

12-21-2011

Twin Falls County v. Idaho Commission of Redistricting Respondent's Brief Dckt. 39373

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs

Recommended Citation

"Twin Falls County v. Idaho Commission of Redistricting Respondent's Brief Dckt. 39373" (2011). *Idaho Supreme Court Records & Briefs*. 2944.
https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs/2944

This Court Document is brought to you for free and open access by Digital Commons @ UIdaho Law. It has been accepted for inclusion in Idaho Supreme Court Records & Briefs by an authorized administrator of Digital Commons @ UIdaho Law. For more information, please contact annablaine@uidaho.edu.

IN THE SUPREME COURT OF THE STATE OF IDAHO

TWIN FALLS COUNTY, a political)
Subdivision of the State of Idaho, and the)
BOARD OF TWIN FALLS COUNTY)
COMMISSIONERS, the CITY OF)
TWIN FALLS, the CITY OF HANSEN,)
the CITY OF FILER, the CITY OF BUHL,)
TETON COUNTY, a political subdivision)
Of the State of Idaho, and the BOARD OF)
TETON COUNTY COMMISSIONERS,)
OWYHEE COUNTY, a political subdivision)
of the State of Idaho, and the BOARD OF)
OWYHEE COUNTY COMMISSIONERS,)
And KOOTENAI COUNTY, a political)
Subdivision of the State of Idaho, and the)
BOARD OF KOOTENAI COUNTY)
COMMISSIONERS,)

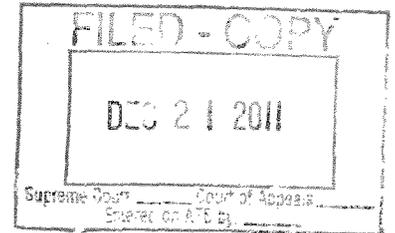
Petitioners,)

v.)

IDAHO COMMISSION ON)
REDISTRICTING and Ben YSURSA,)
Secretary of State of the State of Idaho,)

Respondents)

Supreme Court
Docket No. 39373-2011



**RESPONDENTS' BRIEF
IN OPPOSITION TO PETITION CHALLENGING LEGISLATIVE
REDISTRICTING, APPLICATION OF INJUNCTIVE RELIEF, AND
APPLICATION FOR WRIT OF PROHIBITION**

HON. LAWRENCE G. WASDEN
Attorney General
BRIAN KANE
Assistant Chief Deputy Attorney General
P.O. Box 83720
Boise, ID 83720

Attorneys for Respondents

GRANT P. LOEBS, Prosecutor
BY JENNIFER GOSE
Chief Civil Deputy Prosecutor
P.O. Box 126
Twin Falls, ID 83303-0126

Attorneys for Petitioners

TABLE OF CONTENTS

	Page
Table of Contents	i
Table of Authorities	ii
I. Statement of the Case	1
II. Standard of Review	1
A. The Commission’s Plan Is Presumptively Constitutional Under The Federal Constitution And The Burden Is On Petitioners To Prove Otherwise	4
B. The Commission Is Entitled To Deference	5
III. ARGUMENT	6
A. Petitioners Only Have Standing To Challenge Districts That Contain All Or Portions Of Counties Or Cities That They Represent	6
B. Plan L 87 Satisfies Federal Constitutional Requirements	7
C. Plan L 87 Satisfies State Constitutional And Statutory Requirements	8
1. Idaho’s redistricting requirements	8
2. Counties were split no more than necessary to ensure that Plan L 87 complied with one-person, one-vote requirement and to accommodate the extensive demographic, geographic and topographic limitations within the State	10
a. Kootenai County	11
b. Owyhee County and Twin Falls County	13
c. Teton County	15
3. In deciding how to split counties, the Commission appropriately considered and consistently preserved communities of interest	17
4. Plan L 87 does not contain oddly shaped districts	20
5. Splitting precincts was permitted	23
IV. CONCLUSION	23

Appendix A, Minutes of Commission for Reapportionment Public Hearing, Twin Falls, June 29, 2011

Appendix B, Minutes of Commission for Reapportionment Public Hearing, Coeur d'Alene, October 6, 2011

Appendix C, Minutes of Commission for Reapportionment Public Hearing, Boise, October 7, 2011

Appendix D, Minutes of Commission for Reapportionment Public Hearing, Burley, June 28, 2011

Appendix E, Minutes of Commission for Reapportionment Public Hearing, Idaho Falls, October 5, 2011

TABLE OF AUTHORITIES

Cases	Page
<i>Aberdeen-Springfield Canal Co. v. Peiper</i> , 133 Idaho 82, 982 P.2d 917 (1999)	6
<i>Ballentine v. Willey</i> , 3 Idaho 496, 31 P. 994 (1893)	7, 16
<i>Bingham County v. Idaho Commission for Reapportionment</i> , 137 Idaho 870, 55 P.3d 863 (2002)	7, 9-10, 17, 18, 20, 21, 22
<i>Bonneville County v. Ysursa</i> , 142 Idaho 464, 129 P.3d 1213 (2005)	4, 5, 6, 7, 10, 15, 23
<i>Brown v. Thomson</i> , 462 U.S. 835 (1983)	4
<i>Bush v. Vera</i> , 517 U.S. 952 (1996)	17
<i>Caesar v. Williams</i> , 84 Idaho 254, 371 P.2d 241 (1962)	5
<i>Diaz v. Silver</i> , 978 F.Supp. 96 (E.D.N.Y. 1997) , <i>aff'd</i> 522 U.S. 801 (1997)	21
<i>Gafney v. Cummings</i> , 412 U.S. 735 (1973)	5
<i>Hellar v. Cenarrusa</i> , 106 Idaho 586, 682 P.2d 539 (1984)	5, 6, 7
<i>Karcher v. Daggett</i> , 462 U.S. 725 (1983)	5, 7
<i>Lawyer v. Dep't of Justice</i> , 521 U.S. 567 (1997)	17
<i>Miles v. Idaho Power Co.</i> , 116 Idaho 635, 778 P.2d 757 (1989)	6
<i>Reynolds v. Simms</i> , 377 U.S. 533 (1964)	4
<i>Selkirk-Priest Basin Ass'n v. State</i> , 128 Idaho 831, 919 P.2d 1032 (1996)	6
<i>Shaw v. Reno</i> , 509 U.S. 630 (1993)	21
<i>Smith v. Idaho Commission on Redistricting</i> , 136 Idaho 542, 38 P.3d 121 (2001)	4
<i>Stuart v. State</i> , 149 Idaho 35, 232 P.3d 813 (2010)	5
<i>Wise v. Lipscomb</i> , 437 U.S. 535 (1978)	5

Constitutional Provisions	Page
Equal Protection Clause, Fourteenth Amendment, United States Constitution.....	1, 4, 7, 8
Idaho Constitution, Article III, § 2.....	1, 11
Idaho Constitution, Article III, § 5.....	8, 9
 Statutes	
Idaho Code § 72-1502.....	2
Idaho Code § 72-1506.....	8-9, 12, 16, 17, 22

I. STATEMENT OF THE CASE

This is an original proceeding under Idaho Constitution Article III, § 2(5), challenging the redistricting of several legislative districts contained in Plan L 87 adopted by the Idaho Commission for Reapportionment. All of the relevant facts are contained in the maps, tables, and findings that have been provided as Exhibits or Attachments to Petitioners' or Respondent's materials or are judicially noticeable on the Commission's website. Respondents contend that Plan L 87 should be upheld by this Court, as explained in greater detail below, based upon the following:

1. With a total plan deviation of 9.92%, Plan L 87 is presumptively constitutional under the Equal Protection Clause of the 14th Amendment.
2. Counties were split no more than necessary to comply with the Idaho State Constitutional Requirements
3. The Commission appropriately considered communities of interest.
4. No district is any more oddly shaped than the State of Idaho and its Counties.

Background. Absent an order from this Court requiring an earlier reapportionment, the Idaho Legislature is reapportioned every ten years upon the release of a new federal census. Idaho Const., Art. III, § 2(2). The results of the federal census of 2010 were released in the spring of 2011, which required the convening of a Commission for Reapportionment ("Commission") in 2011. On June 7, 2011, the first Commission for Reapportionment was convened and sworn in by Secretary of State Ysursa. On September 6, 2011, that Commission expired without approving any plan, although it had considered approximately 80 full and partial plans.

The Secretary of State then sought guidance from this Court because (1) no Commission had ever before convened without adopting a plan and (2) 2002 Plan L97 was constitutionally deficient because it had a deviation of approximately 96%. On September 9, 2011, this Court

issued an order indicating that the Secretary of State could convene a second Commission because the first Commission had failed to adopt any plan.

On September 13, 2011, the Secretary of State issued an order establishing a second Commission for Reapportionment following the 2010 census. The second Commission was composed of members who had not previously served on a Commission for Reapportionment because Idaho Code § 72-1502 prohibited members who had served on the first Commission from being appointed to the second Commission. On September 28, 2011, the second Commission was sworn in and began its work. The second Commission adopted all of the work of the first Commission, including all of the plans submitted to it and the testimony from previous Commission meetings and public hearings from around the State.¹ In addition, the second Commission

¹ The following table shows the number and geographical diversity of the public hearings held:

Location	Date	Internet Link to Public Meeting Minutes
Boise	Oct. 7, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_1007_boisemin.pdf (7 pages of single-spaced, small font minutes)
Coeur d'Alene	Oct. 6, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_1006_coeurdalenemin.pdf (9 pages)
Idaho Falls	Oct. 5, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_1005_idahofallsmin.pdf (9 pages)
Meridian	July 13, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0713_meridianmin.pdf (5 pages)
Hailey	June 30, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0630_haileymin.pdf (3 pages)
Twin Falls	June 29, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0629_twinfallsmmin.pdf (4 pages)
Burley	June 28, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0628_burleymin.pdf (3 pages)
Moscow	June 23, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0623_moscowmin.pdf (4 pages)
Lewiston	June 23, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0623_lewistonmin.pdf (4 pages)
Sandpoint	June 22, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0622_sandpointmin.pdf (3 pages)
Coeur d'Alene	June 22, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0622_cdamin.pdf (4 pages)

held more public hearings in Idaho Falls, Coeur d'Alene, and Boise. See footnote 1. After consideration of the first Commission's work, testimony at the public hearings, and consideration of the plans submitted, the second Commission unanimously adopted Plan L 87 by a 6-0 vote.

Nature of Petitioners' Challenge. Petitioners repeatedly challenge Plan L 87 as being adopted in an arbitrary and capricious manner. Petition, ¶¶ 26, 32, 39, 49, 57 & 64. Although the Commission adopted findings, engaged in and adopted a substantial record of public testimony, and had under consideration 88 full and partial Legislative apportionment plans, Petitioners' challenge to Plan L 87 does not address the public testimony or the plans under consideration by the Commission. Instead, Petitioners simply substitute their own plan, discretion, and preferences for those of the Commission. This Court should resist such a challenge to the Constitution's requirement that reapportionment be completed by a citizen's commission. In simplest terms, Petitioners claim that the district lines were drawn without any support in an unreasonable manner. But these claims ignore the district-by-district findings of the Commission adopted contemporaneously with Plan L 87. In particular, the Commission made a number of findings relating to the unique geography and population distribution of Idaho. *Findings and Conclusions for Legislative Plan L 87*, ¶¶ 6-10 ("*Findings*"). Petitioners fail to

Soda Springs	June 16, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0616_sodaspringsmin.pdf (2 pages)
Pocatello	June 15, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0615_pocatellomin.pdf (5 pages)
Idaho Falls	June 15, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0615_idahofallsmin.pdf (4 pages)
Rexburg	June 14, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0614_rexburgmin.pdf (3 pages)
Caldwell	June 8, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0608_caldwellmin.pdf (3 pages)
Boise	June 7, 2011	http://www.legislature.idaho.gov/redistricting/meetings/redistricting_0607_boisemin.pdf (2 pages)

acknowledge or account for any of the findings made by the Commission throughout their Petition and Brief.

In short, Petitioners simply seek to substitute their judgment for that of the Commission, an approach expressly rejected by the Court in *Bonneville County v. Ysursa*, 142 Idaho 464, 472, 129 P.3d 1213, 1221 (2005): “We simply cannot micromanage all the difficult steps the Commission must take in performing the high-wire act that is legislative district drawing.” Based upon the record, the public hearings and plans considered, and the Commission’s findings, no plausible argument can be advanced that the Commission acted arbitrarily or capriciously. Instead, the Commission carefully weighed factors and testimony that were often in conflict.² Therefore, the Petition should be denied.

II. STANDARD OF REVIEW

A. The Commission’s Plan Is Presumptively Constitutional Under The Federal Constitution And The Burden Is On Petitioners To Prove Otherwise

The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution requires states to “make an honest and good faith effort to construct districts ... as nearly of equal population as is practicable.” *Smith v. Idaho Commission on Redistricting*, 136 Idaho 542, 38 P.3d 121 (2001), quoting *Reynolds v. Simms*, 377 U.S. 533, 577 (1964). This principle is referred to as the “one-person, one-vote” requirement. Courts recognize that precise mathematical equality in each legislative district within a state is not attainable; therefore, minor deviations are allowed. *Bonneville County*, 142 Idaho at 467, 129 P.3d at 1216, citing *Reynolds* and *Brown v. Thomson*, 462 U.S. 835, 842-43 (1983). If a plan’s maximum population deviation is less than

² For example, in the Twin Falls public hearing on June 29, 2011, Mr. Marcantonio testified that the City of Twin Falls should have its own district as did several others, including Ms. Ohlensohlen, Mr. McClure, and Mr. Sojka (who advocated for an urban/ rural split of Twin Falls County). Mr. Loeb and Representative Hartgen appeared to be the only attendees advocating the splitting of the City of Twin Falls into separate districts. See *Minutes*, Twin Falls Public Meeting, June 29, 2011, Appendix A to this Brief.

ten percent,³ the plan is presumptively constitutional under the Fourteenth Amendment's Equal Protection Clause. *Id.*, citing *Hellar v. Cenarrusa*, 106 Idaho 586, 589, 682 P.2d 539 (1984).

When a plan is presumptively constitutional, the burden is upon the challenger to prove that the deviation resulted from an unconstitutional or irrational State purpose or that voting strength has been diluted. *Id.*, citing *Karcher v. Daggett*, 462 U.S. 725, 740-44 (1983). Merely demonstrating that an alternative plan with a lower overall maximum population deviation could be used is not itself sufficient to require invalidation of a plan. *Gafney v. Cummings*, 412 U.S. 735 (1973).

B. The Commission Is Entitled To Deference

Reapportionment in Idaho was formerly a legislative function, requiring the Idaho Legislature to adopt a plan after every decennial census. This function was contentious, lengthy and fraught with litigation, which resulted in the adoption of a constitutional amendment assigning reapportionment to a citizen's commission. As a body created through a constitutional amendment, which requires approval of two-thirds of both houses, as well as a majority of electors, the Commission truly represents the "will of the people," and should therefore be afforded as much deference as legally permissible. In short, this Commission should be afforded equal deference to that of a Legislature conducting reapportionment, if not greater. Reapportioning legislative bodies is a legislative task that Courts should make every effort not to pre-empt. *Wise v. Lipscomb*, 437 U.S. 535 (1978); *Caesar v. Williams*, 84 Idaho 254, 371 P.2d 241 (1962).

The burden of showing the unconstitutionality of a statute is upon the party asserting it. *Stuart v. State*, 149 Idaho 35, 40, 232 P.3d 813, 818 (2010). Every reasonable presumption must

³ Maximum population deviation expresses the difference between the least populous district and most populous district in terms of the percentage those districts deviate from the ideal district size. The ideal district size is calculated by dividing the total population by the number of districts. For example, if among thirty-five districts, the least populous district is four percent below the ideal, and the most populous district is four percent above the ideal, the maximum population deviation would be 4% - (-4%), or 8%. *Bonneville County v. Ysursa*, 142 Idaho 464, 467 n.1 129 P.3d 1213, 1216 (2005).

be indulged in favor of the constitutionality of a statute. *Aberdeen-Springfield Canal Co. v. Peiper*, 133 Idaho 82, 90, 982 P.2d 917, 925 (1999). By analogy, this same deference has been afforded the Commission for Reapportionment when it exercises the State’s legislative power regarding apportionment of the Legislature. In *Hellar* the Court noted that apportioning the State Legislature “is, in the first instance, a matter of legislative discretion and judgment.” 106 Idaho at 588, 682 P.2d at 541. The Court extended the same allowance for discretion and judgment vested in the Legislature to the Commission unless limited by constitution or statute. *Bonneville County*, 142 Idaho at 472, n.8, 129 P.3d at 1221.

III. ARGUMENT

A. **Petitioners Only Have Standing To Challenge Districts That Contain All Or Portions Of Counties Or Cities That They Represent**

Standing is a fundamental prerequisite to invoking this Court’s jurisdiction. “The doctrine of standing focuses on the party seeking relief and not on the issues the party wishes to have adjudicated.” *Miles v. Idaho Power Co.*, 116 Idaho 635, 641, 778 P.2d 757, 763 (1989). In order to satisfy the requirement of standing, Petitioners must “allege or demonstrate an injury in fact and a substantial likelihood that the judicial relief requested will prevent or redress the claimed injury.” *Id.* The petitioners must “establish a peculiar or personal injury that is different than that suffered by any other member of the public.” *Selkirk-Priest Basin Ass’n v. State*, 128 Idaho 831, 834, 919 P.2d 1032, 1035 (1996). In this original jurisdiction challenge, the application of these standing principles means that Petitioners do not have standing to challenge the apportionment of legislative districts in which neither they nor their constituents reside.

Thus, Petitioners have no standing to argue, as they do on page 4 of their Opening Brief, that Fremont County is unconstitutionally split because they do not represent Fremont County. The same is true for Petitioners’ references to Canyon, Gem, and Bingham Counties throughout

the rest of the Opening Brief. Petitioners simply do not represent the interests of the residents of any of those counties, who may well be satisfied with the apportionment in L 87.

B. Plan L 87 Satisfies Federal Constitutional Requirements

As discussed in detail above, the Equal Protection Clause of the Fourteenth Amendment requires that, in order for a legislative redistricting plan to be presumptively constitutional, it must have a maximum population deviation of less than 10%. Plan L 87 adopted by the Commission for Reapportionment complies with this one-person, one-vote requirement by having a total population deviation of 9.92%.⁴ With this compliance, a presumption of constitutionality attaches to Plan L 87. Based upon this presumption, Petitioners in this case have the burden to prove that the deviation resulted from an unconstitutional or irrational state purpose or that voting strength has been diluted. *See Karcher*, 462 U.S. at 740-44.

Petitioners have not demonstrated any unconstitutional or irrational state purpose behind the 9.92% deviation. Instead, Petitioners appear to contend that because the 9.92% is close to the 10% threshold, Plan L 87 should lose its presumptive constitutionality. Opening Brief, pages 17-18. This argument is contrary to the law adopted by the United States Supreme Court and the Idaho Supreme Court. Further, as described in detail below, Petitioners have not demonstrated that the districts drawn by the Commission were drawn with an unconstitutional or irrational state purpose.

⁴ The second 2010 Census Reapportionment Commission is the first to present the Court with a plan within acceptable population deviation within its initial filing. The 2000 Census Reapportionment Commission submitted plans of 10.69% and 11.79% before submitting a 9.71% plan. *Bingham County v. Idaho Com'n for Reapportionment*, 137 Idaho 870, 871-872, 55 P.3d 863, 864-865 (2002); *Bonneville County v. Ysursa*, 142 Idaho 464, 468, 129 P.3d 1213, 1217 (2005). Before the creation of the Citizens Commission, plans were submitted with deviations as high as 33%, and with multimember and floterial districts, ultimately resulting in a court adopted plan (14-B) with a 9.65% deviation. *Hellar v. Cenarrusa*, 106 Idaho 586, 682 P.2d 539 (1984). Indeed, this dilemma has existed since statehood, when the very first reapportionment act was struck down because the State had grown from 16 to 18 counties without providing representation of the two new counties. *Ballentine v. Willey*, 3 Idaho 496, 31 P. 994 (1893).

C. Plan L 87 Satisfies State Constitutional And Statutory Requirements

1. Idaho's redistricting requirements

In addition to the Fourteenth Amendment's one-person, one-vote requirement, the Commission for Reapportionment must also comply with Idaho's Constitutional and statutory requirements for reapportionment. Article III, § 5 of the Idaho Constitution establishes the following requirements for the Commission to follow regarding equal protection and county lines. The relevant parts of Article III, § 5 are set out below:

Senatorial and Representative Districts. — A senatorial or representative district, when more than one county shall constitute the same, shall be composed of contiguous counties, and a county may be divided in creating districts only to the extent it is reasonably determined by statute that counties must be divided to create senatorial and representative districts which comply with the constitution of the United States. A county may be divided into more than one legislative district when districts are wholly contained within a single county. ...

In 1996, the Idaho Legislature enacted Idaho Code § 72-1506 to provide additional standards for the Commission in its difficult task. That section of the Idaho Code, as it appeared at the time the second Commission adopted L 87, is set forth below:

72-1506. Criteria governing plans. — Congressional and legislative redistricting plans considered by the commission, and plans adopted by the commission, shall be governed by the following criteria:

- (1) The total state population as reported by the U.S. census bureau, and the population of subunits determined therefrom, shall be exclusive permissible data.
- (2) To the maximum extent possible, districts shall preserve traditional neighborhoods and local communities of interest.
- (3) Districts shall be substantially equal in population and should seek to comply with all applicable federal standards and statutes.

(4) To the maximum extent possible, the plan should avoid drawing districts that are oddly shaped.

(5) Division of counties shall be avoided whenever possible. In the event that a county must be divided, the number of such divisions, per county, should be kept to a minimum.

(6) To the extent that counties must be divided to create districts, such districts shall be composed of contiguous counties.

(7) District boundaries shall retain the local voting precinct boundary lines to the extent those lines comply with the provisions of section 34-306, Idaho Code. When the commission determines, by an affirmative vote of at least five (5) members recorded in its minutes, that it cannot complete its duties for a legislative district by fully complying with the provisions of this subsection, this subsection shall not apply to the commission or legislative redistricting plan it shall adopt.

(8) Counties shall not be divided to protect a particular political party or a particular incumbent.

(9) When a legislative district contains more than one (1) county or a portion of a county, the counties or portion of a county in the district shall be directly connected by roads and highways which are designated as part of the interstate highway system, the United States highway system or the state highway system. When the commission determines, by an affirmative vote of at least five (5) members recorded in its minutes, that it cannot complete its duties for a legislative district by fully complying with the provisions of this subsection, this subsection shall not apply to the commission or legislative redistricting plan it shall adopt.

The Court has held that Article III, § 5 is the Commission's starting point. *Bingham County v. Idaho Commission for Reapportionment*, 137 Idaho 870, 874, 55 P.3d 863, 867 (2002). In other words, a plan may split counties and combine a portion of a county with another county only when necessary to meet the one-person, one-vote requirement. *Id.* However, if it is necessary to go outside county boundaries to form a district, the requirements in Idaho Code § 72-1506 should be considered. *Id.* Despite Petitioners' arguments to the contrary, Plan L 87 complies with Idaho's constitutional and statutory requirements.

2. Counties were split no more than necessary to ensure that Plan L 87 complied with one-person, one-vote requirement and to accommodate the extensive demographic, geographic and topographic limitations within the State

Petitioners' core argument is that Plan L 87 fails because Petitioners created a plan that has a lower deviation and splits fewer counties. This argument relies on a false premise — namely that the reapportionment of Idaho is little more than a mathematical exercise. If this premise were true, then there would be no need for a Commission because the numbers could simply be inserted into a computer, the lowest deviation and county split would be printed out, and that plan would be adopted. But this is not the system that the citizens chose. Instead, the citizens of Idaho created a Commission for Reapportionment to address the issues raised by legislative redistricting and to exercise judgment in creating a redistricting plan. *See Bonneville County*, 142 Idaho at 472, n.8, 129 P.3d at 1221.

As this Court recognized, it is apparent in a state with 44 counties and 35 legislative districts that combining counties or portions of counties is necessary to comply with the one-person, one-vote requirement and to complete the legislative redistricting process. *Bingham County*, 137 Idaho at 875, 55 P.3d at 868. This conclusion is supported by the fact that the population of Idaho is not evenly distributed among the counties.

When the Commission is faced with the choice of splitting one county or another to meet the one-person, one-vote requirement, the decision regarding which county to split is vested with the Commission. *Bonneville County*, 142 Idaho at 472, 129 P.3d at 1221. Once the Commission has exercised this discretion, the inquiry is limited to whether “the split was done to effectuate an improper purpose or whether it dilutes the right to vote.” *Id.* Neither has been shown in this case. It is important to note that Petitioners have not shown that L 87 is the result of an improper or irrational purpose; instead they propose different exercises of discretion regarding county splits. The counties that were split by the Commission were split in order to comply with the

one-person, one-vote requirement, to preserve communities of interest, and to create compact districts in the face of Idaho's geographic challenges.

The Commission's Findings began by redrawing legislative districts in the northern part of the State and working their way south.⁵ This approach recognized the extreme geographic limitations found in the State's northern panhandle — namely, only Bonner County is contiguous to Boundary County, and counties north of Idaho County are confined to a limited number of possible configurations that take into account the statutory and constitutional criteria. These geographic limitations, combined with the sparse population in certain areas, required the Commission to decide what counties to split in order to meet the one-person, one-vote requirement. In making these decisions, the Commission considered multiple factors, including Idaho's geography, population, and communities of interest in order to create legislative districts that make sense and comply with constitutional and statutory requirements. The Commission, as the body entrusted by the people with the task of redistricting, should have discretion to make these difficult decisions and draw a legislative map that best serves the interests of the people.

a. Kootenai County

Kootenai County has slightly over the ideal population to be divided in three districts: 138,494 people, which equates to 3.092 ideal districts.⁶ Petitioners implicitly argue that a county that is entitled to almost 3.1 legislative districts must be wedged into three districts (thus slightly diluting the vote of each resident of the county) and that the Commission was obligated to do so.

⁵ See *Findings* 12-46, in which *Finding* 12 is for District 1, which contains Boundary County and part of Bonner County, *Finding* 13 is District 2, which contains the rest of Bonner County and part of Kootenai County, *Finding* 14 is for District 3 in Kootenai County, and so on.

⁶ Idaho Const., Article III, § 2(1), provides that the Senate “shall consist of not less than thirty nor more than thirty-five members.” The Commission exercised its discretion to adopt 35 districts. Dividing Idaho's 2010 Census population of 1,567,582 by 35 yields an average district size of 44,788 ²/₃₅. This ideal district size of 44,788 ²/₃₅ divides into Kootenai County's population of 138,494 people 3.092 times.

But neither the Constitution nor the statute takes away the Commission's discretion to give a county that is entitled to more than three but less than four legislative districts representation in parts of four legislative districts.

The Commission exercised its discretion and judgment and divided Kootenai County among four Districts, namely, Districts 2, 3, 4, and 7. The Commission combined the northern portion of Kootenai County with the remainder of Bonner County (the part that was not put in a district with Boundary County). That part of Bonner County, because of its size and location, had to be combined with either Shoshone County or a portion of Kootenai County. The Commission analyzed the impact of both combinations and chose to combine Bonner County with the northern portion of Kootenai County in order to keep communities of interest intact throughout the northern region. Specifically, the Findings for District 2 state:

As explained in the findings for District 1, Bonner County [a portion of which must be combined with Boundary County] must be divided in order to meet the one person one vote requirement. Therefore the Commission finds that the remaining population of Bonner County should be joined with northern Kootenai County which is contiguous and connected to Bonner County by Idaho's major north south highway, Highway 95. This division of Kootenai County results in keeping the majority of the city of Hayden Lake intact. In addition to being identified specifically as a factor in Idaho Code section 72-1506, the need to keep cities and other traditional communities of interest intact was stressed in a significant portion of the public comment taken and reviewed by the Commission. (See testimony from Coeur d'Alene Hearing on June 22, 2011, Sandpoint Hearing on June 22, 2011, and Coeur d'Alene Hearing on October 6, 2011).

Findings, ¶ 13. The creation of District 2 required the division of Kootenai County among three other districts to satisfy the one-person, one-vote requirement. The Commission exercised its judgment to create District 3 wholly within Kootenai County, which was "consistent with the public testimony received at the June 22, 2011 hearings in Coeur d'Alene and Sandpoint, and the

October 6, 2011 hearing in Coeur d’Alene, ... [and] includes the majority of the cities of Post Falls and Rathdrum keeping traditional communities of interest intact.” *Findings*, ¶ 14. District 4 is also entirely within Kootenai County and was drawn to “include the majority of the city of Coeur d’Alene, a traditional community of interest unto itself.” *Findings*, ¶ 15. See Appendix B to this Brief, Minutes to the October 6, 2011, Public Hearing.

The rest of Kootenai County was included in District 7 with Shoshone, Clearwater and Idaho Counties. The Commission acknowledged that District 7 is not an ideal district due to its size and the need to combine several counties to satisfy the one-person, one-vote requirement in that part of the State. *Findings*, ¶ 18. However, the Commission chose to include the remainder of Kootenai County in District 7 in order to create the most compact district possible and not to have District 7 extend any further north than was necessary. The relative compactness of Plan L 87’s District 7 is illustrated by Petitioners’ proposed District 7, which extends the district even further north to the Boundary County line. Finally, the Commission’s decision to combine these counties was made to preserve traditional communities of interest. As explained by the Commission, it “combined this portion of Kootenai County with Shoshone County because they are connected by I-90, a major interstate that runs east to west across the district. This major corridor ties the two counties together to create a community of interest and a flow of commerce throughout the area.” *Findings*, ¶ 18.

b. Owyhee County and Twin Falls County

The Commission also exercised its discretion in splitting Owyhee County between Legislative Districts 11 and 23. Rural and sparsely-populated, Owyhee County’s 11,526 people are not enough to fill a legislative district and therefore must be combined with other counties to meet the one-person, one-vote requirement. Due to Owyhee County’s location, the Commission chose to split Owyhee County between two districts to meet the one-person, one-vote require-

ment in surrounding districts. First, District 11 combines the remainder of Canyon County, after the creation of Districts 9, 10, 12 and 13, with a portion of Owyhee County because Canyon County is not large enough to fill 5 legislative districts and must be split.⁷ As Canyon County's southern neighbor, the combination with Owyhee County was necessary, particularly since both counties abut the Oregon border. As noted in the findings, "the remaining portion of Canyon County combined with all of Owyhee County is too large to create a single legislative district and Owyhee County must be split in order to meet the one-person, one-vote requirement."

Findings, ¶ 22.

Based on this finding, the Commission decided to combine the rest of Owyhee County with all of Elmore County in District 23. However, the population of this portion of Owyhee County and all of Elmore County was insufficient to meet the one-person, one-vote requirement. Twin Falls County borders Owyhee County to the east. Twin Falls County had to be split because it contained enough population to hold one legislative district but not enough for two. Twin Falls County is Owyhee County's only remaining neighbor that could be included to meet the one-person, one-vote requirement, the Commission thus decided to include a portion of the population from Twin Falls County in District 23. *Findings*, ¶ 34.

Petitioners argue that because Twin Falls County has a larger population than can fit into one district and not enough population to fill two districts that it is unconstitutional to divide it among three districts. Opening Brief, page 3. This argument ignores that Twin Falls County must be considered in conjunction with the counties that surround it and that the Commission must consider how to put districts together for all the counties, not merely for one county. Due

⁷ Canyon County, with a population of 188,923 people, is entitled to 4.218 ideal legislative districts. If its population had been divided into four districts, they would have averaged 47,203 $\frac{3}{4}$ people apiece, which is 5.45% above the ideal district size of 44,788 $\frac{2}{35}$. A district 5.45% above the ideal size, let alone four such districts, would be very difficult to fit into a total deviation that did not exceed 10%.

to the need to include a portion of Twin Falls County into District 23 to meet the one-person, one-vote requirement, the remainder of Twin Falls County had to be divided into two legislative districts to meet the one-person, one-vote requirement in surrounding Districts 24 and 27. District 24 contains the majority of the city of Twin Falls, a traditional community of interest, and is entirely contained within Twin Falls County. *Findings*, ¶ 35.

The remainder of Twin Falls County was included in District 27 with all of its neighbors to the east, Cassia County, and all of Power County. Together Power and Cassia Counties do not have sufficient population to form an entire legislative district. Including the remainder of the population from Twin Falls County with Cassia and Power Counties allowed the Commission to keep the latter counties intact. Additionally, combining the remainder of Twin Falls County with Cassia County to the east made geographic sense as the Snake River and Snake River Canyon create a natural divide between District 27 and District 25 to the north, which includes all of Jerome and Minidoka Counties. *Findings*, ¶¶ 36, 38. In other words, splitting Twin Falls County into three legislative districts allowed the Commission to keep Jerome and Minidoka Counties in one district and to keep Cassia, Power, Gooding, Lincoln, Camas, Blaine, and Elmore Counties entirely intact. See Plan L 87. As explained in *Bonneville County*, this decision should therefore be a matter of discretion and should be left undisturbed by the Court.

c. Teton County

Petitioners also contest Plan L 87's division of Teton County. However, Petitioners' proposed plan also splits Teton County into two legislative districts. Therefore, it appears that their main argument is that they believe Teton County was not split properly. However, once it is decided that a county must be split, the decision of where or how to split the county should be left to the Commission's discretion. Plan L 87 splits Teton County in accordance with Idaho's statutory requirements by attempting to keep all of the cities of Driggs and Victor, traditional

communities of interest, intact in District 32, and all of the city of Teton intact in District 34. *Findings*, ¶¶ 43, 45.

Petitioners seem to contest the way the line was drawn because it divides precincts in Teton County; however, in accordance with Idaho Code § 72-1506, the Commission found that and unanimously voted not to keep the precincts intact on October 14, 2011. See *Findings*, ¶ 3(b). Given that the Commission complied with the requirements of Idaho Code § 72-1506(7), this is not a sufficient basis to challenge Plan L 87's division of Teton County.

Some counties must be split to comply with one-person, one-vote. Based upon the filings before this Court, it is uncontested that Idaho cannot be apportioned and comply with the one-person, one-vote requirement without splitting some counties. Because some counties must be split to comply with one-person, one-vote, the Commission must be provided the discretionary latitude to determine which counties are split and in what manner. This discretion is significant because every county split incurs a cost, while a county that remains whole receives a benefit. As reflected in Plan L 87 and its Findings and Conclusions, the Commission strove to equalize the assignment of these costs and benefits throughout the state, preferring no region over another, but inevitably splitting some counties while preserving others.

The basis of Petitioners' challenge is an attempt to elevate their respective counties over the interests of other counties. At the inception of our state, the Court recognized:

One of the very foundation principles of our government is that of equal representation, and the legislature is prohibited from enacting an apportionment law which does not give to the people of one county substantially equal representation to that given each other county in the state, based either upon the entire or voting population or upon some other just and fair basis.

Ballentine v. Willey, 3 Idaho 496, 506, 31 P. 994, 997 (1893). In short, the Commission sought to temper the costs associated with county splits by spreading their application throughout the state.

Comparing Petitioners' plan, two obvious examples arise. First, Petitioners cast Gem County, whose population generally works, travels, and lives to its immediate south and west in Ada and Canyon Counties, into a sprawling northeastern district that reaches all the way to the Montana border. Second, Petitioners challenge Plan L 87's District 7 due to its size and combination of Kootenai County, offering instead to extend a district already challenged as too large, even farther north. This extension is offered in spite of the Commission's findings that Bonner County shares a border with Kootenai County, and Kootenai County is connected by an interstate highway to Shoshone County. In sum, Petitioners' claims are that their respective county interests are more significant than other county's interests. Any effort to elevate one county's interests to the sacrifice of another's should be resisted by this Court. As reflected in this Brief and in the Findings of the Commission, each county was considered with all other counties resulting in pragmatic legally sufficient county divisions.

3. In deciding how to split counties, the Commission appropriately considered and consistently preserved communities of interest

As noted above, when counties must be split to comply with the one-person, one-vote requirement, the Commission should, to the extent possible, "preserve traditional neighborhoods and local communities of interest." Idaho Code § 72-1506(2). Although the statute does not define what these terms mean, the United States Supreme Court has given examples of communities of interest in Equal Protection analysis, including whether residents in the area at issue regard themselves as a community, whether the areas are urban or rural, and whether parts of the district have common transportation and media sources. *Bingham County*, 137 Idaho at 877, 55 P.3d at 870, citing *Lawyer v. Dep't of Justice*, 521 U.S. 567, 581-82 (1997), and *Bush v. Vera*, 517 U.S. 952, 966 (1996). L 87's *Findings* reveal that the Commission sought to keep communities of interest intact and specifically identified many communities of interest on a district-by-

district basis, particularly noting its efforts to keep cities and rural areas intact, to maintain commercial corridors along highways, and to attempt to keep the majority of Native American tribes in the same districts.

As Twin Falls County Prosecutor Mr. Loeb stated about the broad discretion regarding communities of interest: there may be problems with dividing the city of Twin Falls because that may be a community of interest, but community of interest was hard to define because the county may be a community of interest, not the city. *Minutes*, Boise Public Hearing, October 7, 2011, Appendix C to this Brief. In ¶ 35, the Commission acknowledged Mr. Loeb's point and said: "District 24 consists of the majority of the city of Twin Falls, a traditional community of interest entirely contained within Twin Falls County." Additional public testimony advocated for separating the urban area of Twin Falls and the more rural areas outside the city. See Testimony of Jared Larsen, *Minutes*, Burley Public Meeting, June 28, 2011, Appendix D to this Brief; Testimony of Jerry Marcantonio, Bob Sojka, Scott McClure, Leroy Hayes, Deborah Silver, Twin Falls Public Meeting, June 29, 2011, Appendix A to this Brief.

Consistent with *Bingham County's* reference to the United States Supreme Court's examples and the testimony at public hearings around the State, the Commission attempted to keep urban as well as rural areas together. Specifically, the *Findings* reflect that it attempted to keep cities intact in:

District 2, which keeps the majority of Hayden Lake intact (*Findings*, ¶ 13),

District 3, which contains the majority of Post Falls and Rathdrum (*Findings*, ¶ 14),

District 4, which contains the majority of Coeur d'Alene (*Findings*, ¶ 15),

District 9, which includes Parma and Middleton (*Findings*, ¶ 20),

District 29, which contains the majority of Pocatello (*Findings*, ¶ 40),

District 32, including the majority of Driggs and Victor (*Findings*, ¶ 43),

District 33, which includes the majority of Idaho Falls (*Findings*, ¶ 44), and

District 34, which was drawn to keep the cities of Teton and St. Anthony intact (*Findings*, ¶ 45).

The Commission's Findings also reflect its effort to join portions of counties that were connected by major roads and highways in order to maintain communities of interest that are connected along corridors of commerce. For example, in District 7, the Commission joined part of Kootenai County with Shoshone County "because they are connected by I-90, a major interstate that runs east to west across the district. This major corridor ties the two counties together creating a community of interest and a flow of commerce through the area." *Findings*, ¶ 18.

District 11 was also drawn to maintain the connection between Canyon and Owyhee County. *Findings*, ¶ 22. Specifically, the Commission found "[t]he portions of both Canyon and Owyhee County are tied together by Highway 95 that runs throughout the district as well as several of their roads which creates a corridor for commerce and a commonality of interest between the two counties." *Findings*, ¶ 22. Additionally, when looking at District 28, the Commission combined Oneida and portions of Bannock and Bingham Counties based on their commonalities, including transportation/commercial corridor and the presence of the Fort Hall Indian Reservation shared by Bannock and Bingham Counties. *Findings*, ¶ 39.

Finally, the Commission attempted to keep the majority of Native American populations intact. Specifically, with respect to the Coeur d'Alene Tribe, the Nez Perce Tribe, the Duck Valley Indian Reservation, and the Fort Hall Indian Reservation the Commission stated:

The Commission has placed great emphasis on keeping traditional Native American populations intact throughout Idaho and believes that the protection of these communities of interest is a legitimate and significant state interest. This approach is consistent with Idaho's historical effort to work with Native American Tribes located within its borders.

Findings, ¶¶ 5, 6, 23, 39. Testimony at the public hearings further supported this approach. Testimony of Laverne Beech, Minutes, Idaho Falls Public Hearing, October 5, 2011, Appendix A to this Brief. Testimony of Helo Hancock, Minutes, Coeur d'Alene Public Hearing, October 6, 2011, Appendix B to this Brief.

Consideration and protection of these communities of interest was an exercise of the Commission's discretion and therefore should be upheld. Petitioners should not be permitted to substitute their judgment regarding what constituted important communities of interest for the Commission, particularly when the Commission had the benefit of listening to and reviewing hours of public testimony with respect to these issues.

4. Plan L 87 does not contain oddly shaped districts

Idaho is not a square state comprised of squarely shaped counties of comparable populations. In *Bingham County*, the Court stated that to determine whether a District is oddly shaped, the Court will look for “shoestring, odd shaped narrow districts, or the dispersion of urban populations into rural areas.” 137 Idaho at 876, 55 P.3d at 869. Petitioners failed to allege that any of these conditions are present in L 87. The closest that they have come is in ¶ 62 of their Petition with regard to District 35, in which they state it has “nearly an hourglass shape.” See also Opening Brief, page 19. Petitioners do not represent any residents of District 35, which contains Clark, Custer, Lemhi and Jefferson Counties and part of Fremont County, so they have no standing to bring this challenge. However, even if they had standing, that hourglass shape is the result of adhering to county lines in a portion of the State dominated by geographical expanse but lacking in population. Importantly, that shape is in part due to very sparsely populated counties. This Court has never held that district boundaries that follow county lines are “oddly shaped” for purposes of reapportionment analysis.

Similarly, Petition ¶ 62 claims that District 33 in Bonneville County is an “island.” But this ignores the findings of the Commission, which explain that District 33 is composed of the majority of the City of Idaho Falls, a traditional community of interest. Based upon *Bingham County*, Idaho Falls may be kept together as in Plan L 87, and siphoning its population into rural areas would create an oddly shaped district as opposed to the Commission’s approach. And again, this Court has never held that urban “islands” surrounded by less-urban or rural districts are oddly shaped for purposes of reapportionment analysis.

The final claims with regard to oddly shaped districts appear to be attacks on the geographical size of districts. See ¶¶ 61 (District 23) & 62 (District 7). But size alone is not a violation. As noted above, Petitioners must show shoestrings, elongations, or dispersion. *Bingham County*, 137 Idaho at 876, 55 P.3d at 869; *see also Shaw v. Reno*, 509 U.S. 630, 647 (1993); *Diaz v. Silver*, 978 F.Supp. 96, 118 (E.D.N.Y. 1997), *aff’d* 522 U.S. 801 (1997). As the Commission identified within its findings:

The federal one person/one vote requirement, the Idaho Constitution’s limitation on the number of districts, the Idaho Constitution’s limitation on the division of counties in the formation of legislative districts, and these unique physical features necessarily result in the creation of a few legislative districts that are not ideal under any redistricting plan.

Findings, ¶ 6.

District 7, which includes all of Idaho, Clearwater, and Shoshone Counties and a portion of Kootenai County, is an example of this difficulty. Even with its huge size, it remains one of the lower populated districts, with a deviation of -4.11%. This district reflects the significant problem for reapportionment that the boundaries of the State create, particularly in the panhandle of Idaho. Petitioners’ proposed plan only re-emphasizes this difficulty. As noted above, Petitioners challenge District 7 because it is long (extends 260 miles) and touches both the Montana

and Oregon borders. Petition, ¶ 62. But their plan fails to address either of these concerns and instead extends the district farther north into Bonner County and leaves the stretch from Oregon to Montana wholly intact. And no plan that places Idaho County wholly within one district can fail to create a district that touches both the Montana and Oregon borders because Idaho County itself touches both borders.

Petitioners' proposed alternative plan may also disperse urban interests and unnecessarily create shoestring districts, which are factors that may indicate improper motives. For example, Petitioners' proposed plan strips the City of Twin Falls of its district within its most urban boundaries and disperses the urban interests considered by the Commission (*Findings*, ¶ 35) with those of the rural interests identified by the Commission (*Findings*, ¶¶ 34 & 38). This runs afoul of *Bingham County's* teaching that the Commission (and not litigants) determines what communities of interest are balanced and how they are balanced. It has the potential to place rural interests above urban interests and dilute urban votes. In addition to vote dilution issues, Petitioners' proposed plan includes at least one shoestring shaped district, District 27, which relies on a sliver of land to join Jerome and Cassia Counties.

Perhaps Petitioners are most candid at page 14 of the Opening Brief, in which they accuse the Commission of “consistently favor[ing] cities at the expense of counties” and stating that “counties themselves [may be considered] a community of interest.” Setting aside the undocumented statement that the Commission favors cities at the expense of counties, the undefined statutory term “communities of interest” must mean something other than counties; otherwise, the Legislature would not have used both terms in Idaho Code § 72-1506: subsection (2) addresses preservation of “traditional neighborhoods and local communities of interest” while subsections (5), (6), (8) and (9) address counties. It is within the Commission's discretion to define those communities of interest.

As Petitioners' plan demonstrates, its alternatives to L 87 simply choose another set of communities of interest to serve, not the communities chosen by the Commission. For example, their challenge to Plan L 87's District 7 creates an even larger district that extends farther north and into Bonner County, which is nothing more than the substitution of one set of community interests for the set of community interests chosen by the Commission. Petitioners have no evidence to show that their balancing of community interests is anything more than an alternative balancing of interests that they wish to have this Court substitute for the Commission's balancing. But *Bonneville County* teaches that the balancing is for the Commission, not for this Court or for challengers to the Commission legislative apportionment plan.

5. Splitting precincts was permitted

The Petition alleges that precincts are unnecessarily split. ¶¶ 22 & 23. Idaho Code § 72-1506(7) expressly permits the Commission to split a precinct by a vote of 5 members. This was done. *Findings*, ¶ 3(b). Idaho Code § 72-1506(9) expressly allows the Commission to create districts that are not connected by the public roads listed in this subsection by a vote of five members. *Findings*, ¶ 3(c). Given that this Commission has complied with the requirements of Idaho Code § 72-1506(7) and (9), this is not a sufficient basis to find Plan L 87 insufficient.

IV. CONCLUSION

Petitioners ask this Court to substitute their judgment for that of the Commission. The Commission justified every act that it took and drew a plan that is legally defensible and meets the best interests of the State of Idaho. Petitioners have submitted a plan to this Court that was never submitted to either the first or second Commission. Perhaps the first or second Commission would have adopted part of Petitioners' plan had it been available. But weighing the relative merits of plans is the Commission's job, not Petitioners' job. Petitioners should not be permitted to "Monday Morning Quarterback" Plan L 87 and substitute their preferences for those of

the Commission. As outlined within this brief, Respondents respectfully ask this Court to uphold Plan L 87 in its entirety and to allow it to be implemented as adopted.

Respectfully submitted this 21st day of December, 2011.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "B. Kane", written over a horizontal line.

By: BRIAN KANE
Assistant Chief Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of December, 2011, I caused to be served a true and correct copy of the foregoing by the following method to:

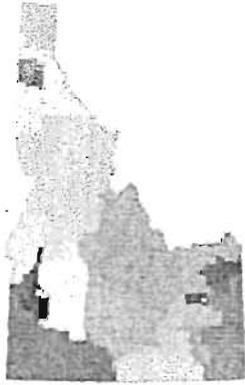
Grant P. Loeb
Twin Falls County Prosecuting Attorney
Jennifer Gose
Chief Civil Deputy Prosecutor
425 Shoshone Street North
Twin Falls, ID 83303-0123

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile:
- E-mail: gloeb@co.twin-falls.id.us
jgose@co.twin-falls.id.us



BRIAN KANE

Appendix A
Minutes of Reapportionment
Commission Public Hearing
Twin Falls, Idaho
June 29, 2011



Idaho's Citizen Commission for Reapportionment

Capitol Building
700 W. Jefferson Street
Boise, ID 83720-0054

Phone: (208) 334-4740
E-mail: redistricting@redistricting.idaho.gov
Web site: www.redistricting.idaho.gov

Twin Falls Public Meeting
June 29, 2011
College of Southern Idaho
Aspen Building #108
7:00 pm

Chairman Andersen called the meeting to order and thanked everyone for coming. He then asked the commissioners to introduce themselves as follows: **Commissioner Lou Esposito** from Boise, **Commissioner Lorna Finman** from northern Idaho, **Commissioner Evan Frasure** from Bannock County, **Commissioner Allen Andersen** from Pocatello, **Commissioner Julie Kane** from Lapwai, and **Commissioner George Moses** from Boise. Present from the staff were **Kristin Ford** and **Cyd Gaudet**. **Brian Kane** from the Attorney General's Office was also present.

Chairman Andersen then asked **Commissioner Kane** to review the laws and regulations that the commission must follow. **Commissioner Kane** discussed that redistricting happens every 10 years after the U.S. census. She explained that the purpose is to make sure that the one person = one vote concept is followed, and that the commission can draw from 30 to 35 districts. **Commissioner Kane** advised the audience that these districts must be equal, within a deviation up to 10%. She explained that the commission must avoid dividing counties whenever possible, that they shall preserve traditional neighborhoods and communities of interest, they should avoid drawing oddly shaped districts, and if they divide counties they must be adjacent to each other and must have a highway connecting them. They must also protect precinct boundaries as much as possible and shall not protect incumbents or their respective political parties.

Chairman Andersen explained the 90 day period in which the commission has to accomplish this, and explained that they have set their own goal of July 27th to have a final plan ready to submit to the Idaho Secretary of State.

First called to testify was **Jerry Marcantonio**, from Twin Falls City, who suggested that there are a number of factors that bind together the Magic Valley, and suggested that the formation of districts should give great weight to these factors. He pointed out that Twin Falls City is the most urban area, and as it has the largest population it should have its own legislative district. He suggested that outer Twin Falls County and Jerome County are more rural and have similar issues, like water and irrigation rights, transportation, commerce and higher education. He also indicated that Minidoka and Cassia Counties are both agricultural but have different water issues than Twin Falls and Jerome County. He stated that Gooding, Lincoln and Camas County are also agricultural based and have tourism and recreation in common. **Mr. Marcantonio** also explained that Blaine County's major factors are tourism and the forest. He advised the commission that if they couldn't keep the city of Twin Falls together, it would appear to be politically motivated. Its population is forty-odd thousand, close to the population target. In answer to a question regarding the gorge creating a natural separation, **Mr. Marcantonio** explained that there was a bridge across the gorge.

At this time **Chairman Andersen** advised the audience that he would like to thank Idaho Public TV for taping this hearing and streaming it live.

Next called to testify was **Representative Stephen Hartgen** who had some points which he wanted the commission to consider. His district extends from Twin Falls to Owyhee County, both of which have increased in population. District 23 is 2% over the target deviation, and District 24 is 3% under. By simply wiggling the line, precinct by precinct, between them, reaching the target population goal is easy. District 27 "wants our numbers" because their population is too low. Why should Twin Falls County, which has grown 20%, lose one of its legislative seats to a county that has not grown? He used Maptitude to draw six districts, as suggested, but beyond that he did not feel he knew enough about the other districts to draw their lines. Growth and declines in population has been uneven across the state. He described how he and the other two legislators from his district worked to represent far-off Owyhee County, and felt they had been successful. While the district is large, 200 miles wide, today's electronic technology has made this less of an issue. It is a rural district all the way through. As to the road requirement, it is not mandatory as the commission can vote to override it, and there is at least a gravel road connecting the district, even if not a state highway. Twin Falls competes with Jerome County; they are rivals for industry and water. Putting them together would be like putting coyotes together with wolves. A legislator would have a difficult time representing both constituencies. Better to combine Minidoka and Cassia Counties which are already very linked, and have Hispanic population that may one day get its own district. He concluded by urging the commission to consider starting from Ada and Canyon Counties, divide roughly with the number of districts, and then move east and north combining districts which are short of numbers with those adjacent ones which have seen small growth. Then once the commission gets to the outer edges of the state they could see how far off they are and then work back to the southeast making a few adjustments. He encouraged the commission to keep like areas together, and not to penalize counties which have had growth to save those which have not had growth. "Covet not thy neighbor's people." And lastly he asked the commission not to create a "city district" for Twin Falls as this would not be good for the area, and due to annexation any city boundary district would rapidly be obsolete. **Commissioner Frasure** then discussed that there is no highway connecting his current district, and asked **Representative Hartgen** if he saw a community of interest with Cassia County rather than with the Homedale and Marsing area. **Representative Hartgen** agreed that Homedale and Marsing are a long way from Twin Falls; however, the district has worked out well and there are many agricultural and land management similarities between the two areas. **Commissioner Frasure** also asked about the connection between Twin Falls City and the Owyhee County area to which **Representative Hartgen** discussed the St. Luke's health care centers initiative between Twin Falls and Homedale. **Commissioner Frasure** then asked where **Representative Hartgen** would find the additional 23,000 people needed to put with Jerome County to make a district. **Representative Hartgen** suggested that the commission should look west for those people in Gooding and part of Elmore County or in the small leg of Blaine County that comes down in that area. **Commissioner Frasure** noted that 43 people live in that small leg.

Chairman Andersen noted that time is running short and since that many people have signed up to testify, he requested that speakers keep to three minutes.

Bob Sojka, from District 23, was next to testify, and stated that the citizens of this district should get the same amount of time to speak as the politicians. He indicated that he thought this process should start from scratch instead of trying to work within the existing districts. He indicated that he firmly supports the concept of redistricting on the basis of forming districts around communities of interest, and stated that his community of interest is the City of Twin Falls and Twin Falls County. He further pointed out to the commission that his area does not have any interests in common with Owyhee County, and in fact their economic interests are in competition with that area. Our current district line bisects our city and our community of interest. **Commissioner Frasure** advised **Mr. Sojka** that Twin Falls County falls short of two districts and asked him where he would suggest that the commission find the additional 13,000 people. Mr. Sojka indicated that he feels they are compatible with Jerome, and suggested splitting the genuine rural areas of Twin Falls County away.

Marge Slotten was next called and passed in the interest of time. She indicated that she will submit written testimony.

Next to address the commission was **Tom Billington**, a Republican precinct chair from Twin Falls, who expressed that his concern is his children's future regarding water and water rights. Water is the blood of Idaho. He suggested that this is a common interest, and he encouraged the commission to keep his community together.

John Shine, the Mayor of Jerome, was next to testify, and advised the commission that it is clear that urban areas will be gaining at the expense of the rural areas, and he indicated that Jerome grew 40% in the last census. He suggested that there are significant differences across the river from the people of Jerome and it would be a great disservice to lump them in with the Twin Falls precincts. He indicated that the bridge is a dividing line and that the people would want as little change as possible in terms of redistricting. He agrees with Rep. Hartgen's "wiggle the line" concept. **Commissioner Frasure** then asked **Mayor Shine** if they could not be joined with Minidoka, what his second choice would be. **Mayor Shine** indicated that he was not prepared with the numbers but would suggest going west as they have the dairy industry in common with Minidoka and Gooding. The communities north of the Snake River are significantly different than the communities south of the river. He also indicated that Jerome has room to grow and they are currently trying to attract economic development.

Next to testify was **Scott McClure**, an engineer in Twin Falls who lives in Jerome, who suggested that the commission take a fresh look at Idaho and where the communities of interest are. He proposed that the City of Twin Falls have its own district as the people in rural Twin Falls and rural Jerome have their own deep ties. He suggested that CSI has welded the two counties together and that water is critical to both as their canal companies each take water out of the Snake River. He also indicated that the surrounding areas do their retail shopping mostly in Twin Falls, and that communications, newspapers, and television are all centered in Twin Falls. He also suggested that Minidoka and Cassia Counties consider themselves a community and it would be wise to recognize that commonality. **Commissioner Moses** then asked **Mr. McClure** that when he describes where he lives, in which order he would identify his location such as school district, city, etc. **Mr. McClure** stated that he would probably first say school district, then city or county, whichever it is, and probably lastly the legislative district.

Laura Ohlensohlen, a social worker in Twin Falls, who lives in rural Jerome County, was next to testify. She stated that she thinks that Jerome County has commonalities with Twin Falls. The two communities share social services and medical facilities, newspaper, and television. She suggested that the City of Twin Falls be one district with another district composed of Jerome County and the rural areas of Twin Falls County, which have agriculture and social values in common

David Maestas, was next called to testify and stated that he would pass at this time.

Terrell Williams, a Gooding County Commissioner, then testified on behalf of the board, and requested that their county be kept whole. Dividing the county would be expensive by increasing elections. **Commissioner Frasure** inquired which of the counties adjoining Gooding they would most like to be married to, since their population is only one-third of a legislative district. She had no suggestions regarding where the county would like to be joined.

Next to address the commission was **Leroy Hayes**, who lives in Twin Falls City. He urged the commission to listen to the citizens of Twin Falls City who requested that they be their own district like Idaho Falls and Pocatello. He suggested that the only reason not to do this would be politically motivated. He feels they have nothing in common with Owyhee County, and urged the commissioners to listen to the citizens, not the politicians. **Commissioner Frasure** then asked **Mr. Hayes** about the past and potential growth in Twin Falls and discussed the problem with using changing city boundaries as district boundaries. **Mr. Hayes** indicated that as the center of Magic Valley he would hope that Twin Falls would grow and gave many reasons why this would happen. He also indicated that the major area of growth is in District 23, and that the city should stay compact and not grow across the canyon. **Commissioner Frasure** asked **Mr. Hayes'** opinion regarding using city boundary lines or geographical features that may be more permanent. **Mr. Hayes** suggested using the city area of impact.

Lucy Brazil-Wilkes, Vice-President of the Twin Falls Republican Women from District 23, was next to testify, and echoes Steve Hartgen and Tom Billington's desire to keep District 23 the way that it is. Her husband is off counting bluebird boxes in Owyhee County at this very moment. She suggested that the Twin Falls and Owyhee portions of the district have much in common such as hunting, fishing, and four wheeling, and she encourages the people who live in Twin Falls City proper to get out a little bit.

Next to testify was **Grant Loeb**s, the Twin Falls County Prosecuting Attorney. He indicated that he thinks of Twin Falls County as its own community of interest because there is much cooperation between the people that administer and govern the county and the city, and each cannot function without the other. He stated that putting a doughnut hole around the city of Twin Falls doesn't make sense as the city boundaries change, and the city will snatch up the parts of the county that grow. He requested that the commission keep it simple and keep Districts 23 and 24 as they are. **Commissioner Frasure** then indicated the challenge that the commission has is district shifting, and asked **Mr. Loeb**s where, other than Owyhee County, could the commission find the 13,000 people needed to join with Twin Falls County to make a district. **Mr. Loeb**s indicated that he would have to look at the map because he doesn't want to hack up another county any more than he wants his county hacked up. That's why it what works well for joining with Owyhee County, because the numbers work. **Commissioner Moses** requested that Mr. Loeb submit a proposal to the commission and Mr. Loeb agreed.

The Commissioners briefly discussed whether to extend the duration of the hearing beyond 9 p.m.

Clair McClure, who lives in Jerome County and works in Twin Falls City, was next to testify and indicated that her community of interest is both Jerome and Twin Falls. She suggested however that if Jerome cannot be combined with Twin Falls County that combining Jerome County with the areas to the west like Gooding County would be better than combining it with Minidoka County.

Edna Carruthers was called next and indicated that what she intended to say had already been said and that she would be submitting written testimony.

Next called to testify was **Cindy Shotswell**, who lives in Jerome County. She indicated that she identifies with the Magic Valley and that Minidoka and Cassia Counties have a different dynamic than Twin Falls or even Jerome County. She stated that several businesses in Jerome are owned by Twin Falls interests, and pointed out that Twin Falls and Jerome share juvenile detention services, transportation, CSI, Health and Welfare, Hwy 93, and interpretation services, and that it makes sense to combine Jerome and Twin Falls to better serve the people.

Jeff Ruprecht, a resident of Twin Falls, next addressed the commission and urged them to divide Twin Falls and Owyhee County into separate legislative districts because that would be best for the College of Southern Idaho. Owyhee County is not within the taxing district of CSI. He further stated that he resents anyone who tries to perpetuate any animosity between Twin Falls and Jerome.

Dixie Siegel was called next and indicated that her thoughts had already been covered.

Next called to testify was **Patricia Marcantonio**, who lives in District 23, in the City of Twin Falls. She wanted to voice her support for making the City of Twin Falls its own district and detaching them from Owyhee County. She explained that Owyhee County is in the South Western Health and Welfare District and Health District, there is no direct road from Owyhee County to Twin Falls, and that the areas have little in common. Please don't play wiggle the line games and look at this with common sense.

Deborah Silver was next to testify and advised the commission that when people ask her where she's from she says Jerome even though she now lives in Twin Falls County. She stated that she would like to see an urban district in Twin Falls County and would like to see a separate district in the rural areas such as Buhl, Filer, etc. with Jerome County. She admitted to rivalry between Jerome and Twin Falls, especially in football, but feels they have commonalities nevertheless, such as sharing state government service regions. Ms. Silver also cited some research which she has done on the internet that shows the differences between Twin Falls and Owyhee County.

Chairman Andersen then advised the audience that if they did not get an opportunity to testify they could submit written testimony to the commission, or they could come to the hearing in Hailey the following evening. He then adjourned the meeting at 9:12pm.

Appendix B

Minutes of Reapportionment Commission Public Hearing

Coeur d'Alene, Idaho

October 6, 2011



Idaho's Citizen Commission for Reapportionment

Capitol Building
700 W. Jefferson Street
Boise, ID 83720-0054

Phone: (208) 334-4740
E-mail: redistricting@redistricting.idaho.gov
Web site: www.redistricting.idaho.gov

Coeur d'Alene Public Hearing
October 6, 2011
Coeur d'Alene City Hall
6:00 p.m.

Chairman Beitelspacher called the meeting to order at 6:00 p.m. He introduced himself and welcomed everyone to the hearing. He advised the audience that this was the 16th Public Hearing of the Commission, and was the second hearing in Coeur d'Alene. He explained that one of the commissioners, Commissioner Sheila Olsen, from Idaho Falls, was unable to attend, and would be listening to the meeting. He advised that the present commission had adopted all of the testimony presented to the previous commission, so that information was before this commission as they tried to do the job before them. He informed the audience that this was a constitutionally established body, and was charged, after the 2010 census, with drawing new congressional and legislative districts for the entire state. He stated that the commission would be successful, as they were working well together. He said that once the plan was adopted, it went to the Secretary of State, and the Secretary of State would send it on to both houses. There it is spread upon the pages of the journals in both the House and the Senate. He explained that the legislature does not have any oversight over the product of the commission, and that the Idaho Supreme Court was the body of original jurisdiction for any product which they produced, and for any court case that may stem from it. He said that the commission was guided primarily by one man one vote, given to them by the U.S. Supreme Court, the U.S. Constitution, and the mandate from the Idaho State Constitution, as well as Idaho State Supreme Court case law that says thou shall not split counties unless absolutely necessary.

He then said that it was his pleasure to introduce his fellow commissioners: **Commissioner Elmer Martinez** from Pocatello, **Commissioner Shauneen Grange** from Ada County, **Commissioner Randy Hansen** from Twin Falls, and, as he had said before, **Commissioner Sheila Olsen** from Idaho Falls, who was not able to attend that evening. He then introduced his Co-Chairman, **Commissioner Dolores Crow**, who he said had been a gem to work with, and they had been sharing the duties of co-chairing the commission in a marvelous friendly fashion. **Chairman Beitelspacher** then introduced the staff starting with **Todd Cutler**, the GIS mapping expert. He explained that **Mr. Cutler** had put the Redistricting Commission's website on the screen, and suggested that the audience note the web address, or if they just wanted to Google the Idaho State Legislature, they would find Reapportionment on the bottom of the left hand column. They could then click on that, and there they would find almost everything including the agendas for the meetings they had, the agendas for the future, the planned meeting times, the scheduled hearings, and they could take the opportunity to listen to any of the hearings if they wished. He then introduced **Cyd Gaudet**, the administrative assistant to the commission. He explained that if anyone wanted to provide written testimony, or receive updates on the commission's activities, they could obtain her contact information after the meeting, and she would make sure that they got onto the mailing list. He next introduced **Keith Bybee**, who he explained had a pretty tough job as he was their ringmaster, their scoutmaster, their mother hen, and he was busy herding them like a bunch of cats.

Chairman Beitelspacher said that he wanted to express their appreciation to the city of Coeur d'Alene for hosting them and allowing them to utilize the facilities. He also thanked **Dave Thomason** from Idaho Public Television for all of his help, as well as **Ricardo Ochoa**, also from Idaho Public Television. He said that he wanted to express his gratitude to them individually, as well as Idaho Public Television in general, for making the proceedings available for others to observe. He explained that they had a public hearing in Idaho Falls the prior evening, and they had flown into Coeur d'Alene rather late, and they would be leaving even earlier the next morning to get to Boise for their third and final public hearing of this series. He said that they would begin their public meetings and continuing work starting the next Tuesday in Boise, in the Senate Majority Caucus Room at the State Capitol Building. He indicated that if there was anyone that wanted to observe them further, they would have that opportunity to do so. He said that **Mr. Bybee** had the signup sheets in the back, and if

like that, to move it into the other district. He also said that previously there had been a lot of gerrymandering that went on to accommodate someone that wanted to be in one district or the other, and he asked that the commission not do that.

He noted that he had not complained about using the reservation as a boundary ten years before, and he wished that he had. He thought that the law said that they had to use a visible highway or road, and the reservation boundary just went over the mountain, and it was hard to know exactly where it was. So he thought that the commission needed to use a creek or a highway, which would be more understandable than the Coeur d'Alene Reservation as a boundary. He stated that he was in favor of the plan that was basically L34 to begin with, and was put together for all of the five districts in the north, as the numbers worked well, and there was very little crossing into counties. He indicated that he appreciated the work that the commission had to do, and that no one was going to love them for it, but you had to love **Commissioner Crow** no matter what happened.

Commissioner Hansen said that he wanted to speak plainly, and he wanted them to know emphatically that they did not know where the Representatives and Senators were in the state, and they did not care. He indicated that their focus was specifically on complying with the law, and putting together the best they could for the State of Idaho. He said that **Chairman Beitelspacher** had laid out very succinctly what their charge was, and he wanted it on the record that his experience with the commission was very much in line with what the Supreme Court had said they should do. He indicated that there was no gerrymandering, and they were complying with the law.

Representative Harwood said that when he was serving in District 7, when he first got elected, there was a community in his district that he could not get to, from Idaho. He indicated that he had to go to Missoula, and come back to Idaho to get to that little community, and that made it tough and he felt for them. **Commissioner Hansen** said that they had the exact same testimony the prior night, and there they had to go through Wyoming. **Commissioner Crow** said that she wanted to say that, of any commission that she had been on, that this was the hardest-working. They also got along better, and were dedicated to do it the legal way, and when they started to look at anything it was with blinders on, as they saw nothing but the map, and the roads, and the way that our Constitution said that it must be divided. She indicated that was kind of hardnosed, but that was the way to stay out of court, and that would save a lot of money and time. She said that she thought that everyone there would agree that they were dedicated to doing it the legal way. **Chairman Beitelspacher** said that he wanted to echo everything that his honorable co-chair and **Commissioner Hansen** had said, that there would not be a ranch put on one side of the line just because someone did not like the representation on the other side of the line. He said that he didn't know where anyone lived, and he didn't care where they lived. He indicated that they had a difficult enough job doing what they had to do, much less worrying about some legislator who may not run again, as it was a foolish waste of time and was going to land them in court. Then they would have to do this all over again, and it was going to cost the people money.

Next called to testify was **Al Hassell**, who welcomed the commission to Coeur d'Alene. He said that he had been on the Coeur d'Alene City Council for over 20 years, and had been involved in the community for over 40 years. He indicated that he had a letter that he wanted to read from the city of Coeur d'Alene, from the entire council and the mayor:

Welcome to Coeur d'Alene, and thank you for holding hearings in North Idaho to go with the many hours of effort and work you will put into performing this constitutionally mandated redistricting effort.

According to the 2010 United States census, the population of the State of Idaho increased by 273,629 people, or 21.1% since the 2000 census for an official 2010 U.S. census total population of 1,567,582.

The same census showed the population of the City of Coeur d'Alene increased by 9,622 people or 27.9%, since 2000, for an official total population of 44,137. Coeur d'Alene grew at a faster pace than the overall State of Idaho for many good reasons, among them a healthy business climate, a beautiful place to live, a caring community, and hard work among the citizens to make Coeur d'Alene a desirable place to call home.

As you well know, after every such decennial census, state and federal law requires each state to adjust the boundaries of its legislative and congressional districts to account for the population changes that have occurred over the previous decade. This process is in order to ensure equal representation, also referred to as the principle of "one person, one vote".

After the 2000 census, for the first time in Idaho history, due to an amendment to the state's Constitution passed by the Idaho voters on November 8, 1994, a bi-partisan commission of six appointed citizens rather than the Legislature redrew legislative and congressional district boundaries.

The redistricting guidelines specifically state that legislative districts should, as much as possible, preserve communities of interest and traditional neighborhoods. There is no more clear a definition of a community of interest, including many traditional neighborhoods, than a city.

According to the 2010 United States Census, the population of Idaho divided by 35 legislative districts, which we have had for the last ten years, leaves a perfectly divided district population of 44,788. Quite coincidentally, but also very fortuitously, this number is almost exactly the 2010 population of the City of Coeur d'Alene at 44,137.

This makes your work in our county quite easy, in that keeping Coeur d'Alene whole in redistricting is not just sensible, it is almost mathematically perfect.

Idaho's first Commission on Redistricting (which included Coeur d'Alene businessman and former legislator Dean Haagenson) did an exemplary job of "keeping cities whole" to the maximum extent possible when it redrew the state's legislative district boundaries after the 2000 census. He added that at that time Coeur d'Alene was put into three districts due to the population base, and he did not think that was necessary this time.

Your predecessors on Idaho's first Commission on Redistricting did not fragment cities unnecessarily into multiple legislative districts. Examples where they kept cities as communities of interest whole include District 4 and the City of Coeur d'Alene, District 6 and the City of Moscow, District 7 and the City of Lewiston, District 10 and the City of Caldwell, District 12 and the City of Nampa, District 14 through 19 and District 21 and the City of Boise, District 20 and the City of Meridian, District 24 and the City of Twin Falls, District 28 and the City of Blackfoot, District 30 and the City of Pocatello and District 33 and the City of Idaho Falls.

We in Coeur d'Alene, as with many cities around the state, once again feel it is vital to keep cities whole to preserve traditional neighborhoods and communities of interest and provide for proper one person one vote representation in the State Legislature.

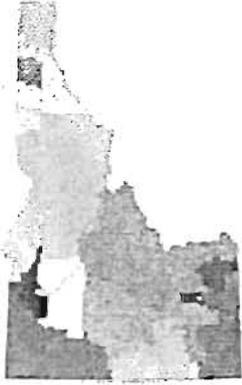
So today with our signatures below the elected Mayor and Council of the City of Coeur d'Alene urges the 2011 Idaho Commission on Redistricting to adopt a policy of keeping our city, and all of the state's cities, whole as it adjusts legislative districts boundaries to account for population changes that have occurred since the 2000 census.

He indicated that the letter was signed by the entire city council, and the Mayor, as well. **Chairman Beitelspacher** said that if he were to summarize **Mr. Hassell's** remarks, that the city of Coeur d'Alene had enough people for a district, and they wanted one. **Mr. Hassell** indicated that was correct.

Helo Hancock, the Legislative Director for the Coeur d'Alene Tribe, representing the Tribe, was next called to testify. He explained that he had testified before the prior commission. He thanked the commission for conducting the hearings, as he thought it was very important for the public to have their voice in this important process. He also said that they gave them their condolences as this was a very challenging thing, as they had all witnessed, and it was not an easy feat, so he wished them the best of luck. He said that they wanted to provide their comments on the process as it affected the Coeur d'Alene Tribe. He indicated that a theme that they had heard from others was the importance of communities of interest, which he thought was the second criteria in the statute, which was keeping neighborhoods and communities of interest together. He indicated that in his previous testimony he had said that it was their preference that the Coeur d'Alene Indian Reservation be kept whole, and that it be joined with a legislative district in Kootenai County. He said that the reason for that request was that they felt their reservation community was most similarly situated with the community of interest in Kootenai County. He indicated that many of them had probably heard of the Cataldo Mission, which was the oldest building in Idaho, and was one of the most historically important buildings in their culture, and was located in Kootenai County. He said that the Spokane River was historically their summer and wintering grounds, and Kootenai County had always been one of the most important, culturally geographic areas for their people. He indicated that they contributed significantly to the community with public transit, they met regularly with the County Commissioners, and they were linked with I-95. He said that in years past the tribal members didn't always come to Coeur d'Alene to shop; however, with I-95 as good as it was, that was where their people now came to do commerce and to shop. He pointed out that the Coeur d'Alene Tribe was the largest employer in Kootenai County with almost 2,000 employees, with many of those at their casino which was located in Kootenai County. He said that 60% of their employees were not Indian, and they did not always live on the reservation, like him, who lived in Coeur d'Alene and commuted to the reservation for work. He said that the tribe had a very significant and important interest in Kootenai County, and they felt that there was truly a community of interest that met the definition and the intent of that provision in the statute.

He said that their recommendation was that the reservation be kept whole, and that it be joined in a district with Kootenai County, and there were not any maps, that he had seen, that accomplished that. He indicated that the map that came the closest to something they were supportive of was L64, for the seven northern districts. He said that L64 was a map that kept counties whole, which seemed like one of the themes of the commission; however, it did split the reservation. He indicated that there were some emails sent to the prior commission, which were not sent on their behalf, but that alleged that splitting the reservation was a guaranteed lawsuit from the Coeur d'Alene Tribe, and he could assure them that was not the case. He said that L64 split the reservation to the north and to the south, however it kept some representation from the northern part of the reservation that was in Kootenai County with a Kootenai County district, so of the maps he had seen that was the one that they liked the most, but it was not necessarily their preference. **Commissioner Hansen** asked where the majority of the tribe's population was located. **Mr. Hancock** said that the majority of the population on the reservation was located on the I-95 corridor, on the western side of the reservation in the communities of Worley, Plummer, and DeSmet. He indicated that there were roughly 10,000 residents on the reservation. He explained that to the east, the majority of St. Maries was off of the reservation; however there was a small piece on the reservation. **Commissioner Hansen** asked, in the interest of keeping counties together, if the tribe would be alright with a split such as **Mr. Hancock** had described in L64. **Mr. Hancock** said that they were all right splitting the reservation like that, and that was one thing that he wanted to clarify, as it was represented to the prior commission that it wasn't all right, and would be a guaranteed lawsuit, and that was not the case. **Chairman Beitelspacher** asked if the boundary followed the Benewah, Kootenai County line. **Mr. Hancock** said that he thought that it did. **Commissioner Martinez** asked what the population split was in each section of the reservation. **Mr. Hancock** said that he would guess that it was 35% in Kootenai County and 65% in Benewah County. It was then discussed that there were 5500 people on the portion of the reservation in Benewah County, so **Mr. Hancock** said that it was probably more like 45% in Kootenai County, and 55% in Benewah County.

Appendix C
Minutes of Reapportionment
Commission Public Hearing
Boise, Idaho
October 7, 2011



Idaho's Citizen Commission for Reapportionment

Capitol Building
700 W. Jefferson Street
Boise, ID 83720-0054

Phone: (208) 334-4740
E-mail: redistricting@redistricting.idaho.gov
Web site: www.redistricting.idaho.gov

Boise Public Hearing
Friday, October 7, 2011
Capitol Auditorium, Capitol Building
12:00 p.m.

Present were **Commissioner Crow**, **Commissioner Hansen**, **Commissioner Beitelspacher**, **Commissioner Grange**, and **Commissioner Martinez**. Present from the staff were **Ms. Ford**, **Mr. Bybee**, and **Ms. Gaudet**.

Chairman Crow called the hearing to order at 12:05 p.m. and thanked everyone for being there. She stated that it was interesting to go across the state and hear all of the different concerns, and the commission was anxious to hear their thoughts that day. She introduced her **Co-Chairman Commissioner Beitelspacher**, and said that they were all committed to do a good, legal job of drawing the lines. She indicated that they were doing their very best not to be partial to anyone, or any area, and they were doing it according to the Constitution and according to the law of the State of Idaho. She said that hopefully they would get that done because it would be the first time ever that a plan did not draw a lawsuit. She indicated that they would sort of use etiquette in addressing the chair, and that when those testifying came forward, to please stand at the podium, and give their name and the organization that they belonged to, or were there to speak for, or if they were speaking for themselves, that was fine. She said that if they had written testimony, to please give it to **Cyd Gaudet**, as that would be very much appreciated. She added that generally five minutes should give each person enough time to speak, however they did want to make sure that they had all the time that they needed, and they wanted to hear from everyone who wanted to speak, so they would see how that went. **Chairman Crow** also explained that the signup sheet was on the table in the hallway for anyone who wished to speak.

First to testify was **Tom Faulkner**, Chairman of the Gooding County Commissioners, who had been a commissioner for about 13 years. He said that Gooding County's ideal district would be with Jerome and Lincoln Counties. In the event that didn't work out, he said that they felt a strong community of interest with Twin Falls County and Elmore County, so anywhere that they could put Gooding County with one of the neighboring counties they would be happy. He indicated that if they were with Twin Falls County they would prefer the rural part of Twin Falls County and not part of the city of Twin Falls. He said that currently they were with Blaine County, which was not a community of interest with Gooding as they had a more liberal mindset. He added that Gooding County had not elected any Democrats in quite some time, and they did not feel that they received the representation they wanted by being with a county that had such a liberal leaning. **Chairman Crow** thanked **Mr. Faulkner** for travelling that far to testify.

Steve Berch, representing himself, was next to address the commission. **Mr. Berch** advised the commission that he lived in west Boise, and he was there to address a very specific section of the last plan that the previous commission seemed to have focused on, which were proposed Districts 15 and 20. He proposed that instead of horizontally dividing the square made by Districts 15 and 20, along Ustick Road, that they divide it vertically around Eagle Road. He indicated that they could figure out a way to have two districts of the appropriate size, but the reason why he recommended that was because of the principle of trying to keep like communities together. He said that Districts 15 and 20, the way they were proposed, created two districts that were almost evenly split between Meridian and Boise residents, because Eagle Road was roughly the dividing line between Meridian and Boise. So if they were to take the same bounded space, and divide it vertically so that they had one district on the west, and one on the east, they would then have one district that was almost exclusively Meridian, and one that was almost exclusively in Boise. He indicated that would keep like communities together, and still keep within the broader context of how that space was divided.

Commissioner Hansen asked that the population numbers be added to the map which was on the screen. **Mr. Bybee** indicated that Highway 55/Eagle Road was the long boundary which was showing on the map, and asked if they could see the population well enough.

working to accomplish the task. **Commissioner Grange** said that she would like to reiterate that to be the case as well, but she also wanted to remind everyone that they lived in a very diverse and uniquely-shaped state and they were going to end up with some districts that not everyone was going to love. She indicated that it was the unique part of Idaho that was going to make it that way, and it wouldn't be because of politics or because they were trying to keep someone in a district, it would be because they had simply run out of options. **Chairman Crow** said that it was so difficult because it was a numbers game, and unfortunately people didn't live equally-numbered, and tended to bunch together, making it difficult to draw the lines so they included everyone, and she said that they were doing the very best that they could.

Next to address the commission was **Grant Loebbs**, the Prosecuting Attorney for Twin Falls County. He said that he was not testifying in that position, and he appreciated getting a few moments to talk to the commission. He indicated that he was also a member of the Republican Party, and was the Chairman of Legislative District 24, and he was not necessarily there in that capacity either. He said that he had been speaking with a number of people, legislators, and county commissioners in his area, and he had spoken to the former commission when they came to Twin Falls. He indicated that one of the former commissioners had encouraged him to go onto Maptitude and draw a map, which he did, and it was not easy, but **Steve Hartgen** showed him how, so he was talking to them with some understanding of what they were doing. He said that it really did not do any good if you just tried to reapportion your area because you did not understand how that affected everything else, and you ended up mucking someone else up. He indicated that it took him a lot of hours, and he respected anyone who knew how the computer system worked. He indicated that he did meet with people in Twin Falls County, and elsewhere, to try to come up with a map, and the final product of all of that was what they had before them as L85.

He indicated that the principles that guided them were the principles that the Chairman had enunciated that day. He said that the guiding principle of all reapportionment had to be one person one vote as the United States Constitution said that they must do that, and not only did they have to do that, but they wanted to do that as that was the only way to make elections and politics fair. He said that L85 created 35 Districts, all of which were well within the 10% deviation, and all but one were within a 5% deviation. Then they looked to the Idaho Constitution which was very clear in the respect that counties must not be divided unless, and he quoted the Idaho Constitution Article III, Section 5, a county may be divided when creating districts only to the extent it is reasonably determined by statute that counties must be divided to create senatorial and representative districts which comply with the Constitution of the United States. He said that the Constitution of the United States spoke only to the population, so what that meant was that they only may divide a county if it was necessary for the population to work out in the one man one vote principle. He said that was also restated by the Supreme Court in the Bingham County case where they said that counties may not be divided unnecessarily.

Then he said that they got to other considerations which were subordinate to that, which were communities of interest, traditional neighborhoods, and a variety of other concerns such as whether or not they were connected by roads. But, he said, that all of those had to, by law, be subservient to the United States and the Idaho Constitution. He indicated that when he took up the job of redoing the map, those were the two guiding points, and then he tried as best he could to look at communities of interest, however someone from outside of the areas could not be sure of. He said that the problem that Twin Falls County had with a number of the plans, and the last plan that the prior commission had ended with, was that it had hacked Twin Falls County into four pieces, which was clearly unconstitutional. That was because Twin Falls County, based on its size, must be divided, but must be, and may be, divided only one time to make two districts. He indicated that if they made the third district, that was clearly unconstitutional. He indicated that there may be problems with dividing the city of Twin Falls because that was maybe a community of interest, but community of interest was hard to define because the county may be a community of interest, not the city. In any case he said that the community of interest was subservient to the Constitution which told them that they may not divide the county more than necessary. He said that he wanted to thank the commission for doing what they were doing, and for listening to him, as in having done this a couple of times, he knew that it was hard to do. He then likened redistricting to the movie Frankenstein as they had the job of stitching all of the disparate parts together and trying to create something that was alive at the end. He said that Dr. Frankenstein got a bad rap because it did not work out well for him in the end, but it wasn't his stitching that messed him up, it was using the damaged brain where it all went wrong, and he urged the commission not to settle, to get it right because it was very important for everyone in Idaho.

Commissioner Beitelspacher thanked **Mr. Loebbs** for drawing the entire state, and asked what the population deviation was. **Mr. Loebbs** said that the biggest deviation that their plan had was in Madison and Teton Counties, and that could be rectified if deviation was their prime concern, and they wanted to get it under 5%. He indicated that the way that he had initially drawn the map, he had split Teton County in two, and put the northern half of Teton County to the north. That was necessary to do if they wanted to get under 5% because they could not join Madison and the entirety of Teton County. But after he had done that he put them back together and the deviation was about 6%, and it seemed better to have a deviation of 1% too high than to hack up Teton County and put half of it with people to the north.

Commissioner Beitelspacher said that he was sure that he understood that **Supreme Court Justice Jones** had referred, in the Bonneville case, that they had to have a de minimis of 10% or less, and that the deviation in Mr. Loebbs' plan was a little over 11%. **Mr. Loebbs** said that he could fix that by dividing that county. **Commissioner Beitelspacher** then asked how many county lines they had cut in their plan. **Mr. Loebbs** indicated that they had cut Kootenai County, Canyon County, Ada County, Twin Falls County, Bonneville County, Idaho County, Blaine County, and then two or three that had to be cut just because they were in the throat of the panhandle, and possibly one other. He explained that other than the counties that had to be cut because they were too large, he thought there were two or three which were cut, which he thought was about as little as could be done given the geography.

Appendix D
Minutes of Reapportionment
Commission Public Hearing
Burley, Idaho
June 28, 2011



Idaho's Citizen Commission for Reapportionment

Capitol Building
700 W. Jefferson Street
Boise, ID 83720-0054

Phone: (208) 334-4740
E-mail: redistricting@redistricting.idaho.gov
Web site: www.redistricting.idaho.gov

Burley Public Meeting
June 28, 2011
Burley High School
7:00 pm

Chairman Frasure called the meeting to order and encouraged the audience to sign in to testify. He then had the commissioners introduce themselves as follows; Commissioner George Moses from Boise, Commissioner Julie Kane from Lapwai, Commissioner Allen Andersen from Pocatello, Commissioner Evan Frasure from Bannock County, Commissioner Lorna Finman from northern Idaho, and Commissioner Lou Esposito from Boise. Also present from the staff were Cyd Gaudet and Kristin Ford.

Commissioner Kane then discussed why states are required to redistrict, explained the one person = one vote concept, and the acceptable deviation of 10%. She also explained that the commission can draw from 30 to 35 districts, and that to the maximum extent possible they should preserve traditional neighborhoods and communities of interest, they should avoid oddly shaped districts, avoid dividing counties whenever possible, and if counties are divided they should be adjacent to each other and a state road has to connect the district. She also explained that the commission must avoid dividing precincts and cannot protect incumbents, or their respective political parties.

Chairman Frasure then encouraged the audience to submit written testimony, and to go to the website to draw plans and submit them. He then called on Commissioner Moses to challenge the audience. Commissioner Moses then encouraged everyone to go on to Maptitude, the same tool that the commission uses, and to draw their own district. He then encouraged them to go further and draw 7 districts, or 20 percent of the state, to get a flavor of having to balance the districts given all of the requirements. He then asked that, if they like what they created, to please submit it. He then talked about a contest in Virginia where one college student's plan was so good it was submitted to the legislature.

Chairman Frasure then discussed that the commission is also drawing the congressional lines, that we have two districts in Idaho, and encouraged testimony on this subject as well.

First called to testify was Senator Denton Darrington from District 27 in Declo. Senator Darrington explained that he was on the last legislative reapportionment committee in 1992, and understands what the commission is up against. He went over the criteria set forth in Idaho Code 72-1506. While the criteria is not listed in order of importance, he did suggest that communities of interest be moved up to number 2. He suggested one community of interest for the commission to consider would be water, and gave the examples of Power County with the American Falls Dam and Twin Falls County with the Milner Dam. He also indicated that another community of interest would be school districts; he stated that Cassia County has a Unified School District, which also includes some from Oneida County and Twin Falls County. He indicated that Murtagh has a Joint School District that includes some from Cassia County, so both school districts cross county lines. Senator Darrington indicated that another community of interest is addresses, as some people in the north east corner of Cassia get their mail out of American Falls, and some in the western side of Cassia County get their mail out of Murtagh. Commissioner Andersen then asked Senator Darrington if he had any suggestions in tying the numbers together. Senator Darrington stated that he had been pleased to represent the people in Power and Oneida Counties and that there are some bonds of common interests between them.

He also represents the people in Bingham County, rural Aberdeen and Springfield and has represented them well. He also indicated that he likes the people in Murtaugh, and suggested that the people there go to Twin Falls and Burley for business, so it would work to put them either way. So it is possible for us to represent people from Twin Falls County, since it must be divided.

Wayne Hurst was next called to address the commission. He explained that he lives and farms in Declo and that he is the Chairman of the Cassia County Republican Central Committee. He was involved behind the scenes ten years ago, and he appreciates the toll this process takes on the lives of the commissioners and their service. He stated that the current legislators have represented them well. He feels that the area shares many common concerns, such as the gateway transmission lines, water, school interests to the east and west, and the economy is very similar. Due to this he would prefer that the district stay more or less the same as it is now. He suggested that a district that includes Cassia, Power and Oneida Counties, and part of Twin Falls County, would keep three counties whole. He stated that this area is also aligned with Minidoka County, however suggested that Minidoka would be better served if they were combined with the counties to the east and west of them. **Mr. Hurst** also stated that there has been some talk of splitting Cassia County and this is very concerning to him, and he would oppose that. **Commissioner Moses** indicated that as this part of the state has not grown as much as some other parts of the state their districts will need to get bigger. He stated that, if Bear Lake County is not a good fit with Driggs (as Sen. Darrington pointed out), and it can't go east because you hit Wyoming, and you can't go south because you hit Utah, that leaves just one direction left, which was right this way. He then asked **Mr. Hurst** if he had any thoughts about Bear Lake County being included within their district to accomplish this. **Mr. Hurst** indicated that he hadn't discussed that possibility; however he is aware that they will have to be flexible, and if they have to change he would feel comfortable joining with Minidoka County.

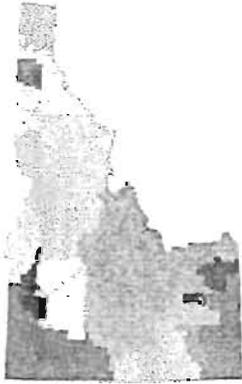
Next to testify was **Kent Searle** who has lived in Burley all his life and farms and dairies with his brothers. **Mr. Searle** stated that he agrees with **Senator Darrington** and **Mr. Hurst's** comments. He also indicated that in his position as a volunteer 911 coordinator he knows that Minidoka and Jerome County share emergency services. He also indicated that the Cassia County Gateway Task force is an example of how the counties in this district are tied together as communities of interest and work well together. He suggested that the district boundaries be kept basically the same. He suggested if expansion was necessary that the commission look west towards Murtaugh and Kimberly as these areas have the same type of interests, share water, and are also very rural. Mr. Searle told of how the three Republican legislators worked well with a Democrat Power County Commissioner. **Commissioner Andersen** then asked **Mr. Searle** to explain the Gateway Task Force. **Mr. Searle** explained that Idaho Power and Rocky Mountain Power had proposed a power line from Wyoming to Boise which would go through a lot of irrigated ground. He noted that Power, Oneida, Cassia, Twin Falls, and Bannock Counties all joined together on a task force and made recommendations for a corridor, for the power line, that all could agree with.

Dwight Davis, a Cassia County Assessor, concurred with the prior testimony, and stated that he would like to see District 27 remain as it is.

Next to testify was **Jared Larsen**, who is soon to graduate from BYU, and has lived in this county his whole life. He stated that he has looked at the congressional maps on the website and has come to the conclusion that there is no way to draw an adequate map that doesn't split the Treasure Valley. The Treasure Valley links the north and the east, and his suggestion is to maintain what we have now and just move the dividing line westward. This will help to unify Idaho. He has submitted his own maps and they are on the website. He also stated that he believes it is imperative to keep 35 legislative districts, as diminishing the number would diminish the representative nature of our legislature. **Mr. Larsen** indicated that he felt it would be best to keep the current Magic Valley district as it is, and encouraged the commission not to link Cassia County entirely with Twin Falls County. He did however suggest that the Hansen, Murtagh and the three Kimberly precincts from Twin Falls County could be attached to Cassia County, with the District 27 the way it is now, minus the Bingham County precinct, to make a nice district. He explained that the reason he did not suggest putting all of Cassia and Twin Falls County together is because that would require putting Oneida and Power Counties with Bannock County which would silence the largely rural interests. He also stressed that he would not recommend splitting Cassia County in any way and would not recommend combining Cassia County with the City of Twin Falls, whose urban center would dilute the rural voices of this area. **Commissioner Moses** then indicated that as the commission has gone through these hearings they have heard that there is an urban vs. rural divide in Idaho, which does not seem to happen in other states, and he asked **Mr. Larsen** to help him understand this. **Mr. Larsen** explained that Idaho is a hodgepodge with no reason for its boundaries, other than those other states were forming around it. He also explained that the mountains do create a definite north-south divide, and that rapid change and growth in Idaho causes concerns that the Idaho of today will not be the same as in the future.

Dennis Crane, the Chairman of the Cassia County Commissioners, was next to testify and indicated that most of the things he wanted to say have already been said, and stated that the way the district is now has been working very well. He stated that even though they work together well with Minidoka County, his preference would be that the commission go west and put the rural parts of Twin Falls County into their district.

Appendix E
Minutes of Reapportionment
Commission Public Hearing
Idaho Falls Idaho
October 5, 2011



Idaho's Citizen Commission for Reapportionment

Capitol Building
700 W. Jefferson Street
Boise, ID 83720-0054

Phone: (208) 334-4740
E-mail: redistricting@redistricting.idaho.gov
Web site: www.redistricting.idaho.gov

Idaho Falls Public Hearing
Wednesday, October 5, 2011
Idaho Falls City Hall
6:00 p.m.

Present were **Commissioner Crow**, **Commissioner Hansen**, **Commissioner Olsen**, **Commissioner Beitelspacher**, **Commissioner Martinez**, and **Commissioner Grange**. Present from the staff were **Mr. Bybee**, **Mr. Cutler**, and **Cyd Gaudet**.

Chairman Crow called the hearing to order at 6:05 p.m., and she welcomed everyone and thanked them for coming. She indicated that they had enough people signed up to speak so that each of them could speak for approximately five minutes, and then have time for questions and answers after each person. She stated that they had **Mr. Cutler** with them, who could actually put the maps on the wall to show them what a plan may or may not do for their district. **Chairman Crow** then introduced herself, and explained that she had been a legislator for a number of years, and was the Chairman of the Revenue and Taxation Committee for eight years. She asked that when their name was called, they would come to the podium. If they had written testimony, she asked them to please give it to **Cyd Gaudet** when they were finished, as it helped tremendously in the minutes, and it was also nice to have their handwritten or typed copy. She indicated that they would be going through the chair, as they did in the legislature, as it gave them all a better feel, and it helped things not get out of kilter. She advised that when they came up, she was Madam Chairman, and she would address them, and then if there were questions they needed to come through the chair, rather than from each of the people. After they had given their testimony, she explained that they would have time for questions and answers from the commissioners. **Chairman Crow** advised that the other Co-Chairman of the Commission was **Ron Beitelspacher**, who had been a Senator for a number of years in the legislature.

Commissioner Beitelspacher said that he too wanted to welcome everyone. He said that he didn't think that they had to explain to anyone that this happened every ten years, and how it was that they were there, and what they were doing. He did want to say, regarding **Commissioner Martinez** and **Commissioner Olsen**, that they were well represented on this side of the state. He indicated that **Commissioner Olsen** was a gracious lady, who he thought was the epitome of family, country and God, and had been wonderful to get to know. He said that **Commissioner Martinez**, from Pocatello, had a tremendous amount of inner strength that came from his days as an EMT, and they welcomed that, in case the fenders flew, they had someone who could put the bandages on them. He indicated that this was a difficult thing to do, and to keep in mind that when they brought their plans in, they needed to make them fit into the state. He told them that the commission would be flying out of Idaho Falls that night, and were headed to Coeur d'Alene, where they had another hearing the next day. So if it looked like they were rushing along, it was not that they didn't want to hear what they had to say. He indicated that all opportunity for input was also available on the website, so to please utilize it, but they had a plane to catch to go to Coeur d'Alene, and that would be their reason for leaving when they did.

Chairman Crow also indicated that they would have video streaming, sometime in the near future, which would go to all parts of the state, and so if they forgot to ask something that night, they would have an opportunity then.

First to testify before the commission was **Lee Staker**, who indicated that he had served in the Senate with both of the Co-Chairmen. He welcomed the commission to Bonneville County and the city of Idaho Falls. He said that Bonneville County had met with most of the counties in eastern Idaho, and they had put together, and submitted to the Idaho Association of Counties, a plan. The Idaho Association of Counties had presented that to the previous commission as L49, and he would speak to that. In L49, as far as Bonneville County was concerned, the districts included Idaho Falls' natural communities of interest, similar to the districts that were already there. The district with southern Bonneville County and northern Bingham County had a community of interest of rural agriculture, and it worked well because

were there as citizens, as this was not a partisan or political exercise, this was an effort in which citizens, with the interests of an entire community at heart, took upon themselves the responsibility to draw the boundaries as best they could, keeping our communities in mind.

Dennis Sutton was next to address the commission. He advised the commission that he was from Idaho Falls, and was **Commissioner Olsen's** counterweight, as he was the Legislative District Chair for Idaho Falls, on the other side. He said that he had been a business to business outside salesman for the last forty years and he knew more about this state, and where the outhouses were, than anyone else. He stated that he knew more about communities of interest, as he had walked the land and had been one of the boots in the field, politically. He indicated that to try to put together a campaign in District 30 was a nightmare, and had to be done away with. He said that he was already on record so he would not go over things that he had said before, but he would like to ransom Precincts 2 and 4 back into Idaho Falls, as that was where **Bart Davis** resided. He said that he was willing to offer Precincts 27, 28, 41, 42, 52, or whatever it took from the southern side of Idaho Falls as they were more compatible with the Bingham County rural population. Whereas the districts south of Broadway and west of I-15, comprised of the Skyline High School, always had a problem with the westside/eastside contention, and if they cut those two precincts off, they would fester more bad feelings in town. His other suggestion was regarding Teton County and Swan Valley. He said that Wayans, which is in the southern portion of Bonneville County, was one of two mail-only precincts. He indicated that it was that far out, and that hard to get to, just to service it for an election, and to try to expect people to drive through the wilderness out there during the wintertime was impossible. He then thanked the commission for their work.

Commissioner Beitelspacher thanked **Mr. Sutton** for being boots in the field. He said however, that he would like to address something that he had heard several times that evening, and that was about **Senator Davis**. He indicated that he had met the gentleman once, and had spoken to him on the phone a couple of times, and he seemed like a real gentleman. However he was going to speak for himself, and he thought partially for the other commissioners, that they were not there to play political games. He said that **Mr. Hopkins** could do all of them a great deal of good if he would visit with the press and explain about the process, and how it worked, and what it entailed. He indicated that it was a giant jigsaw puzzle and they were boxed by not dividing county lines, and they were boxed by not having the little pieces of the pie that did not come in anywhere. He indicated that he came from Idaho County, and he had spent several terms in the legislature representing over 15,000 square miles at one time, so he could appreciate what **Representative Wood** was talking about, how far it was that they had to drive, and he was also talking about going through time zones. He stated that they were not there to try to save any incumbents, and they had been clear amongst themselves about that, as they have a tough enough job just trying to stay within the parameters that the Idaho State Supreme Court had spelled out for them, the one man one vote principle.

Mr. Sutton said that he understood that they were squeezing Jell-O, however the wording was in there that they were not supposed to split precincts, but precincts did not have a one man one vote ruling, and they were going to be redrawn anyway after they were done. He indicated that it was impossible to keep counties whole as the numbers just didn't work, so he urged them to go with spheres of influence. He said that he wanted to replace **Senator Davis**, but it was his job to find a candidate that could generate that following.

Called next was **Mary Ellen McFarlane** who said that she was there to make a request, and to say thank you because all she had heard that evening made her feel more confident. She indicated that she was an independent voter, and for forty years she had felt that she did not really have a voice in Idaho, until recently. Now she thought they were kind of getting a voice, so she was starting to get interested in the process. She indicated that she was not going to say what she had planned on saying because it would take time, so now she was just going to say thank you, as now she was confident that they were not going to be playing partisan politics, and she appreciates that.

Chairman Crow thanked her for her comments, and said that was worth the entire trip. She indicated that they wanted to be as fair as they possibly could be. However when you had a state that was drawn like ours, it was difficult, and they knew it was difficult, but they had some pretty good guidelines to start with. She said that they were willing, and had committed that they would work together without too much fuss, and so far, so good. She stated that they were really committed to that, and they wanted what was best for the State of Idaho. If candidates got squeezed out somewhere, like someone there had said, if they were really a good candidate, they could win anywhere.

Chairman Crow said that she had done that, as she had lived in the same house for twenty three years, and she was in three different districts. She said that sometimes it was good to have to hustle, as it made a better Representative or Senator out of you. She thanked the audience for coming, and said that she was amazed by how many of them came to learn and to speak, and just to show up. She said that she was amazed at how many of them want to get involved, and with that she said good night and god bless.

There was then some discussion about another sign in sheet, and **Chairman Crow** asked if there was anyone else that wished to speak.

Lin Whitworth was next to testify. He said that he lived in south Bannock County, and was the person that sued the last time because he felt like they were violating the "don't split the counties" guideline. That was because they had exactly the number of people in Bannock County for two districts, and they wanted to split them off, and he was afraid they were going to do the same thing again. He indicated that in south Bannock County they had a lot of agriculture, and a lot of labor from Pocatello, so they had a mix. He said that if they split off the Democrats in south Bannock County with the five counties in south eastern Idaho, then they would never have another Democratic representative. That was the fear of a person like him, who was a railroader for forty two years, a union man and also a farmer. So that was a concern for him, and he asked the commission to keep that in mind.

Next to address the commission was **Laverne Beech**, the Public Affairs Manager for the Shoshone Bannock Tribes, who said that she was there representing the tribes. She indicated that they had submitted formal testimony to the previous commission, and their position basically remained the same. She said that it could look like a jigsaw puzzle in terms of putting all of the pieces together by county, and

then the reservation cut across four different counties, so historically they had been split up into various districts. She indicated that hadn't been something that the tribes had taken a real interest in until recently, and it had just been in the last couple of years that the tribes had worked hard to increase their presence in state affairs. They had also worked to educate their legislators, and their state leaders about who they were, and how they were the same as other tribes in the State of Idaho, and how they were different from other tribes. She said that the Fort Hall Reservation consisted of 550,000 acres, and was established under a treaty that was signed with the U.S. Government in 1868.

According to the 2010 census they were between 8,000 and 9,000 in population, and were pretty much evenly split between Indian and non- Indian on the reservation. The membership of the tribe was about 5,500, and about 75% of the tribal members lived on the reservation. She said that most importantly the land base of the tribe was 98% owned by the tribe or tribal members. Part of their challenge was that they had been cut into three different voting districts. She explained that no one lived on the reservation in Caribou County, so they were basically split between Power County, Bannock County, and Bingham County, so they really struggled with voter apathy and getting people to take an interest in voting in state elections because they didn't feel like their vote counted. It is their feeling that if they could be put into one district, and the reservation be made whole, they would have a better chance at getting people interested in participating in the state voting process. She said that they knew they did not have enough population to be one district, but they felt that they were more closely aligned with the voters in the north Bannock County area. That was not to say anything negative about Bingham County, as they had some Bingham County representatives there, and she wanted to acknowledge the efforts that they had made to sit down and to work with the tribes, but the reservation would like to be kept whole, and be included with northern Bannock County. She said that they felt that the tribes and the reservation were an obvious cultural and ethnic community of interest.

Ralph Mossman, from Teton County, was next to testify. He said that somehow people had decided that communities of interest meant that all rural counties were the same, and that they were really very different. He said that they went to Rexburg and Idaho Falls to do their shopping, and they were very different from the counties that they had been with for the last ten years, which were Franklin County, Caribou County and Bear Lake County. He indicated that they had some things in common with them, but they had much more in common with some of the cities which they commuted to, than they did with cities two hundred miles away. He asked that the commission look at the rural counties and where the people were commuting to. He said that he knew that a lot of the people in the cities did not like the idea of having part of their city attached to a county, but in Teton County that was the only way that would work for them. He indicated that the previous commission had come up with a couple of plans that were all right for Teton County. One was L49 that put them with Fremont County and eastern Bonneville County, and another one put them with eastern Madison County which was also appropriate for them. He indicated that he was sent there with a group of maps from their county commissioner, who could not be present. He said that his county commissioner had gone to a meeting with other county commissioners and they had come up with a plan for eastern Idaho, and he hoped the commission would look at that seriously. He said that he was a candidate for the legislature in the last election and had walked a lot of District 31 from Teton County down to Franklin County, and had talked to a lot of people. He indicated that a lot of rural residents in the five counties were very disconnected from state government, and he thought part of the reason that happened was because the districts were so enormous, and disparate that they could not connect with some of the legislators. He also thought that if they tried to keep the districts a little smaller, and really focus on communities of interest, they would find that more people would be involved in government. He said that it didn't matter if they were Republican or Democrat, their goal was to get the best legislators they could, and they could get that when they had voters that were not apathetic because they felt connected to their legislators.

Chairman Crow indicated that she had called **Mr. Mossman's** name, and someone had said that he had stepped out.

Commissioner Olsen said that she would like to speak for the commissioners, and on behalf of eastern Idaho they welcomed them, and she was sure that they could sense the vitality and the work ethic that they had in that part of the state. She also asked the commissioners to come back when they could stay longer.

Chairman Crow said that she wished to thank whoever was responsible for providing the great venue that evening. She said that everyone had been very nice, and she thanked Idaho Public Television for their part in getting the word out, and she thanked the audience for coming. She indicated that to come out on a night like that, or any night for that matter, was what America was all about, and Idaho was the best part of America. She said that she hoped the audience had gleaned some information, as the commission certainly had, and that they would keep in mind all of things that had been discussed. She indicated that they could not please everyone, and they did have to follow the law. She asked everyone to be careful on the way home, and thanked them again for coming.

