

IN THE SUPREME COURT FOR THE STATE OF ALASKA

In re 2011 REDISTRICTING CASES:

Supreme Court No. S-14441

Superior Court Case No. 4FA-11-2209CI
Consolidated Cases
4FA-11-2213CI
1JU-11-0782CI

PETITIONS FOR REVIEW FROM THE SUPERIOR COURT,
FOURTH JUDICIAL DISTRICT AT FAIRBANKS,
THE HONORABLE MICHAEL P. MCCONAHY, PRESIDING

**PETITIONER ALASKA REDISTRICTING BOARD'S
SUPPLEMENTAL EXCERPT OF RECORD
VOLUME 1 OF 1**

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Filed in the Supreme Court of the State of
Alaska, this _____ day of February, 2012.

Marilyn May, Clerk

By: _____
Deputy Clerk

TABLE OF CONTENTS

VOLUME ONE	PAGE
Excerpt from Report to the Alaska Redistricting Board and Proposed Plan Prepared by Alaskans For Fair Redistricting, March 31, 2011	1369
Excerpt from Transcript of Public Hearing Anchorage; March 31, 2011	1374
Detail Map of Proclamation Plan House Districts; Fairbanks Area Exhibit J02.....	1377
Plaintiffs’ Response to Defendant’s Request for Admission No. 30 Excerpt of Exhibit J48; October 27, 2011	1378
Excerpt of Defendant Alaska Redistricting Board’s Memorandum in Opposition to Riley et al. Plaintiffs’ Motion for Summary Judgment Re: Invalid Process; December 16, 2011	1381

Section 2. Criteria Governing the Development of the Plan

Multiple federal and state legal standards govern a redistricting plan. The interaction of these standards provides much of the complexity inherent in the line-drawing process.

The Alaska Supreme Court requires that priority must be given first to the federal Constitution, second to the federal Voting Rights Act, and third to the requirements of Article VI, section 6 of the Alaska Constitution. The requirements of Article VI, section 6 must receive priority among themselves in the following order: contiguity and compactness, relative socio-economic integration, respect for local government boundaries, use of drainage and other geographic features in describing boundaries.

The Board adopted Redistricting Guidelines setting forth the criteria the Board would use in adopting its redistricting plan. AFFR has used the same criteria and the same legally-required prioritization among the criteria.

These criteria are summarized below.

A. Federal equal protection requirements

The federal Constitution requires that state legislative districts have equal populations, as far as practicable, to respect the principle of one person-one vote.

The size of an "ideal" district is determined by dividing the number of districts into the total population of the state. For Alaska this year, the size of the ideal district is 17,755 people.

"Deviation" refers to the percentage that a district's population varies above or below the population of the ideal district. "Total deviation" refers to the spread between the most under-populated and most-overpopulated district. Federal law requires a good faith effort to minimize deviations, but has generally treated a total deviation of less than 10% as acceptable for equal protection purposes.

The federal guarantee of equal protection also prohibits intentional discrimination against any group.

The AFFR plan was developed to have a total deviation under 10%, and to ensure that no district is either over-populated or under-populated by more than 5%. Total deviation in the AFFR plan is 8.9%. Within Anchorage, the total deviation is 3.4%.

The AFFR plan was drawn without intent to discriminate for or against any identifiable group of citizens.

B. Federal Voting Rights Act requirements

Section 2 of the Voting Rights Act (42 U.S.C. § 1973) applies to all states and prohibits any denial or abridgement of voting rights on account of race or status as a member of a

language minority. A violation is established if the political processes leading to nomination or election give members of a minority group less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. Section 2 has been used to invalidate literacy tests, certain multi-member districts, and line-drawing that deliberately fragments a community of racial minority voters or packs minorities into one district to minimize their influence in multiple districts.

Section 5 of the Voting Rights Act (42 U.S.C. §§ 1973b, 1973c) applies to only certain states, including Alaska, and requires covered states to submit their proposed redistricting plans to the U.S. Department of Justice for review and approval (called “preclearance”) before implementing the new plan. To receive preclearance, the proponents of the plan must demonstrate that there is no “retrogression” of minority voting strength as compared to the benchmark, which is the previous plan approved by the Department of Justice.

The AFFR plan complies with both Section 2 and Section 5. The AFFR plan avoids retrogression of minority voting strength, compared to the existing districts. The AFFR plan would establish five majority Native House districts, one Native influence House district, and two majority Native Senate districts. (Currently, there are four majority Native House districts, two Native influence House districts, two majority Native Senate districts, and one Native influence Senate district. Majority Native Districts have Alaska Native voting age population of 50% or greater. Native influence districts have Alaska Native voting age population of 35% to 49%.

Compared to the benchmark 2001 districts, there is one additional majority Native House district, and one fewer Native Influence Senate district.

Considering both majority and influence districts, Alaska Natives will have, as they do currently, the opportunity to elect or help elect a candidate of choice in six House districts, and they will constitute a majority in 5 of those 6 districts compared to 4 in the benchmark plan. Thus, when looking at House districts, Native voting strength is slightly improved compared to the benchmark. However, this slight improvement is offset by the loss of one Senate Native influence district. This result is caused by changes in the distribution of population. Because Southeast Alaska’s population has shrunk to the amount exactly needed for 4 seats, down from the current 5, and because of the unique geography of Southeast Alaska and the panhandle, options are limited. The Interior Islands District, which formerly was (as former H 5) and continues to be (as proposed H 2, with Sitka included) a Native influence district, can no longer be paired with an Interior majority Native district to create a Native influence Senate district, but must now be paired with another Southeast seat for its Senate district;

logically this is H 1 (Ketchikan/Wrangell). There are no possible Senate pairings within Southeast that would result in a Native influence Senate district. In addition, there are no possible Senate pairings for the 5th majority Native House district (AFFR's proposed H 7) that would result in a Native influence Senate district.

The AFFR plan was drawn with the active involvement of Alaska Native leadership around the state in an attempt to satisfy the requirements of the Voting Rights Act to avoid retrogression as well as the requirements of the Alaska Constitution to draw House districts that are contiguous, compact, and relatively socio-economically integrated.

The AFFR plan complies with the Guidance of the Department of Justice and counts as Alaska Native all persons who self-identified either as Alaska Native exclusively or Alaska Native in part.

In summary, the proposed districts preserve Alaska Native voting strength to the extent possible consistent with equality of population and other redistricting requirements including contiguity, compactness, and relative socio-economic integration.

C. Alaska Constitutional requirements

Contiguity.

A House district must be drawn so that all parts of a district touch other parts; in other words, a district may not consist of unconnected parts, separated by another district. Because of Alaska's geography, it is permissible for some amount of open sea to be included within a district, so that the land-based parts of a district do not actually touch each other.

A Senate district must consist of two contiguous House districts.

The AFFR plan satisfies this requirement. All House districts contain only contiguous land parts or lands that, although separated by ocean, have a logical connection. All Senate districts consist of two contiguous House districts.

Compactness.

A House district must be "compact." Compact means having a small perimeter relative to the area encompassed. The most compact shape is a circle, but all districts cannot be perfect circles. Thus, the compactness requirement is satisfied by demonstrating that districts are *relatively* compact, meaning that as far as possible the districts have reasonably regular shapes, without narrow arms or odd appendages, taking into account Alaska's size and shape and population distribution. Irregular shapes and appendages must be justified by showing there is no practical alternative way to satisfy

other requirements. Relative compactness is easier to establish in urban areas, where population is denser.

The House districts in the AFFR are relatively compact. The justifications for odd-appearing districts are explained below.

Relative socio-economic integration.

Each House district must contain “as nearly as practicable a relatively integrated socio-economic area.” Socio-economic integration means that residents of a district interact with each other, such as through transportation links, shared economic activities, shared Native culture, and other economic and historic links.

In developing its plan, AFFR paid particular attention to evidence of socio-economic integration and attempted to join within a district groups with historic socio-economic ties. The specific evidence supporting the relative socio-economic integration of particular districts is described further below.

Equal population as near as practicable.

The Alaska Constitution imposes a more demanding requirement for equal population than does the federal Constitution, particularly for urban areas, where all parts of the area are legally defined to be socio-economically integrated. With the currently available mapping technology, population deviations in urban areas can be quite small. Larger population deviations in non-urban areas may be justified by the need to satisfy other criteria.

The AFFR plan has a total deviation of 8.9% statewide and 3.4% within Anchorage. It is difficult to further reduce these deviations, while still meeting the other legal requirements.

Census block sizes and configurations also make it difficult to further reduce the deviations. Census block lines cannot be broken because there is no way of distributing population within a block. The population size within a single block ranges from zero to 1,698. Many Census blocks within Anchorage have several hundred people; the average population within an Anchorage block ranges from about 75 to 350 people. There are several large, oddly shaped blocks in Anchorage with populations of 869, 734, 917, 1,101, 1,242 and 1,342.

Consideration of local government boundaries.

Alaska law permits, but does not require, a redistricting plan to consider local government boundaries. When a borough or other local governmental unit is divided, there must be a reason that dispels any inference that the plan intentionally dilutes the voting strength of that area.

The AFFR plan was drawn to respect local government boundaries as far as possible. No borough with sufficient population to form a House district is split to prevent the borough residents from being the majority in any district.

Consideration of drainages and other geographic features.

The Alaska Constitution encourages plans to use such natural features to describe district boundaries wherever possible.

The AFFR plan does so.

Page 2	Page 4
<p>1 PROCEEDINGS 2 (Anchorage, Alaska - 3/31/2011) 3 (On record) 4 CHAIRMAN TORGERSON: This could mean that you will be 5 online for a minimum of two and a half hours, which may be 6 inconvenient. May we suggest that you tune in to the audio 7 stream that will be live on the official Alaska State 8 Legislative website. This way you can listen on your computer 9 to the presentations and will be alerted by the committee when 10 it's time to call in. So with that, we probably won't be 11 taking teleconference testimony until somewhere maybe around 12 2:30 or something of that nature. And again, mainly for those 13 online that may not have heard the spiel, but I thought I would 14 just go through this one more time, the Redistricting Board 15 received our census data on March 15th. The significance of 16 that is the start of the 30-day time -- statutory time line 17 that the board prepare a draft plan or plans. And so we have 18 until April 14th to complete that task. Due to members' travel 19 schedules, our plan is to have that completed by April 12th. 20 We have been on a series of public hearings around the 21 state to ask for input on the draft -- or on the -- what might 22 be considered -- the board might consider in the draft plans. 23 We were in Anchorage here in this building on the 22nd in 24 Wasilla, Juneau, Ketchikan, Fairbanks, Kotzebue, Bethel and 25 back here at Anchorage on the 31st for the statewide</p>	<p>1 and legal work and other things that we hope to have it pretty 2 much done and have a 10-day time period where minor adjustments 3 can be made to the overall plan. 4 So with that, we will go right into the presentations. 5 We're going to do the city and borough of Juneau first. Mayor 6 Botelo does have the time, flew up to make the presentation and 7 has a afternoon plane back. So Mr. Botelo, if you'll join us, 8 Mr. Mayor. And we'll turn it over to you, sir. 9 MR. BOTELO: Thank you, Mr. Chairman. And let me also 10 introduce Mr. Jim Baldwin who has been the consultant for the 11 city of borough -- of Juneau on the redistricting plans that 12 we'll be presenting today. And we have two plans that we would 13 like to share with you. I begin by saying that as I told the 14 board last Friday, Juneau had developed a list of principles it 15 was going to be using in devising a plan or plans. Ultimately, 16 however, we have used as our starting point the guidelines 17 which the board set forth in its charge, mirroring the priority 18 order that the Alaska Supreme Court enunciated in Hickel versus 19 Southeast Conference. Our charge and our first challenge was 20 could we under the Voting Rights Act avoid retrogression with 21 regard to the house districts. And that was our first big 22 challenge. We had to make a decision early on and it's 23 reflected in both our plans. Should Southeast Alaska encompass 24 Cordova? Until 2002 -- and the state Supreme Court had 25 concluded that Cordova was inappropriate to be included in</p>
Page 3	Page 5
<p>1 teleconference. We received a variety of testimony over the -- 2 over the course of this from all sources and basically lots of 3 different suggestions that the board can consider. The rest of 4 the time line, after the board publishes its 30 -- the plan, 5 the draft plans, there -- then starts a 60-day time frame in 6 which we will be doing more public hearings on the draft plan 7 or plans. I have divided the board into three teams of two 8 people per team and we will crisscross the state starting on 9 April 18th. 10 April 18, 19 and 20 we're going to hold the hearings as 11 a board in Anchorage, Fairbanks and Juneau and then on the 21st 12 the individual committees will start around the state. We want 13 to complete that process in 10 days so it'll be a lot of travel 14 for the members particularly -- well, basically all the members 15 have quite a schedule to -- to complete within that 10-day time 16 period. We will wrap that up with a statewide teleconference 17 on May 6th and then after May 6th, the board will set a 18 schedule for deliberations and the adoption of the final plan. 19 It is our hope that the final plan will be somewhat in 20 a nature of four distributions. Maybe distribution isn't the 21 right word, but we have to get our GIS experts and so forth to 22 actually draw the geographic identifications of the boundaries, 23 but we hope to be relatively wrapped up by June 4th. But we 24 have until June 14th to actually get it -- get the process 25 completed. But due to the other time lines and pre-clearance</p>	<p>1 Southeast. It -- the court's order approving the plan in 2002 2 recognized the majority of the court that including Cordova in 3 a district that swept as far as Prince of Wales Island would 4 violate the compactness element to the state Constitution but 5 found that it was permissible if Cordova would needed to be 6 part of the plan to deal with a population deviation in 7 Southeast Alaska. 8 We're not faced with that issue today. If one looks at 9 Southeast Alaska, absent Cordova, there are almost exactly four 10 -- in total, four ideal house districts. The total variation 11 is slightly over one percent for four house districts. And so 12 when we approached the development of our plans, it was with 13 the assumption that Cordova would not be included in -- in 14 Southeast Alaska and we would devise our four districts 15 accordingly. 16 We, in putting forth this plan, this is one only 17 endorsed by the city and borough of Juneau. We have not sought 18 endorsement anywhere else, but do want to share with the board 19 that we consulted with communities throughout Southeast Alaska, 20 as well with the legislative delegation from Southeast. What 21 is noted here in the memo that I think was provided to you, but 22 became immediately evident is we tried to put this plan 23 together, was there is no configuration of the plan which -- 24 that is why every community.... 25 CHAIRMAN TORGERSON: You're not on record.</p>

2 (Pages 2 to 5)

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Page 90

1 MR. WHITE: So you'll agree with me that the -- if we
2 just compared the plans and set them down next to each other
3 there are less majority minority and influence district in your
4 plan than there were -- than currently exist in the
5 redistricting?
6 MR. METCALFE: Yes.
7 MR. WHITE: Okay. And then in your second plan, the 4-
8 2 plan, I see you add another influence district. Is that the
9 major difference between the two?
10 MR. METCALFE: Yes.
11 MR. WHITE: And that is district 5, which is FNS other.
12 And that's basically taking population from Fairbanks and then
13 including it into this plan over here. Would you point that up
14 for me, Deborah? Thank you. Okay. And you're saying that in
15 that plan you got population up to 35.04 percent Native. In
16 doing your plans on both of them, you have intermixed Alaska
17 Native ethnicities. And is that something that you discussed
18 with the Native leaders? Is that something they're -- that
19 they like, they don't like? Because part of the plan that DOJ
20 will look is what -- you know, what do the minorities who are
21 involved in this process think of things that are done. So
22 have you spoken with any of the Native leaders about this
23 mixing? Because as you know, in the Hickel case the court said
24 pairing Athabascans and Inuits was the worst possible pairing.
25 MS. WILLIAMS: If I may.

Page 91

1 MR. METCALFE: Go ahead.
2 MS. WILLIAMS: In the pre.....
3 CHAIRMAN TORGERSON: Introduce yourself....
4 MS. WILLIAMS: Oh, yes. Thank you.
5 CHAIRMAN TORGERSON:for the record and use the
6 mic.
7 MS. WILLIAMS: Thank you, Mr. Chair. Deborah Williams
8 If I may. In the preferred plan, you can see Inuits in 40 are
9 protected. 39 is as it was last time for all practical
10 purposes, a combination of Inuits and Yup'iks. 38 is obviously
11 predominantly Yupik and 37, which in the old plan was mixed,
12 because as you know, in the old plan that's -- Dillingham and
13 others are place of great mixing. And down the panhandle and
14 up a little bit, that is mixed. It is -- it has more
15 Athabascan in it than it did in the old 37, but 37 was mixed
16 before. It stays mixed now. And so -- and of course, the
17 influence district of 5 is Tlingit. So it's essentially
18 identical to what was approved by Department of Justice in
19 terms of the configuration of those districts in the current
20 plan. In the 4-2 plan, 40 again is Inuit. 39 which is again
21 mixed was currently mixed Inuit, Yupik, is now mixed in with
22 Yupik and Athabascan. 38 is very core Yupik in the 4-2 Plan.
23 37, again, is mixed with a Yupik influence. Five is a strong
24 Athabascan influence. And that is one thing that is preferable
25 perhaps in the 4-2 plan is that you have an area of Athabascan

Page 92

1 influence which of course you had with 6 before. But there are
2 Athabascans with whom we've spoken who, you know, are very
3 attracted to the 4-2 plan because of that factor. And again,
4 2's still continues to be Tlingit. So the plans are
5 essentially the same in terms of kind of the pure and the mix
6 that were -- that are in the existing plan.
7 MR. WHITE: And just looking at your preferred plan in
8 37, you would agree with me that a person looking at that would
9 have questions whether that area could be socioeconomically
10 integrated. I don't want to debate on that, but are -- did you
11 draw 37 the way you did in order to comply with the Voting
12 Rights Act?
13 MS. WILLIAMS: Yes.
14 MR. WHITE: Okay. Thank you.
15 MS. WILLIAMS: But we also believe an argument can be
16 made that's it's socioeconomically.....
17 MR. WHITE: Sure.
18 MS. WILLIAMS:integrated.
19 MR. WHITE: But the reason why you did it that way was
20 because of the Voting Rights Act?
21 MS. WILLIAMS: We definitely felt it was critical to
22 not have retrogression where it was unavoidable and we believe
23 you need to do that, that not doing that would not meet the
24 unavoidability criteria.
25 MR. WHITE: Great. Thank you very much. And thank you

Page 93

1 for all your efforts.
2 CHAIRMAN TORGERSON: Other questions?
3 (No audible responses)
4 CHAIRMAN TORGERSON: There are none. So thank you very
5 much for your hard work, testimony today. We'll give them a
6 chance to clear up their paperwork and then we'll take a few
7 people here in Anchorage for testimony who have been patiently
8 waiting and then we'll go to the telephone.
9 (Background conversation)
10 CHAIRMAN TORGERSON: First up will be Julie Kitka.
11 Just so that -- I don't -- you might want to prepare for that
12 and then we'll go to Matt Ganley, I think it is, if he -- if
13 you're still here, Matt.
14 MS. KITKA: Thank you.
15 CHAIRMAN TORGERSON: Welcome. Go ahead.
16 MS. KITKA: Thank you. For the record, my name is
17 Julie Kitka. I'm the president of the Alaska Federation of
18 Natives. And I appreciate the opportunity to speak with and
19 I'll be very brief. And accompanying me -- Natalie.
20 MS. LANDRETH: Natalie Landreth from the Native
21 American Rights Fund.
22 CHAIRMAN TORGERSON: Welcome.
23 MS. KITKA: As I said, I will be very brief. First off
24 is we are not submitting for the record a -- our own map, but
25 we will be addressing some principles and some comments in

24 (Pages 90 to 93)

Page 30

1 don't drop higher than 35 percent, even though you say
2 35 percent is likely to be affected, you're going to
3 run into trouble.
4 **BOARD MEMBER McCONNOCHIE:** I think I'm more
5 going from the other way, where I'm trying very hard
6 in a couple areas to increase the percentage, not in
7 the situation where I'm decreasing the percentage. So
8 I'm working hard to try to increase percentages in one
9 area where they've lost dramatically population.
10 **MS. HANDLEY:** Okay. Okay.
11 **BOARD MEMBER McCONNOCHIE:** So it's coming
12 from the other way. So I'm just -- I'm looking for
13 ways to be able to justify what I'm doing in getting
14 more than that 35 percent.
15 **MS. HANDLEY:** Yeah, well you might need more
16 than that. I mean, again, we have to --
17 **BOARD MEMBER McCONNOCHIE:** I know.
18 **MS. HANDLEY:** -- the analysis, but I would
19 strongly recommend you begin drawing with the minority
20 districts.
21 **BOARD MEMBER McCONNOCHIE:** Which would ...
22 **MS. HANDLEY:** Okay. Yep. And I don't know
23 what -- I mean, you know what the bench -- I mean,
24 you're looking at the districts, as they're currently
25 composed, where is the 2010 population. And you've

Page 31

1 got minority districts that are really underpopulated,
2 right?
3 **CHAIRMAN TORGERSON:** That's correct.
4 **MS. HANDLEY:** Yeah.
5 **MR. WHITE:** And there is one district --
6 **MS. HANDLEY:** The districts that --
7 **MR. WHITE:** Sorry, Lisa. I didn't mean to
8 interrupt.
9 There is one district that was a majority
10 minority last time that remained a minority majority
11 but is 22 percent underpopulated, and it doesn't
12 appear that there's a method. I mean, that basically
13 that has to be -- we think, you know, you're looking
14 there at reducing that to an influence or
15 effectiveness rather than majority, but picking up a
16 majority in other area of the state.
17 **MS. HANDLEY:** Okay. All right. That's -- if
18 you do that, the Justice Department doesn't contend
19 that you have to keep the same districts, just the
20 same number of districts. And with an underpopulated
21 district like that, I think that that is going to
22 work, yep.
23 **BOARD MEMBER McCONNOCHIE:** Thank you. Thank
24 you, Lisa.
25 **MS. HANDLEY:** Is that it, then?

Page 32

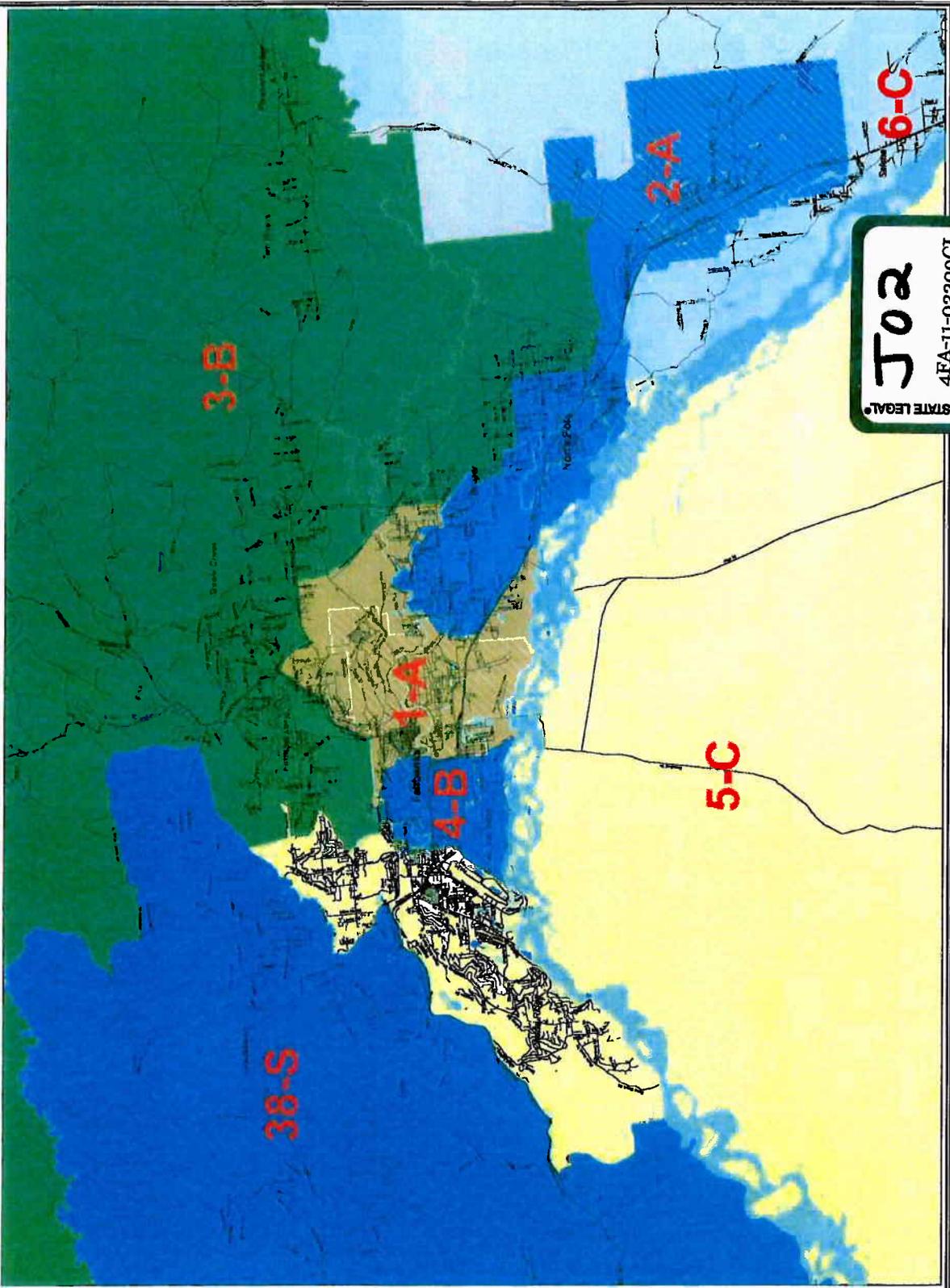
1 **CHAIRMAN TORGERSON:** Other questions?
2 **MR. WHITE:** Just one more. What about
3 districts -- I think you might have answered this,
4 Lisa, but we have some other Native districts that are
5 a majority minority, they're going to remain majority
6 minority, but probably the percentage of Natives in
7 those districts is going to be reduced simply by what
8 we're calling the outward migration of people from
9 Bush Alaska. Is that just the same analysis that you
10 just talked about, that you just need to be justified
11 based upon the population?
12 **MS. HANDLEY:** That's right. The Justice
13 Department is going to sit down and they're going to
14 draw up districts. And if they see that you couldn't
15 have kept it, say the district was 55 percent but
16 underpopulated, and as soon as you create districts
17 that are equal in population, you have no choice but
18 that number goes down. This is going to be fine.
19 If the Justice Department sits there and
20 plays with it and sees in fact you could have kept it
21 at 55 percent, you're going to have trouble. But they
22 are going to draw it, they are going to note that you
23 couldn't do it, so it'll be fine.
24 **CHAIRMAN TORGERSON:** Okay. Do you have
25 questions?

Page 33

1 **UNIDENTIFIED MALE SPEAKER:** No, I'm okay.
2 **MR. WHITE:** When's she going to be back?
3 **CHAIRMAN TORGERSON:** Yeah. When are you
4 going to be back, I guess, out of Afghanistan?
5 **MS. HANDLEY:** I will be back on Easter
6 Sunday --
7 **CHAIRMAN TORGERSON:** Oh, that's right, I
8 heard that.
9 **MS. HANDLEY:** -- April 24th.
10 **CHAIRMAN TORGERSON:** Okay. That's good.
11 Well, we'll be in touch with you, and we'll arrange
12 for, probably have a trip, have you come up and talk
13 to the board when we get into -- where we can have you
14 right here and help us work through some of this at a
15 little later date. Probably mid-May, I would imagine,
16 something like that.
17 **MS. HANDLEY:** Okay. And if -- who's
18 compiling the database? Was it Eric?
19 **CHAIRMAN TORGERSON:** Eric, yes, Eric with the
20 Department of Labor.
21 **MS. HANDLEY:** Okay. If you have any
22 questions, go ahead and e-mail me with any questions
23 that you have. Here I'm on my AOL account. I'm
24 having better luck with that than Gmail here, and I
25 can't --

Proclamation House Districts

Fairbanks



Legend
Military
City
Borough
Water Boundary



Prepared by:
Alaska Redistricting Board

JO2
4FA-11-02209CI
ALL-STATE LEGAL

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

RECEIVED

OCT 27 2011

FOURTH JUDICIAL DISTRICT

PATTON BOGGS LLP

IN RE 2011 REDISTRICTING CASES

REPLY THE REQUEST FOR
ADMISSIONS CONTAINED IN ARB'S
FIRST SET OF DISCOVERY REQUESTS
TO PLAINTIFFS GEORGE RILEY &
RONALD DEARBORN

Case No. 4FA-11-1935 CI

COMES NOW, Plaintiffs George Riley and Ronald Dearborn hereby submits its Response to Request for Admissions contained within Defendant Alaska Redistricting Board's First Set of Discovery Requests to Plaintiffs. The following responses are made without waiving, subject to and expressly preserving the following general and identified specific objections.

OBJECTIONS

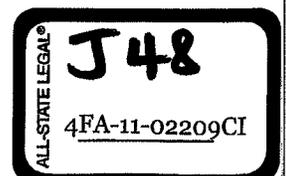
A) General Objections. The following responses apply to all discovery responses for reasons set forth in the following general objections as may be applicable to any specific response:

- 1) The requested discovery, in whole or in part, will not be provided because they

Reply.: ARB's 1st Discovery/Admissions
Riley, et. al. v Redistricting Board
Case No. 4FA-11-02209 Ci

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Page 1 of 45



on septic systems. After diligent inquiry, the exact number of Ester residents/residences (Ester, Alaska defined as land within the zip code 99725) who rely on individual wells as opposed to water haul systems and communal wells for water sources is not known at this time.

Request For Admission No. 29: Please admit that racially polarized voting in Alaska increased between 2000 and 2010.

Response: In addition to the denominated General Objections set forth above, Plaintiff objects based upon Specific Objection No(s). 2. Without waiving, and subject to and expressly preserving the objections stated above, the undersigned respond as follows: It is admitted that that racially polarized voting in Alaska increased between 2000 and 2010 within certain discrete parts of Alaska.

Request For Admission No. 30: Please admit that in the majority of the general elections held between 2000 and 2010, the Ester voting precincts voted in favor of Democratic candidates.

Response: In addition to the denominated General Objections set forth above, Plaintiff

objects based upon Specific Objection No(s). 2 and 6. Without waiving, and subject to and expressly preserving the objections stated above, the undersigned respond as follows: It is admitted that in the majority of State of Alaska General Elections involving partisan elections held between 2000 and 2010, more voters casting votes in the Ester Precinct (08-130) voted in favor of Democratic candidates than candidates from other parties.

Request For Admission No. 31: Please admit that in the majority of the general elections held between 2002 and 2010, the Goldstream voting precincts voted in favor of Democratic candidates.

Response:In addition to the denominated General Objections set forth above, Plaintiff objects based upon Specific Objection No(s). 2 and 6. Without waiving, and subject to and expressly preserving the objections stated above, the undersigned respond as follows: It is admitted that in the majority of State of Alaska General Elections involving partisan elections held between 2000 and 2010, more voters casting votes in the Goldstream #1 (07-235) and Goldstream # 2 Precinct (08-134) voted in favor of Democratic candidates than candidates from other parties.

II.
ARGUMENT

A. The Riley Plaintiffs' Attempt to Litigate a Claim not Raised in their Complaint is Improper and Cannot be Considered by the Court.

It is black letter law that a party is only entitled to litigate claims it has raised in its complaint. *E.g., Redman v. Dept. of Ed.*, 519 P.2d 760, 772 (Alaska 1974) (claims not raised by a party in its complaint may not be considered by the court); *see also Transamerican Title Ins. Co. v. Ramsey*, 507 P.2d 492, 499 (Alaska 1973) (trial court did not err by refusing to give jury instruction on issue not raised by pleadings). Thus, where a party has not raised a claim in its complaint, it cannot be considered by the Court. *Id.*

Here, the Riley Plaintiffs' Complaint contains no allegation of "invalid process" or anything even remotely similar. [See Riley Plaintiffs' Complaint, *passim*.] The only claims asserted in their Complaint related to (1) geographic proportionality arguments as to the residents of the City of Fairbanks and the Fairbanks North Star Borough [*Id.* at ¶¶ 16-19]; (2) Proclamation HD-38 does not consist of a relatively integrated socio-economic area [*Id.* at ¶ 20]; and (3) Proclamation HD-1, 2 & 5 are not compact [*Id.* at ¶ 21].¹ Having raised no claim for "invalid process" in their complaint, the Riley Plaintiffs' Motion is obviously improper as it is not possible to obtain summary judgment on a non-existent claim. Accordingly, this Court should not only deny the Riley Plaintiffs' Motion, but strike it as improper.

B. Even if the Riley Plaintiffs had Properly Pled their "Invalid Process" Claim, their Argument is Without Merit.

The Riley Plaintiffs' "invalid process" argument relies entirely on dicta in footnote 22

¹ In their "Prayer for Relief," the Riley Plaintiffs only seek a declaration that "House Districts 1-6 and 38 and Senate Districts A-C violate the principals of the Alaska and/or United States Constitution and remand the matter to the Alaska Redistricting Board with a mandate to make corrections."