

1 **IN THE SUPERIOR COURT FOR THE STATE OF ALASKA**
2 **FOURTH JUDICIAL DISTRICT AT FAIRBANKS**

3))
4 *In Re* 2011 Redistricting Cases))
5)) Superior Court No. 4FA-11-2209-CI
6))
7 _____))

8 **AFFIDAVIT OF NATALIE LANDRETH**

9 **STATE OF ALASKA**))
10)) *ss.*
11 **SECOND JUDICIAL DISTRICT**)

12 I, Natalie Landreth, being first duly sworn, state as follows:

- 13 1. I have personal knowledge of and can testify to the facts set forth below.
14 2. Attached hereto as Exhibit A is a true and correct copy of a webpage listing
15 the members of Alaskans for Fair Redistricting.
16 3. Attached hereto as Exhibit B is a true and correct copy of testimony offered
17 before the Redistricting Board by April Ferguson, General Counsel for
18 Bristol Bay Native Corporation.
19 4. Attached hereto as Exhibit C is a true and correct copy of a letter drafted for
20 BBNC to submit to the Redistricting Board after June 7, 2011. This letter
21 was not submitted because the Board had already adopted its chosen plan and
22 it was doubtful that the letter would have any effect at that time.
23
24
25

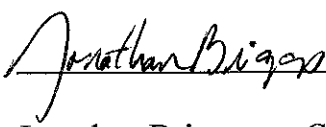
1 5. Along with April Ferguson, I participated in a teleconference with Arati Jain
2 from the Department of Justice in September 2011. During this call, BBNC
3 shared its concerns as outlined in Exhibit C as well as other concerns
4 involving equal opportunity districts.
5

6 FURTHER AFFIANT SAYETH NAUGHT.

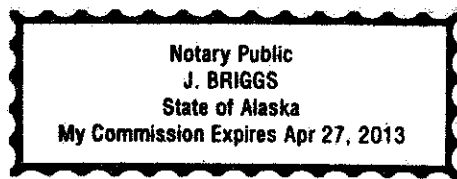
7 
8

9 Natalie Landreth
10

11 SUBSCRIBED AND SWORN to before me at Anchorage, Alaska this 23rd day of
12 January 2012.

13  113379
14

15 Jonathan Briggs Commission No.
16 Notary Public for the State of Alaska
17



Alaskans for Fair Redistricting

About AFFR

Alaskans For Fair Redistricting is a non-partisan group of Native organizations, unions, non-profits and individuals seeking a fair outcome for redistricting. AFFR is monitoring the Redistricting Board's process to ensure that it is open and transparent as required by law. On March 31, AFFR submitted a plan to the Redistricting Board for consideration.

AFFR co-chairs: Vince Beltrami, Alaska AFL-CIO, and Carl Marrs, Old Harbor Native Corporation.

Organizations participating in AFFR include the following:

Alaska AFL-CIO

Alaska Conservation Voters

Alaska Women for Political Action (formerly Alaska Women's Political Caucus)

Alaskan AIDS Assistance Association (Four A's)

American Civil Liberties Union (ACLU) of Alaska

Anchorage Central Labor Council

APEA/AFT

ASEA/AFSCME

Bristol Bay Native Corporation

Chugach Alaska Corporation

Doyon, Limited

Independent Pilots Association

Koniag, Inc.

NEA-Alaska

Planned Parenthood of the Great Northwest

Tanana Chiefs Conference

YWCA

My name is April Ferguson and I am Vice President and General Counsel of Bristol Bay Native Corporation. My comments will focus on the Board's two options and how it is determining which districts are Native.

Both board options 1 and 2 purport to have 4 majority Native House districts, 2 influence Native House districts, 2 majority Native Senate districts, and 1 influence Senate district. These have been called 4-2-2-1 plans. I understand that 4-2-2-1 is what we currently have. However, the current districts were based on pre-2006 law as well as on an analysis of electoral behaviors in the Native districts. In other words, not only has the population changed but so has the law and possibly the electoral behavior as well.

The Reauthorization of the Voting Rights Act in 2006 specifically clarified that the "ability to elect" is the standard to be used in evaluating the proposed redistricting plans. They are also now called "effective" districts and the concept of "influence" districts is gone. Based on this directive, the Department of Justice has stated in its guidelines (and I am quoting here):

In determining whether the ability to elect exists in the benchmark plan and whether it continues in the proposed plan, the Attorney General does not rely on any predetermined or fixed demographic percentages at any point in the assessment. Rather, in the Department's view this determination requires a functional analysis of the electoral behavior within the particular jurisdiction or election district.

The DOJ then explains that this analysis often includes election history, voting patterns, voter turnout, registration, and crossover patterns, among other information. (page 7471 of the guidelines in the federal register).

In contrast this Board seems to have based its 4-2-2-1 plans on a fixed 50% majority district and 35% so-called "influence district." (I will call them "effective" as per the 2006 law.) This Board has not yet performed any analysis of what it considers to be Native majority or effective districts to make sure that they are in fact true majority and effective Native districts. In fact I understand the voting rights analyst hired by the Board will not return to the United States until April 24 and will not have an analysis completed until around May 12. Further, she herself testified in front of this Board on April 11th that 35% may not be the correct percentage to determine whether

a district is a Native “effective” district. Therefore, she will not finalize her report until the very end of this process and there may be no opportunity for public comment on her analysis.

Both board options 1 and 2 were created without truly knowing whether the districts you have labeled “Native” are in fact effective Native districts.

For example, why is proposed district 6, at 32.49% Native VAP an effective Native district? There is the same problem with Senate district C at 33.92%. One district you label as a majority Native district (37) only has 43.68% Native VAP. Why is this considered a majority?

If one assumes an effective district is 35% Native VAP and a majority is 50% Native VAP, then both board options 1 and 2 have only 7 Native districts not 9 (5, 37, 38, 39, 40, and S, T). This is less than the 9 we currently have and likely retrogressive.

In conclusion, BBNC makes two requests. First, that the expert you have retained determine what is the actual “floor” for an effective Native district so that we know for sure that we are creating a plan that is not retrogressive. Second, that public comment be opened for several days following your receipt of the expert report so that those with questions or comments about her methods or conclusions can include them in the record.

Thank you.

June 7, 2011

VIA ELECTRONIC MAIL
Alaska Redistricting Board
411 West 4th Avenue
Anchorage, AK 99501

Members of the Board:

While the Bristol Bay Native Corporation greatly appreciates your service to the Board and people of Alaska in this very difficult process, we have some very serious concerns about the rural and urban areas of the plan you have adopted.

First, as our Vice President and General Counsel April Ferguson noted in her testimony on May 6, this process has occurred in somewhat of a vacuum because the Board's chosen expert was not available until almost the very end. As a result, those who submitted maps and comments did so without the benefit of knowing what the benchmark was and even the Board itself was without guidance. Even now, the expert has not submitted any written reports or detailed information to allow the public to analyze her methods or conclusions. We are not even sure what the minimum percentage of Native VAP is required for an effective district in different parts of the State. At best this process has been a moving target and this has made it extremely difficult for the Native community to understand what is going on, much less participate in a meaningful fashion.

With respect to the expert's conclusions, BBNC does not agree with the benchmark (5-1-3-0). Specifically, we do not understand how there could be a third effective Senate seat created by combining two influence districts. This has been raised several times but never satisfactorily explained. Our analysis, shared by many others, is that the benchmark is likely 5-1-2-1, and if this is the case, alternative plans that would meet both the mandates of the VRA and the Alaska Constitution have been submitted. Information about how the Board's expert has reached this conclusion, including all data on which it has been based, should be made public. Instead, as this process as continued, the Board has shared less and less of the information provided by its expert and now it seems as though all discussions surrounding the benchmark are discussed in Executive Session. In fact, recently most discussions surrounding the VRA and its requirements have been conducted in private, likely violating the Open Meetings Act.

From what we know about the benchmark, it seems to have been applied inconsistently. For example, in testimony the Board's expert indicated she would not be comfortable with a Native VAP percentage below 35% in a particular Southeast district. However, that district is now at 33.9% which the expert approved in an email. Problems like this are why we do not understand the benchmark, the floor for an effective district, or the resulting plan in general.

Exhibit C

BBNC's interest is in a fair, balanced plan that meets the requirements of the VRA and the Alaska Constitution and does not reduce Native voting strength. In other words, we are not interested only in the rural plan. The composition and balance of the entire legislature is of profound importance to the Native community. Accordingly, we are extremely concerned about several aspects of the Board's Anchorage plan. First, Anchorage has sufficient population for 16.4 House seats and 8 Senate seats, yet there are currently only 6 Senate seats. In addition, the boundaries have been unnecessarily altered so as to combine incumbents in at least two House districts (the current 21 and 30). We supported the AFFR plan for Anchorage because it did not contain these defects and we do not understand why it has not been adopted.

There are very strange districts made up of very distant and different communities all over the State and Bristol Bay is no exception. The new Bristol Bay/ Eastern Aleutians district jumps across Shelikoff Straits, Kodiak, and Cook Inlet to claim the small Chugach communities of Nanwalek and Port Graham on the southern tip of the Kenai Peninsula. This is very strange and surely cannot be considered compact or contiguous under the Alaska Constitution. This is only one example but there are numerous issues like this. Of greater concern to BBNC is the fact that incumbent Bryce Edgmon has been placed in a district that now overlaps with incumbent Alan Dick. It is not clear why this is necessary.

When this Board reconsiders these issues, which is possible given that litigation is almost a certainty, we encourage you to make the following changes. First, the expert must be secured early and his or her report must be completed early so that the public will understand the benchmark and percentages required by law. Second, all information provided by the expert must be made public. Third, the public must be allowed an opportunity to comment on the expert's methods and conclusions, and this means allowing them sufficient time to hire their own expert to perform an analysis. Fourth, all Board discussions not involving actual litigation should be conducted in public and not in Executive Session. Finally, and most importantly, the Board should sufficiently explain its processes and proposals so as to enable the Native community understand; given the "moving target" quality of this year's process, it is safe to say that the vast majority do not understand what is happening here or how it will affect them. As a result, they are unable to provide meaningful input.

In sum, BBNC has numerous procedural and substantive concerns with the Board's plan and accordingly we do not support it. At the appropriate time, we will share our concerns with the Department of Justice and expect that other corporations may also take advantage of this opportunity. If, in the interim, the Board would like to discuss any of the concerns discussed in this letter, please contact our General Counsel, April Ferguson.

Sincerely,

Exhibit C