest of voters in the other half of a district with very different needs.

This court should find that the Redistricting Board's decision to pair East Anchorage and Eagle River was intended to and has the effect of diluting the voices of one geographical area – East Anchorage – which has a distinct racial and ethnic profile, in favor of giving disproportionate representation to voters in another area – Eagle River and Chugiak – which has a very different profile. The Redistricting Board's decision violates the rights of East Anchorage voters as guaranteed by the equal protection provision of the Alaska Constitution.

CONCLUSION

Alaska's geography and its widely dispersed population make it impossible for all senate seats to be created by combining two house districts to form a single community of interest, and Amici are not asking this court to read that requirement into Alaska's constitution. Their request is much more modest. The fact that all senate seats cannot contain a community of interest should not give a Redistricting Board free rein to ignore communities of interest where it is possible to respect such communities and still satisfy the basic requirements of Article VI. When one set of house district pairings can respect

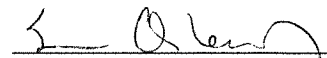
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communities of interest and can ensure that voters in one community will not have their votes diluted by combining a part of their community with a part of another community, under the Alaska Constitution the Board should be required to choose that set of pairings over another one that dilutes the voice of one distinct geographic group. Only such a rule can give effect to the constitution's promise that voters receive both an equally weighted vote and an equally powerful vote.

This court should find that the 2021 Proclamation violates the equal protection rights of East Anchorage voters, as urged by the East Anchorage plaintiffs. This court should require the Redistricting Board to redraw the senate seats in this part of the state and this time *not* split the two Eagle River/Chugiak house districts or the two Muldoon house districts.

Respectfully submitted, this 9 day of February, 2021.

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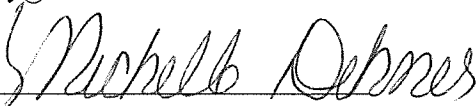
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TABLE 1

Comments submitted to the Redistricting Board website reflecting opposition to joining a portion of Eagle River and a portion of Anchorage in a house district

ARB	Name
1791	Aimee Agnew
1801	Casey Albanese
1802	Marsha Albanese
1803	Sam Albanese
1808	Denise Allen
1817	Anchorage Assembly Members LaFrance and Constant
1826	Ryan Anderson
1840	Patti Asman
1849	Steven Aufrect
1855	MB
1863	Betsy Baker
1872	Linda Barnett
1875	Timbi Barron
1894	Paola Bean
1895-96	Melody Bechberger
1901	JoAnne Beches
1908	Gloria Bellamy
1909	Rob Bellamy
1915	Jane Bennett
1917	Matthew Bennett
1919	Kristine Benson
1935	Tim Biezley
1938	Janet Birky
1941	Becky Bitzer
1944-45	Rachel Blakeslee
1948	Sandra Blomfield
1950	Anna Bogdanova
1954	Deborah Bonito
1955	Laura Bonner
1965	David Boshell
1966	Anna Bosin
1971	Mr. Boyd Sr.
1972	Jasmine Boyle
1978	Bernadette Bradley

1979	Paula Bradley
1984	Kris Brewster
1985	Robin Brewster
1993	Karen Bronga
1994	Janis Bronson
1995	Mike Bronson
1998	Amber Brophy
1999	Julie Brophy
2013	Barbara Brulotte
2021	Evelyn Bunch
2022	Jennifer Bundy
2045	Brandon Calcaterra
2052	James Canitz
2068	Jayne Carr
2083	Rachel Cavitt
2095	Su Chon
2097	Shawn Chriest
2098	Sheryl Chriest
2129	Rebecca Clerc
2134	Molly Clingingsmith
2149	Danny Consenstein
2150-51	Christopher Constant
2154-55	Tahnee Conte-Seccareccia
2161	Kenneth Cook
2162	Stephanie Cook
2165	Dixie Cornell
2177	Linda Cranny
2182	Denise Creager-Smith
2183	Rebecca Crellay
2188	Murray Crookes
2202	James Darby
2203	Jennifer Darby
2220	Tara Davis
2227	Steven Deliman
2234	Robin Dern
2236	Susan Derrera
2239	Lynn DesVoignes
2241	Dael Devenport
2285-86	Anna Dugan
2287	Tanya King Dumas
2296	Abbie Dyches

2313	Andrew Elliott
2322	Lois Epstein
2326	Nancy Esson-Schweiker
2335	Mariann Falcone
2352	Paula Ferguson
2355	Lea Filippi
2359	Michele Finley
2375	Lisa Fletcher
2377	Todd Fletcher
2378-79	Louis Flora
2380	Jessica Flournoy
2387-89	Chelsea Foster
2392	Jeff Fowler
2394	Gigi Fowler-Hendricks
2409	Bob French
2411	Gail French
2420	Tamara Gagnon
2423	Kathi Gallagher
2428	Melinda Gant
2431	Kristi Gartman
2437	James Gentemann
2438	Lisa Gentemann
2446	Rebecca Geurts
2448	Connie Giddings
2449	Fred Giddings
2454	Martha Ginsburg
2460	Leslie Gonsette
2468	Penny Goodstein
2482	Madeleine Grant
2483	Nancy Grant
2484	Andrew Gray
2495	Cliff Groh
2505-06	Erik Gunderson
2533	Joelle Hall
2535	Lynn Hallford
2537	Robert Hallford
2548	Chelsea Haponski
2551	Gabriel Hardy
2554	Linda Kaye Harter
2560	Gordon Hays
2564	Stephanie Hays

2567	Todd Heining
2572-73	Lacey Hemming
2575	Kenneth Hendricks
2578	Catherine Henning
2579	Gar Henning
2590	Catherine Heroy
2601	Linda Hill
2603	Tim Hinterberger
2614	Britt Holloway
2617	Noelle Holt
2651	Lesa Hultquist
2652	Kimberly Hunt
2655	Jenn Hurt
2662	Louis Imbriani
2842	Monica Inman
2845	Debra Isel
2846	Maria Ivanov
2875	Ellen Jaimes
2880	Leon Jaimes
2887	John Jensen
2889	Julia Jette
2897	Marc Johnson
2901	Tanner Johnson
2903	Trina Johnson
2904	Sara Jokela
2912	Kimberly Jones
2918	Jerry Jordan
2923	Becky Judd
2960	Alison Kelley
2981	Stephanie Kesler
2984	Richelle Killian
2988	Kendra Kloster
2999	Trisha Koenig
3000	Kristen Kolp
3025	Margaret Kugel
3037	Jeff Lacey
3047	Jonathan Lang
3052	Angela LaPrise
3077	Sheryl Lentfer
3082	Kyra Lewis
3083	Melanie Leydon

3094 Hilary Lockhart
3101 Angela Lopuhovsky
3104 Cheryl Lovegren
3109 Jennifer Luce
3119 Gloria Lyons
3122 Rodmond Maddox
3125 Isabella Mamea
3126 Jessica Mangano
3135 Dana Martens
3139 Hresya Martishev
3149 Wendy Matson
3150 Barry Matteson
3151 Dia Matteson
3158 Megan McBride
3159 Will McBride
3160 Janet and David McCabe
3165 Kathy McCollum
3182 Kevin McGee
3187 Val McKay
3190 Jean McKinney
3191 Farrah McLaughlin
3192 Suzanne McLaughlin
3193 William McLaughlin
3197 Dawn McQuay
3207 Cathy Medland
3218 Lindsey Meyn
3225 Courtney Miller
3232 Michael Miller
3238 Miguel Montalvo
3254 Matthew Moser
3255 Cathy Mosher
3267 Rebekah Mumma
3269 Nancy Munro
3275 Sean Murphy
3294 Kengo Nagaoka
3306 Carrie Nash
3311 Christina Neal
3320 Misty Nesvick
3340 Amanda Niewendorp
3342 Verena Nilsson
3350-51 Northeast Community Council

3352 Laura Norton-Cruz
3374 Kathleen Oliver
3379 Heidi Ostby
3380 Jesse Ostby
3382 Scott Owen
3394 Lindwood Parker
3415 Laura Perry
3420 Lesly Peters
3423 Ryan Petersen
3428 Kelsey Phillips
3459 Charles Preston
3466 Irene Quednow
3468 Heman Quinones
3473 Tiffany Quirk
3485 Elaine Rasher
3487 Rebecca Raso
3501 Joel Reeves
3503-07 Michael Rehberg
3517 Jim Renkert
3519-20 Bob Reupke
3521-22 Toni Reupke
3530 Leslie Ridle
3534 Amanda Riley
3535 John Riley
3539 Paul Robarge
3551 S. Doug Robbins
3564 Peggy (Margaret) Robinson
3565 Mark Robokoff
3573 Corinne Rollman
3591 Larry Rundquist
3599 Cathy Russell
3600 Hannah Russell
3603 R.J. Russell
3605 Todd Russell
3624 Elsa Malapit Sargento
3625 Cyndi Saunders
3627 Scenic Foothills Community Council
3641 Linda Schmitt
3645 Bruce Schulte
3648 Heather Seabolt
3660 Michael Seine

3663 Stephanie Self
3698 Senate Minority Caucus
3871 Claire Shaw
3884 Laura Shultz
3885 Timothy Silbaugh
3886, 3890 Yarrow Silvers
3900 Aimee Sims
3906 Chelsea Smith
3909 Debra Smith
3912 Kim Smith
3913 Robin Smith
3915 Tammy Smith
3916 Terri Smith
3926 Margaret Spears
3936 Susan Spyker
3944 Brittany Staudenmaier
3947 Jordan Stevenson
3957 Penny Straka
3965 Heather Sulte
3992 Michael Szidloski
4004 Stephanie Taylor
4011 Linda Thimas
4014 Dave Thompson
4015 Hans Thompson
4016 Kim Thompson
4026 Robert Timmins
4029 John Tobia
4030 Tamela Tobia
4040 Rachelle Tovar
4047 Katelyn Tullius
4048 Mary Tullius
4049 Michael Tullius
4058-59 Michelle Turner
4066 Liliane Ulukivaiola
4070 Joann Utt
4213 Kirsten Valentine
4215 Charlotte Van Zee
4228 Liz Walker
4241 Karyn Warner
4249, 4251 Tyler Watson
4253 Andrew Watts

4254	Debbie Weatter
4255	Gabriel Webb
4280	Kathleen Wilhelm
4282	Erin Willahan
4292	Judy Williams
4293	Karen Williams
4295	Kent Williams
4300	Mark Williams
4302	Nelli Williams
4305	Paula Williams
4314	Josh Wood
4321	Shelley Worley
4331	Kathi Y
4341	John Yurman
4346	Bruce Zmuda
4347	Patty Zmuda

TABLE 2

Comments submitted to the Redistricting Board website reflecting opposition to the proposal to pair an Eagle River and an Anchorage house district to form a senate seat, and/or support for pairing the two Eagle River/Chugiak districts with each other

ARB	Name
1827	Eleanor Andrews
1836	Indira Arriaga
1841	Robert Atkinson
1850-51	Steven Aufrect
1870	Joe Banta
1923	Brenda Bergsrud
1929	Chuck Berray
1934	James Bienvenu
1951	Boggs Family
1973-75	Jasmine Boyle
1976	Wade Boyle
1980	Joshua Branstetter
1996	Mike Bronson
2014	Sarah Kathryn Bryan
2096	Su Chon
2101	Beverly Churchill
2152	Christopher Constant
2153	Judith Conte
2156-58	Tahnee Conte-Seccareccia
2170	Mike Coumbe
2181	Lourdes Crawford
2187	Burke Croft
2208	E.J.R. David
2249	Cam Dolan
2254	Pat Dooley
2297	Sara Dykstra
2340	Barbara Farris
2353	Zack Fields
2354	Samatha Fili
2382	Laurie Ford
2390	Chelsea Foster
2410	Bob French

2466	Pamela Goode
2469	Penny Goodstein
2479	Rozlyn Grady-Wyche
2488	Andrew Gray
2495-96	Cliff Groh
2499-2500	JoAnn Gruber
2507	Erik Gunderson
2508	Jennifer Gunderson
2529	Lindsey Hajduk
2540	Antavia Hamilton
2543	Susan Hanas
2574	Lacey Hemming
2618	Noelle Holt
2656	Marie Husa
2874	Carl Jacobs
2878	Ellen Jaimes
2882	Leon Jaimes
2883	DeLynn James
2902	Tanner Johnson
2906	Jennifer Joliffe
2908	Brian Jones
2914	Marva Jones
2915	Neisha Jones
2935	Mary Kancewick
2963	Allen Kempton
2987	Kathy Klos
3020	Kenneth Kugel
3026	Margaret Kugel
3028	Kathy Kuletz
2942	Iva Karoly-Lister
3040-41	Suzanne LaFrance
3048	Jonathan Lang
3084	Melanie Leydon
3097	Ron and Robb Lombard
3100	Isidora Lopez
3123	Isabella Mamea
3138	George Martinez
3171	James McDonald
3177-78	Katherine McDonald
3183	Kevin McGee

3201	Donna Mears
3219	Lawrence Michael
3222	Brian Miller
3269	Nancy Munro
3278	Dick Mylius
3315	Harry Need
3341	Kristen Nilsson
3348	Jason Norris
3389	Susan Panarese
3395	Patrice Parker
3435-36	LuAnn Piccard
3477	Pat Race
3480	Gail Ramsay
3481	Carolyn Ramsey
3499	Derek Reed
3588	Mary Ruebelmann
3601	Kelley Russell
3622	Elsa Malapit Sargento
3649	Charles Seaca
3658	Shaina Seidner
3892-93	Yarrow Silvers
3907	Cory Smith
3908	Curtis Smith
3914	Robin Smith
3920	David Song
3959	Gary Strickland
3993	Michael Szidloski
4000	John Tatham
4019	John Thurber
4034	Tali Toleafoa
4060-61	Michelle Turner
4067	Shayla Urevich
4223	Daniel Volland
4238	Wisteria Ward
4247	Brett Watson
4252	Tyler Watson
4257	Adam Weber
4256	Ryan Webb
4260	Gretchen Wehmhoff
4262	Anna Wen

4270	Sheri Whitethorn
4283	Erin Willahan
4287	Cal Williams
4294	Karen Williams
4324	Linda Wright

TABLE 3

Comments submitted to the Redistricting Board website reflecting support for Marcum's proposal for pairing house districts, including pairing one Eagle River seat with South Muldoon and the other Eagle River seat with JBER and Mountain View

ARB	Name
2005	Ann Brown
2309	Judy and Randy Eledge
2415	Michael Fuller
2430	Jeffrey Garness
2453	Alex Gimarc
2589	David Hernandez
3249	Spencer Moore
3612-13	Dan Saddler