

PRECLEARANCE SUBMISSION OF THE 2011
ALASKA STATE HOUSE AND SENATE REDISTRICTING PLAN
BY THE ALASKA REDISTRICTING BOARD
UNDER SECTION 5 OF THE VOTING RIGHTS ACT

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This submission statement is arranged pursuant to the order of the Justice's published rules for submission in 28 C.F.R. Part 51 §§ 51.27, 51.28. The information and data accompanying this submission is provided under separate cover and arranged by numbered volumes and folders. When needed, an explanation of the contents of each folder is included.

The Change Affecting Voting, 28 C.F.R. § 51.27(a)-(c)

The Board's "Proclamation of Final Redistricting and Accompanying Report" contains new legislative districts for the Alaska House of Representatives (40 seats) and the Alaska Senate (20 seats). [The Proclamation and Accompanying Report ("Proclamation Plan") are found in Volume 3, Folder 1.] The Plan was developed and issued in accordance with Article VI of the Alaska Constitution, and the results of the year 2010 decennial United States Census. [Copies of the constitutional and statutory provisions governing Alaska's redistricting process are found in Volume 1, Folder 5.]

Pursuant to Article VI, Section 10 of the Alaska Constitution, the Proclamation Plan replaces the current Alaska legislative districts created by the Alaska Redistricting Board in its 2001 Redistricting Plan. [A copy of the current (Benchmark) plan which is being repealed can be found in Volume 2, Folders 1 through 4.]

All Alaska House of Representative and Senate districts are changed to varying degrees by the proposed plan, which utilizes new numbering (House) and lettering (Senate) systems. Many districts are changed substantially from the current plan. The plan also truncates the seats for nine of ten incumbent state senators who would be mid-term in the 2012 general election because of substantial changes to their districts. This was done in accordance with the criteria established by the Alaska Supreme Court in *Egan v. Hammond*, 502 P.2d 856, 873-874 (1972). [Maps of the current (Benchmark) legislative districts are provided in Volume 2, Folders 3 and 4. Maps of the proposed (Proclamation) legislative districts can are included in Volume 3, Folders 3 and 4.]

Submitting Authority, 28 C.F.R. § 51.27(d)-(f)

This submission is made by the counsel for the Board, pursuant to Article VI, Section 9 of the Alaska Constitution and Alaska Statute 15.10.220(1):

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The Constitutional Process for Redistricting, 28 C.F.R. § 51.27(g)-(i)

The authority to redistrict is vested with the Board pursuant to Article VI, Section 3 of the Alaska Constitution. Pursuant to Article VI, Section 10 of the Alaska Constitution, the Board was required to adopt a draft plan or plans 30 days after the reporting of the decennial census of the United States, and a final plan and proclamation no later than 90 days after the reporting of the census. Block level census data was received by the Board from the U. S. Bureau of the Census on March 15, 2011. Thus, the deadline for adoption of a draft plan or plans was April 14, 2011, and the deadline for adoption of the final plan was June 13, 2011. Both deadlines were met by the Board.

The members of the Redistricting Board were appointed pursuant to Article VI, Section 8(b) of the Alaska Constitution. Governor Sean Parnell appointed John Torgerson of Soldotna, Executive Director of the Kenai Peninsula Economic Development District and former State Senator, and Albert Clough of Juneau, a retired commercial pilot on June 25, 2010. Albert Clough resigned on February 23, 2011, when he accepted full-time employment with the State of Alaska. Governor Parnell appointed PeggyAnn McConnochie, a real estate broker from Juneau, to replace Mr. Clough on the same day. Senate President Gary Stevens appointed Robert Brodie, a real estate broker and former mayor of Kodiak, on June 25, 2010. The Speaker of the House of Representatives, Mike Chenault, appointed Jim Holm of Fairbanks, a business owner and former state representative, on July 8, 2010. Alaska Supreme Court Chief Justice Carpeneti appointed Marie Greene of Kotzebue, CEO of Nana, Inc. (an Alaska Native Regional Corporation) and an Alaska Native (Inupiat), on August 31, 2010. Board member John Torgerson was elected Chair.

The Alaska Constitution sets forth the principles for redistricting. Article VI, Section 4 requires the Board to establish 40 single-member House districts and 20 single-member Senate districts, each composed of two House districts. Article VI, Section 6 requires House districts to be contiguous and compact and to contain, as nearly as practicable, a relatively integrated socio-economic area. Senate districts are required to be composed as near as practicable of two contiguous House districts.

The Board published its "Alaska Redistricting Board 2011 Redistricting Guidelines" on March 16, 2011, with the understanding that proponents of proposed plans would follow the traditional redistricting principles adopted by the Board. The Board's Guidelines called for adherence to federal and state constitutional and statutory requirements. [The Board's Guidelines can be found in Volume 1, Folder 4, and are also included as Appendix 2 to the Board's Proclamation

of Final Redistricting and Accompanying Report, located in Volume 3, Folder 1 of this submission.]

The Board held its first meeting on September 13, 2010, and met regularly through June 14, 2011. During a meeting on April 13, 2011, the Board adopted a total of five statewide plans to be submitted for public comment plus a number of regional and single district plans. Two of the five draft statewide plans were prepared by the Board and staff. These plans were designated Board Option 1 and Board Option 2, and included regional alternatives for the Mat-Su Borough and Southeast Alaska. The three other draft statewide plans adopted by the Board were submitted by private interest groups Alaskan For Fair Redistricting (“AFFR”), Alaskan For Fair and Equitable Redistricting (“AFFER”), and the RIGHTS Coalition. Draft regional and single-district plans adopted by the Board were submitted by the City and Borough of Juneau, Bristol Bay Borough, the City of Valdez and the Alaska Bush Legislative Caucus. [The shape files for these adopted draft plans can be found in Volume 7, Folder 2.]

Over the course of the next 60 days, the Board reviewed and took public comment on the draft plans. During this time period, the Board received a number of revised and new proposed plans from various entities and individuals, including new and revised statewide plans from AFFR, AFFER, the RIGHTS Coalition, and Calista Corporation, as well as new regional plans from the Municipality of Anchorage, the Fairbanks North Star Borough, the Ketchikan Gateway Borough and the Mat-Su Borough.

Between 1984 and 2002, election districts in which Alaska Natives constituted at least 35% of the voting age population had always elected Alaska Native preferred candidates to office. Accordingly everyone, including the Board, relied upon this historical “effectiveness” standard in developing its draft plans. The Board relied upon this “effectiveness” standard, as did other entities, because in the past two redistricting cycles (1990 and 2000), legally significant racial bloc voting did not exist in most of the state.

In mid-May, however, Dr. Lisa Handley, the Board’s Voting Rights Act consultant, completed her preliminary racial bloc voting analysis for this redistricting cycle, finding that voting in Alaska had become more polarized over the past decade (2002-2010). Accordingly, she reported to the Board on May 17, 2011, that the overall statewide standard for creating an “effective” Alaska Native district had increased from 35% Alaska Native voting age population (“VAP”) to a minimum of 41.8% Alaska Native VAP. Dr. Handley also found that a more district-specific analysis was warranted in two areas: Benchmark House Districts 37 and 6. Because most contests in Benchmark District 37 were not polarized, it consistently elected minority-preferred candidates despite being less than 41.8% Alaska Native VAP. On the other hand, Benchmark House District 6, which is well over 41.8% Alaska Native VAP, failed to elect the Alaska Native preferred candidate in the 2010 election due to higher incidents of racially polarized voting and lower than statewide average of white crossover vote. Accordingly, in Benchmark District 6, Dr. Handley’s analysis found that 49.7% Alaska Native VAP is needed in order to offer Alaska Natives an opportunity to elect candidates of choice.

In light of this new standard, the Board invited all groups that had previously submitted plans for the configuration of Alaska Native districts to participate in a public work session at the Board's office in Anchorage. The purpose of the work session was to provide these groups the opportunity to present any final thoughts, ideas, revisions, or amendments to their plans. A number of groups responded to the invitation and made formal presentations to the Board at a public meeting on May 24, 2011, including AFFR, AFFER, the RIGHTS Coalition, and Calista Corporation. The Board also received new and revised plan submissions from the Bering Straits Native Corporation and Tom Begich, a consultant to several Alaska Native interests. Dr. Handley analyzed these plans and determined that they were all retrogressive and therefore did not comply with the Voting Rights Act. After careful deliberations and discussion, the Board adopted its final redistricting plan on June 13, 2011 by a unanimous 5-0 vote, as is authorized by Article VI, Section 10(b) of the Alaska Constitution.

The final redistricting plan has an overall population deviation of 8.47% between House districts and 7.54% between Senate districts, the lowest of any redistricting plan in Alaska history. House District 39, the least populated, has a population deviation of -4.86% below ideal district size. House District 6 is the most populated, with a population deviation of +3.61% above ideal district size. The configurations of both these districts were largely influenced by Voting Rights Act compliance.

The Effective Date of the Redistricting Plan, 28 C.F.R. § 51.27(j)-(k)

This proposed redistricting plan was adopted on June 13, 2011, and will first apply, upon preclearance, to the 2012 elections for the state legislature. The 2012 statewide primary is to be held on August 26, 2012, and the next general election is November 6, 2012. It shall remain in effect until after the next official reporting of the decennial census of the United States. Otherwise, this proposed redistricting plan has not yet been enforced or administered.

The Scope and Reasons for the Change, 28 C.F.R. § 51.27(l)-(m)

This proposed redistricting plan affects the entire jurisdiction of the State of Alaska. It is a statewide redistricting plan as required by Article VI of the Alaska Constitution. Article VI, Sections 1 and 3 require the boundaries of all Alaska House and Senate districts be redrawn following the official reporting of each decennial census of the United States. This proposed redistricting plan is in accordance with the Alaska Constitution, and follows the official reporting of the year 2010 decennial census of the United States.

Foundational Basis of the Proposed Plan

The Board used unadjusted 2010 Census population data released by the Bureau of the Census for redistricting pursuant to Public Law 94-171, 13 U.S.C. 141(c). Unadjusted census data was used to develop Alaska's current districting plan that was precleared by the Attorney General in 2002. The 2010 Census revealed a total statewide population of 710,231 people, yielding an ideal House district size of 17,755 [710,231 ÷ 40].

The Board did not adjust the census figures for the non-resident military population. Alaska law prohibits the Board from excluding non-resident military personnel from the census population for purposes of redistricting. Article VI of the Alaska Constitution requires redistricting be based on the population "as reported by the official decennial census of the United States." Alaska Constitution art. VI, § 3. Alaska Statute 15.10.200(b) specifically prohibits the Board from adjusting the census numbers "by using estimates, population surveys, or sampling for the purpose of excluding or discriminating among persons counted based on...military or civilian status...." None of the proposed Redistricting Plans submitted to the Board from the public adjusted the official census population figures.

Effect on Racial or Language Minority Groups, 28 C.F.R. § 51.27(n)

Alaska Natives are the only minority group covered under the Voting Rights Act ("VRA" or "Act") of sufficient size and geographic concentration in Alaska that qualify as a language minority of potential concern for purposes of redistricting. The proposed redistricting plan is free from discriminatory purpose and will not result in retrogression in the position of Alaska Natives with respect to their exercise of the electoral franchise because it maintains the same number of effective Alaska Native legislative districts as the Benchmark plan.

Because Section 5 preclearance in Alaska involves the voting rights of only one minority group, the Board defined "Alaska Native" as those who self identified as being in any part Alaska Native. Thus, the Alaska Native population percentages (total and voting age) in each electoral district as discussed below (and as set forth in various attachments) are based on all persons who indicated on the census form that they were either single race Alaska Native or Alaska Native in combination with some other race or races, including Alaska Native plus white. The Board used this definition of Alaska Native because (1) Alaska Native groups encouraged the Board to use this approach and count as an Alaska Native any person who self identified in any part as such; and (2) it substantially complies with Part II of OMB Bulletin 00-02, the Justice Department's "Guidelines Concerning Redistricting Under Section 5 of the Voting Rights Act," published in the Federal Register (Vol. 76, No. 27, February 9, 2011), and the US Supreme Court's opinion in *Georgia v. Ashcroft*, 539 U.S. 461, 473 n. 1 (2003)(where a case involves an examination of only one minority group's effective exercise of the electoral franchise it is proper to look at all individuals who identify themselves as part of that minority group.)

A. The Benchmark Plan

Dr. Lisa Handley, the Board's Voting Rights Act expert, conducted an analysis of voting patterns in Alaska since implementation of the current redistricting plan in 2002. Her report, "A Voting Rights Analysis of the Proclamation Alaska State Legislative Plans: Measuring the Degree of Racial Bloc Voting and Determining the Effectiveness of Proposed Minority Districts" [found in Volume 1, Folder 6], concludes Alaska legislative districts with an Alaska Native population of 41.8% or more have generally been effective in electing Alaska Native candidates in the past decade.

The Benchmark Plan reflects the current legislative districts with the 2010 Census population data. Using the target "effectiveness" standard derived by Dr. Handley, the Benchmark Plan contains four "effective" Alaska Native House districts (Districts 37, 38, 39 and 40) and three "effective" Alaska Native Senate districts (Districts R, S and T) that consistently elect Alaska Native-preferred candidates even when voting is polarized. Additionally, there is one "equal opportunity" House district (District 6) that contains substantial Alaska Native voting age populations but did not always elect the minority-preferred candidate, and one "influence" district (District 5) that has consistently elected an Alaska Native even though not always the Alaska Native-preferred candidate. [A table comparing the 2000 population data against the 2010 population data for the current districts can be found in Volume 2, Folder 6; Volume 2, Folders 3 and 4 contain the district, regional, and statewide maps of the Benchmark Plan.]

In Benchmark House Districts 6, 38, 39 and 40, Alaska Natives constitute a majority of the total population (although all are substantially under populated). Only three of the four, however, have a majority Alaska Native VAP. Benchmark District 6 is only 49.97% Alaska Native VAP. Based on Dr. Handley's analysis of voting patterns, Benchmark House Districts 37, 38, 39, and 40 create four "effective" Alaska Native House districts – that is, districts that consistently elect Alaska Native-preferred candidates even when voting is polarized. District 37, although not a majority Alaska Native composition, consistently elected an Alaska Native-preferred candidate during the last decade, even when voting was racially polarized) despite being only 45.04% total Alaska Native population and 37.79% Alaska Native VAP.

Benchmark House District 6, on the other hand, is best characterized as an "equal opportunity" district because even though it has a substantial Alaska Native population and has in the past elected Alaska Native-preferred candidates, it does not always elect the Alaska Native-preferred candidate. For example, District 6 is currently represented by a white Republican who defeated the Native-preferred candidate in the 2010 General election.

Benchmark District 5 in Southeast Alaska, which is approximately one-third Alaska Native, is best described as an "influence" district, according to Dr. Handley. The standard definition of an "influence" district is one where Alaska Natives are not able to elect their preferred candidate, but comprise enough of the electorate to have significant influence on who does win. While Benchmark District 5 has consistently elected an Alaska Native to legislative office

throughout the past decade, it has not always elected the Alaska Native-preferred candidate, however.

The Benchmark Plan also contains two Senate districts with a majority Alaska Native VAP Senate districts (Districts S and T), and one additional Senate district (District C) with an Alaska Native VAP that exceeds the 41.8% effectiveness standard. Dr. Handley's analysis concludes that all three of these Benchmark Senate Districts have consistently elected Alaska Native-preferred candidates over the last decade.

B. Challenges Faced By the Board in Meeting the Benchmark.

As the state with the largest land area and the lowest population density in the United States, the redistricting process in Alaska has been described as a "herculean task." In this redistricting cycle, drafting a plan that complied with the VRA requirements that did not retrogress Alaska Native voting strength as it existed in the Benchmark was extraordinarily difficult due to a number of complicating factors.

1. *Under-population of Benchmark Alaska Native Districts.*

Historically, Alaska's Native population was principally located in rural areas. At the time of statehood in 1959, 70% of Alaska's indigenous population resided in rural predominately Alaska Native villages and towns. By 2000, that number had dropped to approximately 57%. In the past decade, this "out-migration" accelerated as Alaska experienced a growing shift in population from rural to urban areas. While urban areas showed a high rate of growth, rural and predominantly Alaska Native areas experienced either a slow or negative growth rate as compared to the urban areas of the state. This population shift resulted in the considerable under population of all but one Alaska Native district in the Benchmark Plan. Six of the nine Benchmark districts had deviations greater than 10%, with three at or over 20%. [A map showing the geographic distribution of Alaska Natives by borough and census area in the current legislative districts, according to the 2010 Census population data, can be found in Volume 4, Folder 3.] Nearly 50% of the Alaska Native VAP presently resides in the five largest "urban" areas of the state: the City and Borough of Juneau, the Kenai Peninsula Borough, the Municipality of Anchorage, the Mat-Su Borough, and the Fairbanks North Star Borough. [Information related to the Alaska Native population migration and rural demographics can be found in Volume 4, Folders 1 through 3.]

The Alaska Native community was well aware of the potential impact these dramatic population shifts would have on redistricting. As a result, Alaska Native leaders took action in an attempt to ameliorate its potential political impact by rallying behind a 2010 effort to amend the Alaska Constitution. The constitutional amendment proposed to increase the size of the Alaska Legislature in order to address the potentially "irreconcilable problems" created by "population shifts to the Railbelt and disparate rules in the state Constitution and federal Voting Rights Act on how to redraw the lines." The proposal, sponsored by Nome Senator Donny

Olson and Wrangell Representative Peggy Wilson, would have increased the number of representatives from 40 to 44 and senators from 20 to 22. SJR 21 passed through both chambers of the Alaska Legislature, but was ultimately rejected by voters at the ballot box in November of 2010. [Documents related to the proposed constitutional amendment are found in Volume 4, Folder 5.]

2. *Lack of Alaska Native Population Concentrations Adjacent to the Benchmark Alaska Native Districts*

Five of the six Benchmark House districts with substantial Alaska Native populations were significantly under populated. The Board could not make up for the population disparities in these districts without adding substantial non-Alaska Native population. There are no concentrations of Alaska Native populations adjacent to those districts as the maps found in Volume 2, Folder 5 and Volume 4, Folder 3 establish. [These maps are also found in Appendix A & B to Dr. Handley's report, found in Volume 1, Folder 6.] The maps in Volume 2, Folder 5 overlay the Benchmark House and Senate District boundaries on top of a thematic map shaded to show percentage Alaska Native population by borough and census area. As can be seen from these maps, there are only two areas with substantial Alaska Native concentrations that do not fall within the boundaries of a benchmark minority district. Both of these areas were included in the Proclamation Plan's Alaska Native Districts. [See Volume 3, Folder 5.] The population in those two areas, however, is very small. Accordingly, in order to properly populate the Alaska Native districts, population from more urban areas of the state had to be included. The concentration of Alaska Natives in the urban areas was such that it was not feasible to add Alaska Natives from urban areas to rural Alaska Native districts without also adding non-Alaska Native population percentages that would have caused possible retrogression.

3. *Inability to Create Minority Districts in Urban Areas*

While nearly 50% of Alaska Natives live in the state's five largest urban areas, the creation of "effective", "equal opportunity", or even "influence" districts in these areas proved impossible despite considerable efforts made by the Board and its staff. The Alaska Native population in the urban areas is simply not sufficiently geographically compact enough to allow for the creation of such districts, as is demonstrated by the thematic maps of the Alaska Native population distribution in the five largest urban areas found in Volume 4, Folder 3. [See also Appendix B to Dr. Handley's report, Volume 1, Folder 6.] While there are two areas of the Kenai Peninsula Borough that have small concentrations of Alaska Natives ranging from 40% to 60%, neither of those areas are actually placed within the urban districts of the Kenai Borough. Instead, both of those areas are included in districts outside the Kenai Borough, House Districts 35 and 36, in order to increase the Alaska Native populations in those districts. [Compare the urban density map found in Volume 4, Folder 3 for the Kenai Peninsula Borough to the maps for Benchmark District 35 and 36, found in Volume 2, Folder 3.]

C. Creation of the Proclamation Plan

The challenges outlined above made creating a redistricting plan that protected Alaska Native voting strength against any decrease from that in the Benchmark Plan no easy task. The significant demographic changes of rural Alaska, made it extremely difficult to meet the one-person one-vote standard while still maintaining the required percentage of Alaska Native voting age population in the required number of minority districts. This problem was exasperated by the increase in the percentage of Alaska Native voting age population required to create an effective Alaska Native district. Based on significant public testimony, including testimony from Alaska Native legislators and leaders, the Board was encouraged to think “outside-the-box” to ensure it avoided retrogression. [Examples of this testimony can be found in Volume 4, Folder 4.] As a result, the Board felt compelled to reconfigure the traditional boundaries of Alaska Native rural districts. It encouraged parties submitting alternative plans to do so as well.

The Board worked extraordinarily hard to come up with a plan that would meet the federal VRA requirements. To do so, the Board and its staff came up with several options.

One plan, created by staff with the input of Board members, took the unique approach of changing the historical makeup of House District 40 by dividing the North Slope Borough and the Arctic Northwest Borough into separate districts. The Plan picked up population from more urban areas in and around Fairbanks, and along the southeast border of the state. This plan was ultimately abandoned due to concerns raised by the Alaska Native community that some of the districts would not offer the ability to elect Alaska Native-preferred candidates due to the lack of registered voters and low voter turnout in those areas. [The shape files for this plan can be found in Volume 7, Folder 3.]

A second plan was created by Board members Greene and McConnochie, with input from staff and other Board members. The Board adopted this plan in concept. It was eventually rejected however, due to concerns about the inclusion of a Senate district that combined Kodiak with Bethel. This configuration would pair one of the most powerful Alaska Native incumbent members of the Senate, Lymon Hoffman, with the current Senate president, Gary Stevens. This pairing was severely criticized by Alaska Native groups in both the Bethel and Kodiak areas and by the City of Kodiak and the Kodiak Island Borough. [The shape files for this plan can be found in Volume 7, Folder 3. The public comment on this draft plan is contained in the Board’s Public Reading File found in Volume 6, Folder 1.]

The Board also carefully considered the various alternative plans submitted by those groups who were actively involved in the redistricting process. A review of those plans highlights the difficulty of creating plans with Alaska Native population percentages comparable to those in the Benchmark Plan. Dr. Handley reviewed all nine of the alternative plans submitted after the completion of her racial bloc voting analysis and found all of them retrogressed Alaska Native voting strength compared to the Benchmark. None of the plans provide both four majority

Alaska Native VAP House districts (all of which are effective minority opportunity districts) and a fifth district that offers a sizeable Alaska Native VAP, as well as two majority Alaska Native Senate districts and a third Senate district that is likely to be effective. [See Dr. Handley's Report at pp. 24-28, found in Volume 1, Folder 6.]

The Board, led by Board members Greene and McConnochie, eventually created a third plan that did not face the same challenges as the two previous Board plans outlined above. Dr. Handley analyzed this plan and determined that it would not diminish the ability of Alaska Natives to elect their candidates of choice as compared to the Benchmark plan. The Board ultimately adopted the Greene/McConnochie Alaska Native districts into its Final Draft Plan by a unanimous a 5-0 vote on June 6, 2011.

The Proclamation Plan, passed 5-0 by the Board on June 13, 2011, has neither the purpose nor the effect of denying or abridging Alaska Natives the right to vote as it contains the same number of districts that provide Alaska Natives with the opportunity to elect Alaska Native-preferred candidates as the Benchmark Plan. The Benchmark Plan provided four "effective", at least one "equal opportunity", and one "influence" House district, as well as three "effective" Senate districts. [See Volume 1, Folder 6 at p. 28 & n.19.] The Proclamation Plan, according to Dr. Handley's expert analysis, likely provides five "effective" minority House districts (as well as "a district with substantial Alaska Native population in Southeast Alaska") and three "effective" Senate districts. [See Volume 1, Folder 6 at pp. 28-31.]

1. *The Proclamation Plan: House Districts*

The Proclamation House Plan includes five districts where Alaska Natives constitute a majority of the total population: District 36 with 78.26%; 37 with 56.18%; 38 with 53.38%; 39 with 72.50%; and 40 with 71.15%. While only three of these districts retain their majority Alaska Native status when voting age population statistics are considered - District 36 with 71.45% VAP, 39 with 67.09% VAP, and 40 with 62.22% VAP - the other two districts, 37 and 38, likely remain "effective". Both have Alaska Native VAP over 4.46% higher than the 41.8% statewide target effectiveness standard. Moreover, District 37 is only 26.65% white VAP. As discussed further below, the non-Alaska Native population added to District 38 was specifically chosen in order to enhance the effectiveness of that District for Alaska Natives to elect their preferred candidate.

In order to maintain the requisite number of Alaska Native districts and still meet the one person, one vote standard, the configuration of the Benchmark House Plan had to be substantially changed. [See Appendix C to Dr. Handley's report, found in Volume 1, Folder 6, for a map that compares the Benchmark and Proclamation districts.] District 40 in the Proclamation House Plan remains essentially intact. The Alaska Native VAP percentage declines only slightly from 63.60% to 62.22%. In order to construct a plan that avoided retrogression, however, it was necessary for the Board to unpack two of the other Benchmark House districts with substantial Alaska Native Populations, Districts 38 and 39. For example, a

large portion of Benchmark District 39 was combined with many of the primarily Alaska Native interior river villages from Benchmark District 6 to produce Proclamation District 39, which is 72.50% total Alaska Native population and 67.09% Alaska Native VAP. The heavily polarized areas of Benchmark House District 6, along the eastern border of the State that contain primarily non-Alaska Native villages, were included in District 39 rather than a district with a lower Alaska Native population in order to maintain that district's effectiveness.

The remainder of Benchmark District 39 was placed in Proclamation District 38, which was drawn to move east towards Fairbanks to pick up sufficient additional population in order to meet the one person, one vote standard. Due to the population shortfall in the five Benchmark Alaska Native districts (outside of Southeast Alaska), at least one of those districts had to pick up a substantial urban population not previously included within this set of Alaska Native districts. In order to add population to that district and bring it within the acceptable range of deviation, approximately 8,000 people had to be added to one or more of the Alaska Native districts. The Board took a hard look at several options, but in the end, chose to have Proclamation District 38 pick up the necessary population from more rural suburban areas of the Fairbanks North Star Borough ("FNSB"), around the communities of Ester and Goldstream. The added population was not Alaska Native, because the Alaska Native population in the FNSB is not sufficiently concentrated to allow the population added from Fairbanks to be mostly Alaska Native. Based on the advice of Dr. Handley, the Board chose those areas because they have historically voted Democratic and Alaska Natives historically tend to vote strongly Democratic. Accordingly, the Board felt that adding population from the Ester and Goldstream areas was the best option to enhance the effectiveness of the district.

Benchmark District 38 was divided between Proclamation Districts 36 and 37. Proclamation District 36 retains a total Alaska Native population of 78.2%. Proclamation District 37 has a total Alaska Native population of 56.18%. The Alaska Native VAP is 46.43%, well above Dr. Handley's 41.8% effectiveness standard. Furthermore, this district includes a sizeable portion of Benchmark District 37 – a district in which voting has historically not been polarized and which consistently elected Alaska Native-preferred candidates with 38% Alaska Native VAP.

Southeast Alaska lost significant population (for example Benchmark District 5 was under populated by 22.02%) thus requiring the region to lose one House district and half of a Senate district. The Board was still able to maintain a district with a significant Alaska Native population which is likely an Alaska Native "influence" district. House District 34 has a total Alaska Native population of 36.96% and an Alaska Native VAP of 32.85%. While several of the alternative plans had a Southeast Alaska Native District with a slightly higher (0.5 to 2.5%) total Alaska Native and Alaska Native VAP, the Board determined that it was more important to keep the incumbent Alaska Native Legislator from the Benchmark Alaska Native District in the Proclamation Alaska Native District and avoid pairing him with a non-Alaska Native incumbent. All of the alternative plans either paired the Alaska Native incumbent with a non-Alaska Native incumbent from the same party, or drew the Alaska Native incumbent out of the Alaska Native district. A number of the plans did both. The Board also received a number of plans that

included the Alaska Native village of Saxman in their southeast Alaska Native district, ignoring the specific request of the Alaska Native leaders and groups from Saxman not to be carved out and separated from the Ketchikan Gateway Borough in which it is located. [See Volume 6, Folder 2.] The Board chose to honor this request as the change in the Alaska Native percentages was de minimus.

2. *The Proclamation Plan: Senate Districts*

The creation of a non-retrogressive state Senate plan was the most difficult task faced by the Board. Senate districts in Alaska are constitutionally required to be “nested” and therefore must be made up of two contiguous House districts. This requirement limited the Board’s Senate pairing options. Benchmark Senate District C, one of the three effective Alaska Native Districts in the Benchmark Plan, was composed of Benchmark House Districts 5 and 6. Because southeast Alaska lost $\frac{1}{2}$ a Senate district, and Benchmark House District 6 was reconfigured into several other Alaska Native districts, it was impossible to recreate Benchmark District C. The difficulty this created is illustrated by the fact that none of the alternative plans were able to create a third effective Senate district. In every alternative plan submitted to the Board, the third Alaska Native Senate district was below Dr. Handley’s 41.8% effectiveness standard. [See Volume 1, Folder 6 at p. 25-28, 30.] The Proclamation Plan does, however, create a third effective Senate district that according to Dr. Handley, meets her effectiveness standard and is also “quite comparable to the Alaska Native percentages in Benchmark Senate District C.” [*Id.* at p. 30.]

The Proclamation Plan creates two majority Alaska Native Senate districts which are clearly effective for Alaska Natives. District T is 71.82% total Alaska Native population and 65.05% Alaska Native VAP. District S is 54.78% total Alaska Native population, and 46.85% Alaska Native VAP. Dr. Handley concludes, however, that Proclamation District S is likely to be effective because it consists of two effective House districts, Districts 37 and 38. Moreover, District S has a total Alaska Native VAP more than 5% above the 41.8% effectiveness target.

The third effective Senate district, Proclamation District R, is 48.65% total Alaska Native population and 43.75% Alaska Native VAP. It has slightly higher Alaska Native percentages compared to Benchmark District C, which has 46.01% total Alaska Native population and 42.41% Alaska Native VAP. It also exceeds the target Alaska Native VAP percentage of 41.8% needed to elect an Alaska Native-preferred candidate.

In sum, despite significant challenges, the Board's Proclamation plan does not retrogress Alaska Native voting strength compared to the Benchmark Plan. Dr. Handley's analysis of the Proclamation Plan concludes that it "is not retrogressive", and therefore provides Alaska Native voters the same opportunity to elect minority-preferred candidates to office as the Benchmark Plan offers. Moreover, none of the alternative plans provided to the Board by third parties provided Alaska Natives with a better opportunity to elect their candidates of choice. The proposed plan satisfies Section 5 of the Voting Rights Act and should be pre-cleared.

Pending Litigation, 28 C.F.R. § 51.27(o)

Under Article VI, Section 11 of the Alaska Constitution, a qualified voter has 30 days from the date of adoption of the final plan to file an application with the superior court to compel correction of any alleged error in the redistricting plan. The deadline for filing such actions during this redistricting cycle was July 13, 2011. Three lawsuits have been filed:

- *Fairbanks North Star Borough and Timothy Beck v. Alaska Redistricting Board*, Case No. 4FA-11-02213 CI;
- *George Riley, Ronald Dearborn v. Alaska Redistricting Board*, Case No. 4FA-11-02209 CI; and
- *City of Petersburg, Mark L. Jensen, Nancy C. Strand, and Brenda L. Norheim v. State of Alaska, Alaska Redistricting Board*, Case No. 1JU-11-00782 CI.

Copies of the complaints filed in the above referenced cases can be found in Volume 1, Folder 7. None of these complaints allege a violation of the Voting Rights Act or that the Board's proposed plan has a discriminatory purpose or will have a discriminatory effect on the ability of Alaska Natives to elect candidates of their choice. There are no allegations in any of the cases that the proposed plan is in any way retrogressive. Only one case, brought by the Fairbanks North Star Borough, even mentions the Voting Rights Act and then, only to allege that the Board erred by loosening state constitutional standards of compactness and socioeconomic integration in creating Proclamation House District 38 in order to comply with the VRA.

Prior Practice Preclearance, 28 C.F.R. § 51.27(p)

The current Alaska legislative redistricting plan was adopted by proclamation dated April 25, 2002, and was precleared by the Attorney General by letter dated June 10, 2002.

Demographic Information and Maps, 28 C.F.R. § 51.28 (a) & (b)

The demographic information required by 28 CFR § 51.28 (a)(1) for the Proclamation legislative districts is provided in Volume 8, Folders 1 and 2. Volume 8, Folder 3 contains a documentation file with the information requested by 28 C.F.R. § 51.28(a)(5)(vii) for the data submitted in Volume 8, Folders 1 and 2.

Any alterations to precinct boundaries and polling places will be accomplished by the state's Division of Elections. The Alaska Attorney General will submit any such changes to the Department of Justice in a separate preclearance request.

Maps of each Proclamation House district are included in Volume 3, Folder 3. In addition, Volume 7, Folder 1 contains the shape files for statewide, regional and district maps of the

Proclamation Plan. Volume 2, Folders 3 and 4 contain statewide, regional and district maps for the Benchmark Plan. Volume 7, Folder 2 contains the shape files for all the Board's adopted draft plans. Volume 7, Folders 3 and 4 contain the same information for the Board's draft Alaska Native plans and alternative plans that the Board did not adopt.

Election Returns, 28 C.F.R. § 51.28 (d)

Election returns for all statewide Alaska elections since the implementation of the current redistricting plan in 2002 are submitted in Volume 9, Folders 1 through 3. These election returns have been analyzed and summarized by Dr. Lisa Handley in her report, which can be found in Volume 1, Folder 6 to this submission. Volume 9, Folder 1 contains election result summaries and other information as provided by the Alaska Division of Elections. Volume 9, Folder 2 contains data for all general and primary elections held in Alaska from 2002 through 2010. Volume 9, Folder 3 contains spreadsheets and data for all contested primary and general elections from 2002 through 2010 that included an Alaska Native candidate. The spreadsheets and data in Folder 3 can also be found in Folder 2, but include additional demographic data compiled at the precinct level.

Publicity and Participation, 28 C.F.R. § 51.28 (f)

During the 2011 redistricting, the Board conducted the most open redistricting process in Alaska history. The Board took full advantage of technology, social networking tools, and new methods of online outreach to ensure the public had unprecedented access to the redistricting process.

The staff created a website for the Board (www.akredistricting.org), which became operational on January 20, 2011. Website content included contact information, Board member profiles, copies of all draft redistricting plans, general information about the history and process of redistricting, data, maps, GIS files, and announcements and meeting agendas concerning Board meetings, public hearings, and other activities of the Board. Members of the public were able to sign up on the Board's website to receive frequent email updates, meeting notices, and reminders about the Board's activities. The Board maintained an e-mail distribution list that members of the public could join either through the Board's website or by calling or emailing Board staff. The Board distribution list had 769 participants. All of these individuals and organizations were specifically notified of all Board meetings and actions. Staff also maintained active accounts on Facebook and Twitter to maximize the Board's public outreach efforts.

All Board meetings and public hearings were publicly noticed through electronic media and a number of the public hearings were noticed via local print media. Samples of those e-mailed and published notices are provided in Volume 5, Folder 5. Over the course of the redistricting process, the Board sent over 34,000 emails, and its posts on Facebook and Twitter generated over 26,000 impressions. Examples from the Board's Web site, Facebook and Twitter

impressions, as well as press articles regarding the Board's activities, can be found in Volume 5, Folders 2 and 6.

All Board meetings were open to the public and held in accordance with Alaska's Open Meetings Act, Alaska Statute 44.62.310 *et seq.* All Board meetings were recorded and transcribed. The audio recordings of the Board meetings and public hearings were made available for free public download via the Board's website. Live audio access was often provided for Board meetings and public hearings via the Alaska Legislature's online streaming media portal, including every meeting from May 16, 2011, through June 14, 2011. Live webinar access was provided for all meetings from June 1, 2011, through June 14, 2011, which made it possible for anyone with an internet connection to have both audio and visual access to the Board's final deliberations. Generally, audio files of the Public Hearings and Board Meetings were posted on the Board's website shortly after each meeting was held. Transcripts of the hearings were posted on the Board's website as they were completed. [Copies of the audio files and transcripts can be downloaded from the Board's website at www.akredistricting.org.]

Throughout the process, the Board received thousands of pages of written comment on the redistricting process and proposed plans. A number of non-profit organizations, governmental entities, Alaska Native Corporations, Tribal Councils, and Alaska Native villages passed resolutions either supporting a regional plan or formally acknowledging its preferred district. The Board maintained a Public Comment File which could be inspected at the Board's offices and was posted online. A complete copy of the Board's Public Reading File is provided in Volume 6, Folder 1. Public comments from the Alaska Native Community are also located in Volume 6, Folder 2.

Immediately following the receipt of block-level population data from the U.S. Census Bureau, the Board scheduled a series of eight (8) "pre-plan" public hearings in the state's population centers from March 22, 2011, to March 31, 2011. The purpose of these "pre-plan" hearings was to solicit public testimony on existing election district boundaries, and to receive general input, ideas, and comments from the public about redistricting issues to assist the Board in developing draft plans. At these hearings, the Board also provided interested groups and individuals with the opportunity to submit proposed plans. Public hearings were held in Anchorage on March 22nd, in Wasilla on March 23rd, in Juneau on March 25th, in Ketchikan on March 26th, in Fairbanks on March 28th, in Kotzebue on March 29th, in Bethel on March 30th, and via statewide teleconference at the Legislative Information Office in Anchorage on March 31st.

The use of the state's teleconferencing system helped facilitate participation by Alaskans in places not visited by the Board. The state has 22 Legislative Information Offices ("LIO") where members of the public can assemble to testify at teleconferenced hearings. Any member of the public could make arrangements to provide public testimony by phone at any

teleconferenced hearing by calling the state's central teleconference numbers. [Volume 5, Folder 4 contains a list and statewide map showing the location of the state's LIOs.]

Between April 18, 2011, and May 6, 2011, public hearings on the draft plans were held in 32 communities across Alaska. During this time period, the Board and its staff logged nearly 60,000 air miles traveling between hearing sites. Hearings were held in Anchorage, Fairbanks, Juneau, Cordova, Healy, Palmer, Delta Junction, Nome, Dutch Harbor, Kotzebue, Tok, Cold Bay, Bethel, Glennallen, Galena, Barrow, Kodiak, Sitka, Craig, Ketchikan, Wrangell, Seward, Petersburg, Homer, Kenai, Skagway, Haines, Valdez, Angoon, King Salmon, Dillingham, and Hoonah. A statewide teleconference also was held in Anchorage at the LIO on May 6th, at which time groups were invited to provide new or revised plans. The full Board attended both hearings in Anchorage, as well as the hearing in Fairbanks, and Juneau. For the other hearings, the Board and staff split into three teams of two. Staff drafted written reports summarizing testimony received at most of the public hearings and presented those reports to the full Board on May 16, 2011. [These reports are provided at Volume 5, Folder 7.] The Board also held a public hearing on May 24, 2011, specifically to seek input from groups who had submitted statewide plans on the configuration of Alaska Native Districts. Volume 5, Folder 4 contains a list and map showing the locations of all the Board's public hearings. Volume 5, Folder 3 contains a list identifying the location and date of each public hearing.

The high level of public participation in Alaska's redistricting process is reflected by the number of proposed plans submitted to and considered by the Board. In total, the Board received proposed statewide or regional plans from fourteen (14) different entities, both private and public. A number of these entities submitted multiple and/or revised plans. These plans were all posted on the Board's website and available for download. Hard copies of these plans were available for copying at the Board's office. An index listing the entities that submitted alternative plans, as well as the shape files for those plans (if provided to the Board), can be found in Volume 7, Folder 4. [Plans submitted by entities that were adopted by the Board as "draft" Board Plans for purposes of public comment are found in Volume 7, Folder 2.] Other materials provided to the Board by the entities submitting plans can be downloaded from the Board's website at www.akredistricting.org.

The final plan adopted by the Board was one drafted by the Board that took bits and pieces of what the Board thought were good ideas from various other plans it had considered, as well as public input from its hearings. The Board was very cognizant of public testimony and attempted to accommodate the wishes of the public when it was possible to do so consistent with its obligations to comply with federal and state laws. The Board's Public Reading File reflecting the extent of these comments, found in Volume 6, Folder 1.

Availability of the Submission, 28 C.F.R. § 51.28(g)

Notice of the Board's preclearance request will be posted on its website, Facebook page, and sent to its followers on twitter, as soon as practicable after submission to the DOJ. Email notices will also be sent to all of those on the Board's email distribution list. The notice will indicate that the Board's submission, including all of the attachments, will be posted to and available for download from the Board's website. A complete copy of this submission, including all appendices, will also be available for public inspection and copying at the Board's office. [Copies of the draft notices are found in Volume 5, Folder 8.]

Minority Group Contacts, 28 C.F.R. § 51.28(h)

A list of minority group contacts that participated in the redistricting process or may have information about the proposed redistricting plan can be found in Volume 1, Folder 8.