



Idaho Commission on Redistricting
Public Meeting
Tuesday June 5, 2001
Gold Room, State Capitol Building
Boise, Idaho

Commission Business Meeting

Secretary of State **Pete T. Cenarrusa** took the podium at 8:45 a.m., Tuesday June 5, 2001, in the Gold Room of the State Capitol Building. He spoke briefly about his history in the redistricting process, pointing out that he was a member of the Legislature in 1965 when the *Baker v. Carr* and *Reynolds v. Sims* decisions mandated the redistricting of the state legislature. He had participated or observed in the time since then, and witnessed the stresses between the urban and rural interests. In 1992, Idaho electors determined that a citizens' commission could do a better job than had been done by legislators and it is as a result of that vote that we were here today. He then read an order, pursuant to section 2, Article III of the Constitution of the State of Idaho, convening a commission on reapportionment for the state of Idaho. A copy of the order is available in the office of the commission. **Mr. Cenarrusa** also administered the oath of office to the members of the commission named by the appointing authorities, to wit: **Mr. Ray Givens** appointed by House Minority Leader Representative **Wendy Jaquet**; **Mr. Dean Haagenson** appointed by State Republican Party Chairman **Trent Clark**; **Mr. John Hepworth** appointed by Speaker of the House of Representatives **Bruce Newcomb**; **Mr. Karl Shurtliff** appointed by Minority Leader of the Senate **Clint Stennett**; **Ms. Kristi Sellers** appointed by President Pro Tempore of the Senate **Robert Geddes**; and **Mr. Tom Stuart** appointed by State Democratic Party Chairman **Carolyn Boyce**.

Following administration of the oath of office, members of the commission took their seats at the commission table, and **Mr. Cenarrusa** recognized **Ben Ysursa**, Deputy Secretary of State, to make brief remarks. **Mr. Ysursa** noted the historic nature of the day and the mission upon which the commission is embarking. He extended the courtesies of the office of the Secretary of State and welcomed commissioners to visit there for respite from their debates on the fourth floor.

Mr. Ysursa recognized **Ms. Susan Bennion**, Legislative Services Office staff member. **Ms. Bennion** noted that the commission, while formally organized, had not yet had an opportunity to elect a chairman, a function on the agenda for the business meeting in the afternoon. In view of this, and the small size of the commission, she suggested that the Commission proceed with their business as it appeared on the

agenda. Questions of presenters would be handled informally. **Ms. Bennion** introduced herself as Principle Research analyst with the Research and Bill Drafting section of the Legislative Services Office. She has worked with the legislature in the redistricting process of 1970, 80 and 90, and with the Census Bureau in adapting their procedures to facilitate implementation of P.L. 91-171. She also introduced the other non-partisan staff assigned to the commission by the Office of Legislative Services as approved by the Legislative Council. **Mr. Ross Borden**, Principal Budget Analyst, in the Budget and Policy section of Legislative Services has previous experience with the Washington Redistricting Commission in the 1990 round of redistricting. He is a knowledgeable GIS user, and has been the lead staff person in selecting the computer technology for the commission functions. He is also the budget officer for the Commission. **Ms. Morgan Wilkins** is a temporary employee retained for the commission staff as administrative assistant. She has been making arraignments for the commission meetings, hearings, and staff facilities.

Dr. Gary Moncrief, professor of Political Science at Boise State University, and a nationally recognized author and speaker on legislative issues including redistricting, was called upon to provide an overview of redistricting, particularly in Idaho, for the Commission members. A copy of his printed outline is available in the office of the Commission. Briefly summarized, **Dr. Moncrief** described the standards for one person, one vote. He explained the evolution of the standards, and noted that for congressional districts, the standard of allowable deviation is very small, less than 1%. For state legislative districts the standard of allowable deviation is in the range of plus or minimum 5% for an over all total of 10%. A carefully enunciated and strictly followed rational state policy may justify a deviation above this range.

Dr. Moncrief also discussed requirements for representation of minority group interests. Of the mandates for minority protections, Idaho is subject to Section 2 of the Voting Rights Act, but is not a state covered by Section 5. In interpretation of Section 2, the courts have undertaken a two-step analysis of any challenge. The first is to determine, through application of the *Gingles* test or "the three-pronged test", whether the minority group is sufficiently large and geographically compact to warrant a majority vote in a district, whether the group is politically cohesive, and whether there is evidence that there is racially polarized voting whereby the white majority usually defeated the preferred candidates of the minority. An affirmative determination may result in a requirement that the group be given specific representation in the plans.

The courts have also recognized partisan gerrymandering as a justiciable challenge, but have so far not found a case that represented partisan gerrymandering.

Dr. Moncrief traced the history of redistricting in Idaho in both the legislature and the courts. Because redistricting has been challenged in each case, and because in the 1990, 41 states saw a challenge to their plan, **Dr. Moncrief** has concluded it is likely that Idaho's commission plan will be challenged. He also suggested that with the

efforts that have been made for public outreach, the commission might expect to see many plans submitted. The Commission will be faced with difficult decisions. Because of the growth patterns, it is inevitable that some incumbents will be forced into run-off situations. **Dr. Moncrief** offered his assistance in any way, and congratulated the Commissioners on their willingness to undertake this challenging assignment.

Dr. Paul Zelus from the Center for Business Research at Idaho State University was the next presenter. An outline of his remarks is on file in the office of the commission. **Dr. Zelus** indicated that his remarks would begin where **Dr. Moncrief** left off, with a description of the census methodology, the data made available for redistricting, some suggested criteria, and issues surrounding redistricting.

An important change in the census format was made between 1990 and 2000 when the Census Bureau chose to list "Hispanic" on the questionnaire before race and included "Hispanic or Latino" as the descriptor. Further, in the 1990 census, responders were limited to selection of only one race, while in 2000, they were allowed to select up to six races. Persons were thereby given an opportunity to indicate the racial mixtures in the population, but it raises a question for redistricting on how to count persons and describe communities of interest. **Dr. Zelus** reported that census results from PL 94-171 are the first data released and would be the only data available for redistricting. When the latter data is available there will be more information regarding communities of interest. In the mean time, the important standard of population equality will guide much of the process. Also, districts should be contiguous and compact.

Dr. Zelus reported research he and **Dr. James Kent** have conducted into the questions of communities of interest. **Dr. Kent** uses seven descriptors to define cultural zones including settlement patterns, publics, networks, work routines, supporting services, recreational activities and geographic boundaries. Once these zones are identified, they illustrate the cultural zones, which might also be referred to as communities of interest.

From his experience in redistricting with school districts, **Dr. Zelus** suggested that one logical way to begin redistricting is to start at the extreme boundaries and move toward the center of the state. This results in reaching decisions at the boundaries where there are fewer alternatives first, and then having greater room for accommodation and movement of district lines in the center, generally in the Treasure Valley for state redistricting purposes. **Dr. Zelus** presented figures illustrating the population changes that have occurred over the last ten years, and the changes in legislative districts, which will be required to achieve population equity. In the course of this work, it will be important to know where the incumbents reside. When asked why this should be considered, **Dr. Zelus** replied that it is inevitable that incumbency will be a factor, and if you are not knowledgeable, the decisions will be made some other way. The size of the legislature, within the range authorized by the constitution, is also an issue before the commission. **Dr. Zelus** urged that the commissioners consider

new ways, address new issues. The commission is a new approach and has a unique opportunity. **Dr. Zelus** was asked if he could make copies of the information concerning cultural regions available to the commission, but responded that this is proprietary and copyrighted by James Kent Associates and could not be copied for the commission.

Because the commission was ahead of schedule and the next speaker was not yet present, business on the agenda was taken up at this time. The first item on the agenda was selection of co-chairmen. **Commissioner Shurtliff** moved, seconded by **Commissioner Givens** that **Commissioner Sellers** be elected co-chairman. **Commissioner Haagenson** moved, seconded by **Commissioner Hepworth** that **Commissioner Stuart** be elected co-chairman. There being no further nomination, all present voted in favor. **Commissioner Stuart** then assumed the chair and conducted the remainder of the meeting.

The next item of business was selection of offices. **Mr. Borden** explained that it seemed drawing from a hat would be the fairest way to assign rooms. Accordingly, **Commissioner Sellers** drew for the Republican secure room and drew room 426 on the Senate side and the Democrat secure room will be room 404 on the House side. **Commissioner Shurtliff** expressed his opinion that, while this is certainly a partisan assignment, in his experience the vast majority of Idahoans are independent. They vote more based upon the candidate than the party. He urged that the sense of conflict brought up by the terms *war room* should be avoided. Cooperation will be the only way to successfully accomplish this project. Members of the commission concurred and agreed to avoid projections of conflict in to the process. Next each member drew a number for an office space in the Headquarters site in room 419.

Co-chairman Commissioner Stuart next called upon **Mr. Borden** to proceed with the budget review. **Mr. Borden** presented a summary of the appropriation made for the commission. The appropriation was made with carry-over authority to see the commission through the completion of its work. He explained the contract with Spatial Dynamics to complete Phase II maps that were submitted. **Commissioner Stuart** asked if the participation in Phase II addresses the concern raised by **Dr. Zelus** that precincts are not reliable. **Ms. Bennion** explained that some precinct boundaries do not comply with the requirements for visible features, and in this case, during Phase II, their boundaries were adjusted to a visible feature. The FY 2000-2001 appropriation of \$397,200 with a total carry-over of \$88,600 from the Phase II project, for a total of available resources for the commission of \$485,800. So far, the spent amount totals \$161,900, which leaves a balance of \$323,900. According to the plan, the computer hardware and software have been acquired. Some savings was achieved from the projections due to quantity discounts and the falling prices of some computers. **Mr. Borden** described each of the budget headings and invited specific questions from the commissioners. **Mr. Stuart** asked **Mr. Borden** to highlight any areas where there was flexibility for the commission. **Mr. Borden** mentioned the fixed costs in the contract

with Spatial Dynamics and Water Resources. On the other hand, out-of-state travel includes funds for all commissioners to attend NCSL in San Antonio in August. This may not be the choice of the commission. Under equipment, some of the equipment has been borrowed from the House and Senate who have been very generous in sharing their facilities. This leaves some of the funding in that category as flexible. **Mr. Borden** concluded that this is the commission's budget and the commission has the authority to make spending decisions.

At this time the commission recessed for lunch and reconvened at 1:15 p.m. **Commissioner Stuart** introduced **Mr. Bill von Tagen**, Deputy Attorney General. **Mr. Von Tagen** extended the best wishes of **Attorney General Al Lance** and invited commissioners to consult their office whenever they wished. The office will attempt to answer any questions or provide opinions as quickly as possible so that commissioners can perform their tasks.

Mr. von Tagen indicated that he would attempt to address the legal boundaries that will define the work of the commission. **Mr. von Tagen** introduced **Mr. Sam Kidd** from the Air Force Academy who is an intern in the office of the Attorney General and he assembled a booklet of laws, cases and opinions, which will relate to the commission, which was distributed to the members. A copy of the information is on file in the office of the commission. This commission has great authority and discretion, but it is not unfettered. There are parameters in the law and constitution. There are groups interested in the commission work and they will be watching for careful compliance with the law. Article III, section 2 of the Constitution is the basis for the membership of the commission. Section 72-1502, Idaho Code, also provides limits on the membership. **Mr. von Tagen** described these qualifications.

The open meeting law governs proceedings of the commission, and in some cases there are additional provisions. Records and documents are public records. Meetings are to be held around the state to maximize participation. A quorum is defined as four members. Less than a quorum may hold a hearing to take testimony, but no decisions may be made. This is for the convenience of the citizens who have made the effort to attend a hearing. A member of the commission must be present to vote. They refer to physical presence, and the member must be present in the room of the meeting. Submissions are to be accepted from the public. Finally, this commission must complete its work within 90 days.

Regarding the work of the commission, *Baker v. Carr* and *Reynolds v. Sims*, which have already been discussed, are governing. Deviation is limited by case law. The size of the legislature is limited to 30 to 35. Representatives are not to exceed two times the number of senators. Traditionally, Idaho has had twice the number of representatives. In response to questions from the commission, **Mr. von Tagen** stated that there could be only one representative per district. There is a long tradition of two and it appears to be the intent of the language in the Constitution. Districts must be

composed of contiguous territory. Multi-member districts are limited to two representatives from a district. The law requires the use of the census data for the plan. The commission is instructed to create compact districts, which respect communities of interest. Odd shaped districts are to be avoided. There should be no political gerrymander in dividing counties to protect an incumbent.

Article I, section 2, of the state constitution and the Fourteenth Amendment to the United States Constitution, and the case law govern redistricting. There is a series of cases, which allows a conclusion that 10% deviation is the maximum. Attorney General's opinion 91-4 further discusses some of these issues and is contained in the pamphlet.

The open meeting law is the answer to the question of whose government is this anyway. It means that the public's business is to be conducted in the public forum. The important question to ask before holding a meeting, is this an open meeting, is it a closed meeting, is it a meeting at all. The answer will determine how you conduct the business. Section 67-2341, Idaho Code, is the definition section of the open meeting law. The notice section is also very important and requires 5 days of advance notice. The statutes governing the commission contain an additional requirement that any person who requests notice shall be given notice. Written minutes are required and are a public record. **Mr. von Tagen** described executive sessions and he cautioned that such sessions are for very limited purposes and probably will not apply to the commission.

Commissioner Givens asked about the provision in the statute that some of the public records requirements are not applicable to some of the commission work. **Ms. Bennion** responded that there is an exemption for the work papers of the commission, which follows the exemption for draft legislation. When a draft is introduced into the commission arena it becomes a public document. But while a draft is limited to consideration in the secure rooms or among less than a majority of the members, it remains a draft and is not a public document. **Mr. von Tagen** concurred in the extension of this legislative exception to the commission work papers. Documents sent to the commission office will be public documents. Documents sent to only one member of the commission as a proposal or communication are not public documents until they are brought to the commission.

Mr. von Tagen concluded his presentation. The next item on the agenda was the reimbursement rates and filing forms for commission. **Mr. Borden** described the requirements and rates and reviewed the expense report forms. He urged members to be sure to sign the forms. Some of the travel arrangements, those made by the staff, will be direct billed. However, arrangements made by the individual members will have to be reimbursed.

Mr. Borden was recognized to continue the briefing of the commission on public

access provisions. He described the program whereby ten libraries geographically scattered throughout the state were supplied with computers and printers and with the redistricting data and software. Library staff were trained to support the use of the computers and they were ready to assist persons from the public in the use of the computers to do their own redistricting plan. **Mr. Borden** recognized the significant commitment to public input made by the Legislature in funding the library program. The program has received publicity in other states as a model for open redistricting. **Mr. Stuart** asked if the libraries are available at this time. **Mr. Borden** responded that they libraries are live as of the swearing in of the commission members. **Mr. Borden** also described the participation of INSIDE Idaho and acknowledged the tremendous assistance given by the staff from INSIDE Idaho. Their involvement was initiated by the INSIDE Idaho staff and has very valuable.

Mr. Borden then introduced the staff secure room staff. **Mr. Graham Patterson** and **Mr. Mike Rose**, the staff of the Republican secure room. **Ms. Charlotte Samis** and **Ms. Shaunene Grange** are the staff of the Democratic secure room staff. Activities in the secure room will be exempt from public record. **Mr. Kim Johnson**, **Ms. Cynthia Tyler** and **Mr. Austin Streetman** are from Spatial Dynamics, **Ms. Linda Davis** from Department of Water Resources are the contractors to support the computers and software. **Mr. Borden** mentioned that he and **Ms. Bennion** are tasked from Legislative Services. **Ms. Wilkins** is temporary staff that will be working for the commission. Additional support from Legislative Service includes the computer support, financial support services by **Ms. Kathleen Gallaher** and other assistance under the direction of **Mr. Carl Bianchi** the Director of Legislative Services.

Ms. Bennion reviewed the draft policies and procedures. She explained that the draft had been derived from similar policies in other states and the policies that were adopted by the legislative committee that redistricted in 1992. A copy of the draft is available in the office of the commission.

The commission recessed briefly. Upon reconvening, the commission took up a discussion of the public hearing schedule. **Co-chairman Commissioner Stuart** began by saying that he was submitting a suggestion that the commission hold hearing immediately so that the work of drafting a plan could begin in July. The hearings would be scheduled in the next three weeks, holding firm the dates set for Coeur d'Alene and Lewiston because travel has been arranged with the state plane. It may not be possible to have every commissioner at every hearing. Sites and dates were discussed and further discussion was to be held on Wednesday afternoon to finalize the dates. **Mr. Borden** also requested input from the commissioners on arrangements made by the staff to have a knowledgeable speaker from a nearby educational institution available at each hearing for a brief backgrounder on redistricting. This would be informational for the commission and also for the public attendees. **Commissioner Stuart** said that his main interest is in information from the public. **Commissioner Givens** suggested that there might be groups or associations around the state that

need more than a public hearing five-minute presentation. Providing time for that sort of access may be something to be considered. There were good presentations today but it should not be necessary to repeat it. **Commissioner Stuart** suggested work sessions with some of the sorts of groups that **Commissioner Givens** references. **Commissioner Haagenson** suggested that the commission might have to be jealous of their time and hear from the public at that time. The members of the commission generally concurred in this decision. A brief introduction will be made by the commission at each hearing and with the brochure, which will suffice to bring the public into the process.

Co-chairman Commissioner Stuart next raised the question of individual laptops and software to be used by commission members. This would be a redistribution of budget resources and he was interested in the desires of the commissioners to have the use of an individual computer. He indicated that he would like such a personal computer capability; **Commissioner Sellers** had indicated that she would like one, and **Commissioner Givens** indicated that he would also like one. **Mr. Borden** described the availability of laptops from the resources of Legislative Services. These are not redistricting capable. Redistricting capable machines would require purchase or lease of new and more powerful machines. He estimates that the costs would be approximately \$6,000 per laptop. Anyone interested in using laptops would want to participate in the entire training to be fully able to avail themselves of the lap top capabilities.

Commissioner Stuart also asked that email address or fax number be submitted so that contact will be readily available. **Mr. Borden** asked that each member review the draft page in the notebook and update it with all available information. This will be provided to all members with indication of preferred method of contact.

Mr. Borden reported that there have been arrangements with Public Television to have a Dialogue program with member or members of the Commission. The date arranged is June 28, starting at 8:30. It is a live call-in show. Public Television is also planning an hour special in September to inform the public about the plan adopted.

Mr. Borden reviewed the sessions for training on Wednesday, Thursday and Friday on the software program for redistricting. The commission set 1:00 p.m. Wednesday afternoon for the next meeting of the commission. The meeting recessed until the public hearing at 7:00 p.m., the training sessions beginning at 9:00 a.m., and the business meeting at 1:00 p.m. on Wednesday.

Co-chairman Commissioner Kristi Sellers called the business meeting of the commission to order at 1:15 p.m. on Wednesday, June 6. **Mr. Borden** was recognized to cover matters several administrative matters. The first was the distribution of keys and discussion of access to the Gold Room, the headquarters suite, and the respective

secure rooms. Access to the capitol building was described and contacts with the security officers to gain other access.

Next, **Mr. Borden** reported on the costs figures he had developed for the purchase of lap top computers for three commissioners. There isn't a viable lease option. The actual laptop cost is \$2900 and the software an additional \$3,000. In response to a question, **Mr. Borden** said that after the work of the commission is complete, the laptops would be absorbed into the legislative operations. This is a very high tech legislature and will be able to use these computers. **Commissioner Sellers** indicated that the commission would need to purchase four laptops to maintain equal distribution of the assets. **Mr. Borden** described the time frame for purchase and delivery. **Commissioner Shurtliff** moved, seconded by **Commissioner Hepworth**, that the commission purchase lap top computers for the use of commissioners who want one. The motion carried unanimously.

Mr. Borden reported that the secure room staff would be provided the needed materials. If there is an extraordinary need, it will be referred to the commissioners for their approval. **Commissioner Givens** moved, seconded by **Commissioner Hepworth**, that the co-chairmen be authorized to approval ordinary office expenses if they are in agreement, and in the event there is a disagreement, the matter should be referred to the full commission. The motion carried. Commissioners agreed that the resources should be allocated equally between the two secure rooms.

Mr. Borden next addressed the secure room staff issues. He stated that with regard to supervision, he was comfortable in signing the time cards and similar straightforward issues. But with regard to the actual supervision of the work assignment, he would leave that to the three commissioners on each side to exercise that supervision. The commissioners concurred. **Commissioner Stuart** added that with regard to the budgeted number of hours, i.e. 40 hours for plan drawers and 20 hours for support staff, there would be wide fluctuation. He suggested that time records be maintained so that the commissioners can review the hours invested and the hours yet to be worked, and assure that there will be adequate staff time remaining to support the heavy work load which may occur in August.

The next item on the agenda was establishing dates for public hearings. After dates were generally identified, further discussion involved the times and locations. **Commissioner Givens** noted that it might be advisable to establish some sort of work session, which would allow greater consideration of the concerns of some of the organizations. It was noted that the speaker representing the Hispanic Caucus in the meeting the evening before had requested such a work time, and it seems likely that others would also wish to have such input. **Commissioner Sellers** suggested that July 10, the first day of meetings now scheduled following the hearings, might be designated for such public work sessions. **Commissioner Shurtliff** identified some dates on which he would not be available, as did **Commissioner Haagenson**, but it

was agreed by commission members that not all members could attend all meetings. They would have the record to review and could follow-up on any issues raised if they found a need to do so. In addition, more sites were discussed to be accomplished by having afternoon and evening meetings. **Commissioner Givens** noted that the current schedule provides basically a hearing in each of the geographic regions as they are identified for other purposes such as judicial and health and welfare district. **Commissioner Givens** moved, seconded by **Commissioner Haagenson**, that meetings be held June 13 in Idaho Falls and Pocatello, June 14 in Twin Falls, June 18 in Coeur d'Alene, June 19 in Lewiston, and June 27 in Nampa and Boise. The motion carried.

Co-chairman Commissioner Sellers brought to the commission a concern identified by some in the audience that there could be a precarious legal position in allowing access by some groups in a work session on July 10. **Commissioner Haagenson** added that it is difficult to identify which group or groups should be given additional time. **Commissioner Hepworth** suggested that it might not be good to limit the opportunity, but the commission should exercise the authority to limit the time. If a large number of groups ask for such a work session, the time will be very limited for each group. If fewer groups ask for a work session, the time can be more extended. Of course, all such sessions will be open to the public. **Commissioner Givens** agreed that the commission should do its best to hear all who wish to be heard. He was comfortable leaving it to the co-chairmen and staff to schedule the groups and time. After further discussion, **Commissioner Hepworth** moved, seconded by **Commissioner Stuart**, that there be no effort to publicize a work session schedule, and that if the commission determines that it needs additional time with an individual or group, it be scheduled by invitation. Motion carried.

Commissioner Givens suggested that, having set the public hearing schedule; the commission might now address a plan for the completion of their assignment. He moved that there be a plan completed by the commission no later than July 31, that it be distributed widely for written comment during the first two weeks in August, that the commission meet again on August 16 and 17 to review the public comment and reach a final conclusion and submit the approved plan for congressional and legislative districts to the Secretary of State by August 17. The motion was seconded by **Commissioner Hepworth** and carried.

Ms. Bennion was recognized to review the policies and procedures identified pursuant to the commission request that only policies, which were not already, addressed in the statutes or constitution should be adopted. **Ms. Bennion**, with reference to the draft document which was before the commission, listed, under "Redistricting Policies and Procedures" numbers 7 and 9; under "Meetings" numbers 5, 7 and 9; under "Public Records" numbers 2, 3 and 4; under "Public Input" numbers 1, 2, 3, 4, 5, 6 and 7; and under "Staff" number 3. **Commissioner Givens** moved, seconded by **Commissioner Stuart**, that, in addition to the requirements of section

72-1506, Idaho Code, the enumerated policies be adopted as the policies of the commission. Motion carried.

The commissioners reviewed the public hearing brochure and made some changes and minor edicts by unanimous consent.

Commissioner Shurtliff moved, seconded by **Commissioner Hepworth** that the commission adjourn. Motion carried.



Idaho Commission on Redistricting
Public Hearing
Tuesday June 5, 2001
Gold Room, State Capitol Building
Boise, Idaho

Co-chairman, Commissioner Sellers, called the public hearing before the Idaho Commission on Redistricting to order at 7:00 p.m. Other Commissioners present were **Commissioner Givens**, **Commissioner Haagenson**, **Commissioner Hepworth**, **Commissioner Shurtliff** and **Commissioner Stuart**. Staff present was **Ms. Bennion**, **Mr. Borden** and **Ms. Wilkins**.

Commissioner Sellers asked commission members to introduce themselves. She advised the audience that written copies of testimony would be desirable, and asked that speakers address issues with impact upon redistricting. She called upon **Ernesto Sanchez** to address the commission.

Mr. Sanchez, representing the Idaho Hispanic Caucus, described the caucus as the major Hispanic organization in Idaho. They have in the past advocated on behalf of many issues in a non-partisan manner. They work to advance the Hispanic community of Idaho. Redistricting, he said, has a profound impact upon the exercise of voting rights. People who feel that their vote will have no impact are unlikely to vote. The Hispanic population constitutes a significant "community of interest." They have many things in common including ethnicity, language, culture, employment patterns, housing, education, income and social services. **Mr. Sanchez** suggested that the Hispanic population is among those addressed in the *Gingles* decisions related to creation of influence districts. There are 101,690 Hispanics in Idaho and they should be represented in the Legislature. He acknowledged that there is a long road ahead for Hispanics, but stated that they are in Idaho to stay and will work to accomplish their goals. They are asking the commission to create a system, which empowers all citizens, and particularly addresses the needs of Hispanics. A House subdistrict within the larger Senate district would be one way to provide an influence district. Additionally, the Hispanics are working with the Native American population because they have many issues in common. **Mr. Sanchez** stated that the caucus is prepared to assist the commission. He requested, sometime in the future, that they be given an opportunity for a longer meeting to present specifics and point out the needs and opportunities in this redistricting.

Ms. Kathie Garrett, chairman of the Ada County Republican central committee, spoke next. She endorsed the concept of a citizen commission to do redistricting and urged the commission to follow closely the one person, one vote mandate. The deviation among districts should be kept to a minimum and odd shaped districts should be avoided. She also commented on suggestions that less than 35 districts might be created. She said that the growth in population will mean a dilution of representation and further reduction in the number of districts would compound this dilution. **Commissioner Givens** asked if the committee had taken a position on single member House districts? **Ms. Garrett** said there was no position, but it would be discussed. **Commissioner Shurtliff** asked if the committee had a position on the configuration of the congressional districts. **Ms. Garrett** admitted to some personal ambivalence concerning the congressional districts. It is beneficial to Ada County to have some influence in each district, while concentrating Ada County in only one district would make it very dominate. She wondered how the rest of the population of a district so dominated by Ada County would feel about their access to representation.

Mr. David Leroy, representing himself, spoke to the commission. He described his personal history as Attorney General during the 1980 redistricting and Lieutenant Governor presiding over the Senate. His observations from those experiences led him to strongly recommend that the commission use 35 as the appropriate number of districts. He suggested that this number optimizes the balance of several factors. He personally believes that creating subdistricts in the House would require a constitutional amendment. To decrease the number of districts would have the effect of diluting representative government and would mean a more limited base of representation. Also the number of 35 is traditional and has served well. It seems to him tied to the existing number of counties as well as reflecting well the communities of interest. **Commissioner Givens** asked if **Mr. Leroy** would favor 35 districts even if it meant that more counties would be split than in a plan with only 30 districts? **Mr. Leroy** said that he would. He also suggested that it would prolong the deliberations of the commission if they extend their consideration to the issues of size. An early decision to retain 35 districts would simplify the process. **Commissioner Givens** asked if **Mr. Leroy** thought it could be a Voting Rights Act violation not to create single member districts to facilitate Hispanic representation? **Mr. Leroy** responded that there is only one Attorney General, and the commission might be well advised to seek an opinion on this issue very early in the process. Secondly, they might request an advisory opinion on an expedited basis from the Supreme Court.

Mr. Chris Struble, representing himself, spoke next. He identifies himself as an Independent voter, and his request to the commission was to avoid creating districts, which are either heavily Democratic or heavily Republican. As an Independent he feels that such districts give him very little voice in the political process. He said that one indication of heavily partisan districts is an oddly shaped district. He recommended that the commission either avoid looking at the politics completely or else deliberately create as many equally divided districts as possible.

Ms. Mary Knodell, a member of DIVAS, a group of Democratic women, spoke

next. She urged that the commission be keenly aware of neighborhoods and make every attempt to maintain their integrity in the redistricting. She spoke particularly of District 19 and urged that it be retained.

Ms. Phyllis King, Democratic precinct captain for Precinct 62, spoke next. She urged the commission to be particularly cognizant of the one person, one vote principle. She recommended grouping like communities wherever possible. She also advocated efforts to achieve a better balance in the Legislature to represent more interests. **Commissioner Haagenson** asked **Ms. King** if it had been wrong to discriminate in favor of one group in the past, as it surely was, should the commission really discriminate in favor of another now? **Ms. King** responded that in the past the only group to benefit from redistricting had been the Republicans, and some redress was now essential. **Commissioner Stuart** asked if **Ms. King** had an opinion on splitting the central urban area. **Ms. King** said that she strongly believed all of Ada County, and even the entire Treasure Valley, should be in a single congressional district.

Mr. Raul Labrador, representing the Republican Party, spoke next. He shared several principles he believed should be addressed by redistricting. One is the importance of representative democracy. This would argue against reducing the number of districts. Another principle is achieving equality. A standard of plus or minus 5% is clearly mandated, but it should actually be much less, more in the range of plus or minus 3%. Communities of interest should be retained within a single district to the maximum extent. Well-defined political or geographic boundaries should be retained, and divided only as essential to protect county boundaries. **Commissioner Givens** asked if **Mr. Labrador** would place a greater priority on deviation or county boundaries. He responded that both are important, but deviation of plus or minus 3% is more important. **Commissioner Givens** asked if the party had a position on single member House districts. **Mr. Labrador** said that they had no position but recommended requesting an opinion from the Attorney General. **Commissioner Shurtliff** asked why the voters authorized a range of 30 to 35 districts if the commission was to feel bound to the existing 35 districts? **Mr. Labrador** stated his belief that 35 was simply a traditional number, and it had worked well.

Co-chairman Sellers asked if any other persons wished to address the Commission. There were no others, so **Ms. Sellers** stated that the members would be available for a short time for discussion, and the meeting adjourned at 8:05 p.m.



Idaho Commission on Redistricting
Public Hearing
Wednesday June 13, 2001
University Place Auditorium
Idaho Falls, ID

Shortly after 7:00 p.m. the meeting was called to order by Co-Chair, **Commissioner Stuart**. The other members present were Co-Chair **Commissioner Sellers**, **Commissioner Givens**, **Commissioner Hepworth**, and **Commissioner Haagenson**. Staff present was **Mr. Borden**. After a few opening comments public comment was taken.

The first called on to speak was **Donald Chick**. He said that he had mistakenly signed up to speak, but asked if the commission would be receiving written comment. **Commissioner Stuart** said that the public was welcome to submit their comments at their discretion.

Louis Kelly spoke next. He stated that he was not aware of the meeting in Twin Falls and that he would be attending that meeting as well. He mentioned that he wanted to make sure the emphasis was placed on fairness, that the numbers be equal wherever possible.

Holli Stone was recognized. She stated that she was very distressed that these meetings were being held before there was a legislative district map for the public to look at. She feels that this is backwards in its approach. She added that the commission should add a second round of statewide hearings to the calendar, after the work is complete. **Ms. Stone** also felt that the lack of publicity for the meetings was shameful. Next, she stated that she felt it was imperative to maintain the current 35 districts. She believes that it is presumptuous of the commission to feel that they may change the number. She said that the Idaho Code clearly states that this lies in the hands of the legislators. **Ms. Stone** felt that diminishing the number of districts would lessen the representation of ethnic diversity, make the work load great and the constituent services harder for the legislators, as well as making it too difficult to travel through the vast districts. She urged the commission to hold up to the nonpartisan ideal and to represent the people. She concluded by saying that the people of Idaho are watching and that the commission will be held accountable for its actions.

Senator Mel Richardson was the next to speak. He stated that he is in favor of the commission and respects the task that they are undertaking. **Senator Richardson** questioned whether there was a basic legislative plan for the public to review. **Commissioner Stuart** responded that there were no statewide plans for public review as of yet. He stated that the main goal of these public hearings was to gather input on different concepts. Things such as cities, the number of districts, and congressional district possibilities for the commission to use when it is drafting their plan. **Commissioner Sellers** interjected that the commission had agreed to have a plan ready by July 31st for the public to review. **Senator Richardson** continued by saying that he personally prefers that the state have 35 legislative districts. He believes that more legislators can better represent their constituents. He also stated that this is a very difficult process and people are very passionate about it. There will be no way to satisfy everyone. He also asked that the commissioners to seriously look at the plan that **Senator Frasure** had created. **Senator Richardson** concluded by stating that he did not like the congressional concept plan that connected the northern and eastern parts of the state.

Ms. Edith Stanger was the next to be recognized. She began by saying that it is reassuring to her that the commission is out gathering public input. She said that the demographics all over Idaho are changing quite rapidly and that in Eastern Idaho the rural interests are diluting the urban vote. She believes that it is hard for voters to understand a district that is in one of the most populous areas of the state, which stretches over four counties. **Ms. Stanger** stated that county lines could be artificial boundaries, that not all communities are bound within county lines. She ended by stating that Idaho Falls should be one district.

Mr. R.E. Cope, Lemhi County Commissioner, spoke next. He stated that he felt it was going to be difficult for the commission to divide a state, which has three distinct geographical areas, into two congressional districts. He stated that the congressional concept map that shows Northern Idaho joined with Ada County will become obsolete before the decade concludes; with the current growth patterns the Boise area would soon control both districts. He continued by saying that he was present to represent the forgotten people of Idaho, the Central Mountain residents. **Mr. Cope** stated adamantly that Blaine county is a world apart from Lemhi and Custer counties and should not be joined in a legislative district. He said that he encourages all public to utilize the computers provided at the local libraries. He said for the minimal amount of time required that anyone should be able to participate. He said that in a just a couple of hours, he and an associate had created a plan for his district by adding all of Butte County and 2 precincts from Madison County. He believes, that by not adding Blaine County, the central mountains will be able to retain their identity. He said if you must add, you should go east not south. **Commissioner Givens** spoke regarding the combination of the central Idaho counties and said that

affectively there is a firewall present. **Mr. Cope** stated that he wished there was.

Mr. Fred Hoopes began by thanking the commission for the opportunity to speak. He identified himself as an Idaho Falls Lawyer. He said that he had not had much time to prepare but felt that it would be a shame to not offer some observations from the past. Ten years ago, Idaho Falls was the second largest city in Idaho and was split between three legislative districts. Out of the nine legislators from those districts, only one lived within Idaho Falls. He stated that in regard to the question of how many districts there should be; he felt that the constitution gave a range because a range was needed. He said that the commission's first obligation should be to fairness and appropriate representation of communities of interest. He said that it he felt it was better to be fluid and to execute discretion when it comes to legislative districts. He continued by stating that Blaine County was a world away from the rest of Idaho and that somebody was going to have to take it. **Commissioner Givens** stated that there were a few cities like Idaho Falls in respect to the fact that they were too large for one district but not big enough for two. He presented the option on making one solid urban district and filling the rest with rural areas or of dividing the city into two parts and putting some rural areas with both portions. He asked how **Mr. Hoopes** felt about this. **Mr. Hoopes** replied that, no matter what the commission does, somebody, somewhere, would be unhappy. He concluded by stating that he believed it was more important, in today's political climate, to keep communities of interest together, rather than follow geography.

Mr. Al Unione was called upon to speak next. He stated that the current legislative districts do not allow cities to function as cities. He said that the 1 party government of the state was not allowing proper representation. He believes from witnessing the legislature of other states that if you do not break up the cities that you end up with a more consistent legislature. He believes that cities have very different problems than the rural areas of the state and the only way to address these problems is to keep cities whole.

Ms. Claire Ashton Heckathorne was the next to address the commissioners. She stated that her and her husband moved to Idaho Falls, after they retired, to enjoy the way of life that the town has to offer. She stated that she has spent a great deal of time walking the streets of District 30 and has a firm grasp on what people want. She believes that the rural areas and the cities have vastly different needs and concerns. She stated that there was a very positive side to reducing the number of districts in the state. The plan could save \$450,000.00 in compensation alone. This is an affective way of reducing government. She believes that a professional body of legislatures would serve the state well and reduce the growth in government. In conclusion she asked that urban areas be kept whole, because their voice has not been heard in the legislature.

The next person to speak was **Ms. Trish Oak**. She began by stating that Idaho Falls has not been properly represented. She also felt that the public access libraries were too far apart. She then reiterated many of the Idaho laws on redistricting, and asked the commission to not forget them in their task at hand. Regarding the number of districts, **Ms. Oak** felt that there was already not enough representation to accommodate the growth in Idaho. The legislators were already going to be representing 30% more people than they were 10 years ago. If the number of districts were reduced to 30 the legislators would be representing 59% more than they were 10 years ago. She stated that this state is very diverse and the legislature should be too. She also commented that the way to lessen government was not to reduce the number of legislators, rather it was to reduce the bureaucracy. She also said that professional legislators are not the way that this state should be run, citizens should run this state. **Commissioner Givens** asked whether subdistricts were an appropriate option. **Ms. Oak** stated that she felt that the people of Idaho want more legislators available to them not less.

Representative Jo An Wood was the next to comment. She urged the commission to not reduce the number of legislative districts. She stated that her district was 180 miles from side to side. She believes that if you expand the area of a legislator that you are just further inhibiting their ability to serve their constituents. **Representative Wood** feels that legislators can effectively represent both rural and urban interests. She stated that she believes Canyon County should be with congressional District 2. It shares an agricultural interest with the rest of the district. She does not want to see the legislative districts divided. **Representative Wood** said that she had been working on a legislative district map for her area and would be submitting it after a few finishing touches. **Commissioner Givens** questioned which areas would fit best with **Representative Wood's** district. She replied that Blaine County was not a plausible option, but Butte County would be good. She concluded by stating that Idaho Falls needs to be two, if not three, districts.

Mr. Joe Prohsch Lemhi County Commissioner was asked to address the commission next. He apologized to the commissioners for not having written testimony to present. He stated that he firmly believes that the state is better served with 35 legislative districts. He said that rural areas are not losing population by choice; it is being forced upon them. He stated that there is very little representation for Lemhi County due to the low population, but he said that there was no shortage of people telling Lemhi County what to do with their lands. He said that many issues such as grazing and other agricultural matters have been challenged. He also said that a combination of Custer, Lemhi, and Blaine Counties was an unequivocally bad idea. They were polar opposites when

it came to economy, way of life, and not to mention attitude. He asked that the commissioners let Lemhi County have the representation that it deserved.

Next to speak was **Mr. Tom Holm**. He began by saying that there is a lack of representation of the two party government in this state. He stated that agriculture, mining, and the timber industries are all being targeted by idiotic policies that are destroying the family farm. He believes that we need both parties present in the legislature to represent the people.

Mr. Kenneth R. Walton was invited to speak. He began by saying that he had a question he would like to pose. He stated that if you look at the bi-cameral intentions of the founding fathers with respect to equal legislation that you would see that we should have one senator per county. Then within that county you would divide according to population in order to divide the House of Representatives. He noted that we currently have some legislative districts that have 5 counties involved. If each county had an equal voice, then the population would not be diluted. He believes that this would make the election process much more simple. He stated that the citizens of Idaho should lobby to have the court reverse the current process and return the power to the counties. He concluded by stating that the legislators hold the power in this process and that they should look closely at the constitution.

Harry Guelzow, from Bonneville County was the last person to address the commission. He urged the commissioners to retain the integrity of the communities of interest throughout the state and follow county lines. He believes that Custer and Lemhi Counties belong together and that District 29 should be kept urban while District 30 is kept rural. He favored the congressional plan that keeps Ada County divided. He implored the commissioners to keep districts either rural or urban, do not mix them. He stated that the working class families of Idaho really do not have a voice. The way to protect them and offer them a voice is by creating urban districts. **Commissioner Stuart** asked **Mr. Guelzow** what his thoughts were on how Idaho Falls should be divided. **Mr Guelzow** replied that the districts should be logical and without political gerrymandering.

Commissioner Stuart adjourned the meeting.



Idaho Commission on Redistricting
Public Hearing
Wednesday June 13, 2001
Business Administration Room, Idaho State University
Pocatello, Idaho

The public hearing convened at 7:20 p.m. in the Business Administration building at Idaho State University. Co-chairman **Commissioner Sellers** conducted. Other commissioners present were **Commissioner Givens**, **Commissioner Haagenson**, **Commissioner Hepworth**, and **Commissioner Stuart**. Staff present was **Ms. Bennion** and **Mr. Borden**.

After brief introduction of the members and introductory remarks, the first person to testify was **Mr. Paul Gregerson**. He indicated that he was a life long resident of Pocatello and Bannock County. He regretted that there had not been more public notice of this hearing because it was very important that people participate in this process. He emphasized the need to represent the interests of all counties. As a life long democrat, he expressed frustration at the shifts, which have been made by current incumbents, to change the traditions of the Democratic Party. The cure for this is to involve the people. He said that he was somewhat cynical and hoped that this meeting was not a mere sham, while the decisions have already been made by politicians in back rooms. He urged that the redistricting truly serve the interests of the people.

The next speaker was **Sonya Rosario**. **Ms. Rosario** indicated that she is state director for Women of Color, but her appearance here is on behalf of the Hispanic Caucus. She described the caucus as active throughout the state. There are now Hispanics active in the economics and communities throughout Idaho. Their role in the state will continue to grow. In the past, the communities of Hispanics have been split among districts in such a way as to almost suggest intentional dilution of voting strength. The past plans were designed to protect incumbency not to represent communities of interest. **Ms. Rosario** offered input of the caucus and indicated that they were eager to assist to assure good results. She encouraged the commission to take necessary steps to assure that the community of Latinos in Idaho is not shut out of the political process.

Mr. Doug Nilson, a political science professor at ISU, urged that the highest concern of the commission must be communities of interest, and the most important of these should be cities. Cities have not fared well in the past redistricting. In fact, in 1990 the cities were parceled out to rural majorities. By this he meant that cities were chopped up, added to rural areas, and most cases the rural population was the majority of the district. Idaho has an increasingly

sophisticated urban population. Whole cities should constitute districts wherever that is possible. For example, Idaho Falls was split among three districts. This was not fair representation. Also, in the final plan, the commission should avoid the past tendency to place all of the urban districts above the ideal and all the rural districts below. This flies in the face of reality. It contributed to the disparities that develop over the decade. On the matter of the Congressional districts, he recommended that Ada County should be in one district. He also recommended that Fort Hall should be in one district and that there should be at least one district with a strong Hispanic presence. **Professor Nilson** also reported that he had promised his summer school class that he would share their recommendation that the number of districts be reduced to 30. He said that they had a unique justification. They urged that this would result in more incumbents running against each other, which would accomplish a kind of term limitation.

The next speaker was **Ms. Diane Bilyeu** who is also a life long resident of Bannock County. She described a harrowing experience attempting to use the computer at ISU to create her own redistricting plan. Her conclusion was that it wouldn't be easy for plain folks to be involved. It takes time and training. The instruction manual itself is a challenge. Still, **Ms. Bilyeu** commended the individuals who have agreed to be on the commission and their efforts to reach out to the public. She would direct her remarks to some generalities. She urged that Ada County be placed in one congressional district and logic dictated that it be placed in District One. Canyon should be in the Second district. With regard to legislative districts, the Bannock County population of 75,565 justified two districts with 1500 too many people. Caribou, Oneida, Franklin and Bear Lake in current district 32 are 7500 too small. Power County has a population of 7538. There seem to be some alternatives here that may be developed by the commission.

The next speaker was **Senator Moon Wheeler**. He expressed his opinion that the present scheme of dividing Ada County in the congressional districts is logical and this line should be adjusted to accomplish equality. The size of the county means that a candidate has access to campaign funds. The newspaper and television coverage also justified the split because any candidate is obligated to buy into that market whether the county is split or not. On the matter closest to his heart, Power County, he stated that Power County has NOTHING in common with Cassia County. The judicial and health districts, the regional organization that Power County participates in, every economic or political factor connects Power County to the east. For all practical purposes, the division between Power and Cassia might as well be the Grand Canyon. On another matter, he urged that the Fort Hall reservation should be in one district. There are parts of the reservation in 4 counties. It is a disenfranchisement of these people to split them among the counties and districts the way they have been in the past. **Commissioner Givens** asked **Senator Wheeler** if Power could be related to Bingham. **Senator Wheeler** responded that this was much better than Cassia. **Commissioner Givens** asked about the connections with the present District 32.

Senator Wheeler noted that there is in fact a mountain range, which divides them, but the economics and other connections are better than with Cassia. **Commissioner Givens** noted that **Senator Wheeler** was saying that there is a firewall between Power and Cassia. **Senator Wheeler** said if there isn't, there should be.

The next speaker was **Sallee Gasser**. She strongly urged that cities should not be divided and this applies to small communities as well as large ones. The small southern Bannock County communities should not be separated from the county. Their economic ties are to Pocatello. The same applies to Chubbuck, which also should not be separated from Bannock County. Precinct 57, which is the Fort Hall precinct, is one exception. The greatest connection of this precinct may be to Blackfoot and could justify recognition of this unique community of interest.

Ms. Kay Mirrian, President of the League of Women Voters, described the League as a diversified, non-partisan organization. She said that the League would urge individual members to send their comments. She said that the League was an early supporter of the commission concept and they will be looking to this commission to achieve the important goals of fairness and representation of citizens. She did add that it would be important to recognize the Fort Hall and Hispanic communities in Idaho.

Professor Ralph Maughan spoke next. He described the history of gerrymandering when one party exercised control over the redistricting process. He said that he looks to the commission to accomplish redistricting which does not favor incumbents and which protects commonalities within areas. He suggested that it would be more appropriate to divide counties than to divide cities. The cities of Idaho have traditionally been under represented. Yet, the wealth of the Idaho economy is really in the cities. He pointed to the closure of two mills by Boise Cascade, which got statewide coverage. Yet Zillion, Micron and other have experienced lay-off recently and have barely been covered. The future of Idaho is in the cities and the new economy. He did recommend that Fort Hall be held whole. As related to the congressional issues, it doesn't make sense to connect eastern and northern sections of the state. But it is important to keep Ada whole. Regarding multi-member house districts, **Professor Vaughn** favors dividing them.

Kitty Cans, Republican chairman of Bannock County, and an employee of Congressman Simpson, spoke next. She referred to the congressional alternatives, and agreed with previous speakers who believe that northern and eastern Idaho cannot be connected in any logical manner. She feels that it does

not matter whether Ada is whole or not. **Ms. Cans** expressed her appreciation of the comments concerning the nonpartisan nature of the commission. She said that she did not favor reducing the number of districts to 30 because it means that each elected official represents more people and it increases the cost of campaigning. As it is now, campaigns nearly exclude real citizens. She said that it is important to retain the citizen legislature. She noted that you have to split Bannock County; also District 32 is too small. The southern Bannock County communities are rural communities and are connected to Pocatello in exactly the same way that the other counties and communities in District 32 are connected. A draft plan presented in the local paper showed a connection around the east side of Bonneville County to connect with Bone and other northern Bonneville communities. It makes no sense at all. It only increases the sense that the four District 32 counties are the ugly stepsisters of the state. **Commissioner Givens** asked if **Ms. Kunz** could connect district 32 with Power County. She noted the mountain range, but added that it makes more sense than a connection to Bonneville.

Mr. Rhett Price was the next speaker to address the commission. Regarding the number of districts, 35 are better. It gives more representation and allows minorities to be better represented. He urged that the commission give attention to the equality of districts, avoiding splits of counties, and avoid odd shapes. This makes the job of the commission a tough one. Regarding District 32, going around Bonneville to Bone and Ucon makes no sense at all. He suggested taking the entire Marsh Valley school district, which adds about 6,556 people to District 32 (Part of the school district is already in District 32). He said that he wanted to state firmly that these people are Idahoans not Utahans and they do see the economic and political connection to Pocatello.

Maxine Edmo, a member of the Shoshone-Bannock Tribe said that she has a lot of concerns about the goals of redistricting. In the past, there can be no doubt that the rights of the Tribe have been violated. There has never been a member of the Tribe in the Legislature of the Congress. They are not represented in the government. Four counties have a part of the Reservation and splitting the reservation in this way dilutes the strength of the racial and ethnic minority groups. Districts should comply with federal standards so that the Reservation is not divided. **Ms. Edmo** shared family history of her grandfather having been marched from Boise to the reservation, and her other grandfather arrested in Wyoming for doing what he had always done, hunting big game. The failure to represent the interests of Native Americans continues.

The next speaker was **Valerie Hoybjerg**, Power County commissioner. She said that she had already expressed her concerns to **Senator Wheeler** and he advised that her to speak to the Commission. She said that Power County is located in the same health district and judicial district as Bannock County. The juvenile detention center, which serves Power County, serves Bannock County. There are school and sports connections. She said that even the radio station

doesn't reach across the plain from Burley. The first choice would be a district including Bannock County, second would be Bingham and third choice would be Oneida. A connection with Oneida would mean greater distances, but at least they have some commonality. She stated that the connection with Cassia County is no choice at all.

Senator Lin Whitworth was recognized next. He suggested that there had been a partisan aspect to many of the comments that had been made. There is a Republican interest in elimination of District 33 because it is the last democratic stronghold in the area. He said that the southern end of Bannock County is still Bannock County and he saw no reason that they should give Marsh Valley school district to Caribou County. The people in southern Bannock County work in Pocatello. **Senator Whitworth** said it would be very partisan to change the whole orientation of southern Bannock County.

Gerri Wellard from Lava Hot Springs was the next speaker. She said that going into District 32 would better represent southern Bannock County. Many of the folks in that part of the county don't feel well represented by legislators in northern Bannock. They are a rural area just like the remainder of District 32.

Mr. Lin Hintze, a Custer County commissioner, addressed the commission next. He has been a life long resident of the Custer and Lemhi areas. He can even remember when the counties each had a senator. He said that the economies of Custer and Lemhi are connected to Butte and Jefferson. The INEEL is a major work site for many residents. Putting Custer and Lemhi in a district with Blaine would be a lot like putting Ada County in a district with Disneyland. It is important for the commission to know that travel distance is sometimes less important than the common economics. The judicial district and health district are shared with the current district counties. It is important to represent all of the interests. People should remember that milk, meat and potatoes do not come from cities and that 2X4s do not really come from Home Depot. **Commissioner Givens** asked which counties **Mr. Hintz** would recommend a connection with. **Mr. Hintz** listed Madison, Butte and Jefferson.

Mr. Larry Ghan, the Bannock County Clerk, addressed the commission next. He admitted that he has a special interest in that he will be charged with administration of the district. If the citizens understand where they are to vote, and it makes sense, the election is easier to administer. He urged that the urban areas should not be carved up like a Thanksgiving turkey. The county should be kept whole, and cities should be kept whole, both large and small cities. There are six regional centers in the state. It is a mistake to do as some have suggested, carve up districts beginning from the borders. Instead the districts

should be created from the urban areas to the borders. There should be a significant effort to recognize and protect the ethnic and racial minorities. There are rural neighborhoods just as there are urban neighborhoods and they should be considered. Also it is important to recognize key geographic boundaries. Radiate the districts from the population's centers. It is less important how many districts there are than that they are built around the interest of the area. To start with the existing 35 districts and rebuild them merely perpetuated the existing misery. With regard specifically to Bannock County, there should be two districts in the county, with the exception of one northern precinct, which is on the reservation. **Mr. Ghan** also made a suggestion to the Commission that when the plan is ready for public comment, the clerks throughout the state could help to disseminate the plan.

Representative Kent Kunz addressed the commission next. He expressed appreciation for the work of the Commission. He suggested that redistricting is a little like squeezing a tube of toothpaste. One may get a perceived advantage from one district plan, which isn't true at all. His own election has proved that while District 34 is urban, a Republican can be elected. On the issue of subdividing legislative districts, he was against it. He urged the consolidation of school zones. They are very confusing to the electors. They know that they live in the district but they do not know what zone and they don't understand that there is an election for a trustee but they can't vote. All trustees should be district wide and all representatives should be district wide. He acknowledged that while there are high expectations that the commission will be bipartisan and fair, the commission would not be nonpartisan. So it will be up to the commission to draw lines that are fair despite the political influences.

Ms. Terry Anderson from Tyhee spoke next. She stated that she opposes reducing the number of districts. With the increases in population, it just doesn't make sense to reduce the number of districts. She feels that the farmer is the new and unrecognized minority interest. There should be a return to one senator per county. Next she said that Pocatello is on an economic bubble. The redistricting will have an impact on that as well. On the issue of congressional representation, she urged that Canyon County should be in the 2nd congressional district. There is still a rural interest in Canyon County, which should be maintained with the agricultural interests in Bannock County.

Representative Eulalie Langford was recognized and indicated that she was submitting written testimony.

Mr. Jim Guthrie, Bannock County Commissioner, spoke next. In addition to being a commissioner he is a small businessman. He said that the commission should look at growth patterns to create new districts. He realizes that the eastern portion of the state will be losing representation. He pointed out that District 32 is below the number needed and it is constrained by certain geographic factors. It would be possible to put school District 21 (Marsh Valley)

together and into District 32. This school district is connected to the school districts in District 32 including sports and other activities. The result would be continuation of a strong district 32.

Ms. Louise Dixey spoke next. She asked why there wasn't a hearing to be held on Fort Hall. She said that she is a student at ISU and has previously served on the school board on the Reservation. Fort Hall should be maintained as a unit. If necessary to ignore county lines, then that is how it must be. The new legislative districts must maintain the integrity of the Indian vote. **Ms. Dixey** reported that she has voted in four districts. Not only is that confusing, it isn't fair. It is a form of institutional racism to divide the reservation in this way. She said that Idaho has a reputation as a closed state. This redistricting process can help to change that perception by truly respecting the rights of the Native Americans at Fort Hall. **Commissioner Givens** asked which areas are best combined with the reservation precincts to form a district. **Ms. Dixey** suggested that the best would be Bingham County. She added that the Tribe would also submit additional written testimony for consideration by the Commission.

The public hearing was adjourned and following a brief recess, a meeting of the commission convened. **Commissioner Sellers** reported she had a call from the Attorney General concerning her request for an opinion concerning sub districting of the legislative districts. **Commissioner Stuart** said that he was aware of the request from **Commissioner Sellers**, but he thought the whole commission should discuss the process to be followed. He questioned whether the commission would wish to pursue individual opinions, or should the whole commission act upon such matters. Further he thought it important to address the question whether the Attorney General is the best counsel to consult or if it might be wise to seek private counsel.

Commissioner Haagenson said that the questions posed by **Commissioner Sellers'** letter need to be addressed. If the members can agree as a group on the questions to be asked, that would be a good approach. **Commissioner Givens** has started with some questions, and in addition to those posed by **Commissioner Sellers**, it might be that they could come up with a single comprehensive set of questions. **Commissioner Haagenson** indicated that he would be comfortable if **Commissioner Hepworth** and **Commissioner Givens** could consult and compose a single list. With regard to whom to ask, he said it is only appropriate to address questions to the Attorney General. He is the chief legal officer of the state, and he is the Commission's lawyer.

Commissioner Sellers asked if there was some reason why they might not want to ask the Attorney General. **Commissioner Givens** responded that if the Attorney General renders an opinion and the commission finds that it cannot follow that advice, the Attorney General might be in a position of having his own opinion used against him in court. His advice is public rather than confidential as the advice of one's lawyer usually is. **Commissioner Givens** felt that the

Commission should be aware of this potential and make a decision on the direction to be taken.

Commissioner Stuart asked **Commissioner Hepworth** if he felt that it might be that some provisions of the Voting Rights Act could supersede provisions of the Idaho Constitution. **Commissioner Hepworth** said that whether or not this was the case, the Attorney General should include it in his opinion. **Commissioner Hepworth** asked why the commission would want to go ahead with the potential of sub districts if they are precluded from using them. He said it is time to get the Attorney General to address the questions. He also stated that our business is state business, and the Attorney General should be the one to give us an opinion.

Commissioner Stuart stated that his goal is to eventually adopt a plan by a 6-0 vote and to have a plan that is bullet proof. He does expect that it will be challenged and he just wants to know if there is a down side to asking for an opinion from the Attorney General.

Commissioner Haagenon suggested that he would be comfortable with asking **Commissioner Givens** and **Commissioner Hepworth** to serve as a subcommittee to compose a letter to ask the Attorney General the questions of concern. Assuming that there is consensus among the members of the commission at the next meeting tomorrow night, including **Commissioner Shurtliff** who could not be present tonight, **Commissioner Haagenon** would concur that the commission go ahead. If there were not agreement, he would ask that the commission wait until all members could be present to consider it. That was agreed to by all members present. The meeting adjourned at 9:40 p.m.



Idaho Commission on Redistricting
Public Hearing
Thursday June 14, 2001
Room 276, Taylor Building, College of Southern Idaho
Twin Falls

The public hearing was called to order at 7:10 p.m. **Co-chairman Commissioner Stuart** presiding. Other members present were **Commissioner Givens, Commissioner Haagenson, Commissioner Hepworth** and **Commissioner Sellers**. Staff present was **Ms. Bennion** and **Mr. Borden**. After a brief introduction of the members and the presentation of the three concept congressional plans, the commission proceeded to the public hearing.

Ms. Gaetha Pace from Bellevue was the first person to address the commission. She stated that she was very much opposed to moving Blaine County to Custer and Lemhi County. Alturas County originally contained Blaine County within the other counties now composing the Magic Valley. The railroad connected Shoshone to Hailey in the first economic development in the area. Blaine has always looked to the south for its connections. When Perrine came to Hailey in 1883, he looked to the south and saw the potential of developing the water to serve the Magic Valley. Today the small businesses from Magic Valley work in Bellevue and the children from the Magic Valley work in Bellevue. The Twin Falls media is the prime source of news in Bellevue and the people shop in Twin Falls and Jerome. Very few people from Blaine county travel to Custer and Lemhi counties. **Ms. Pace** reported that the city council was meeting tonight, but **Mayor John Barton** would submit written testimony at a later date.

Mr. Jerry Nance, a Lincoln County commissioner, spoke next. He said that he has been on the commission for 14 ½ years and also serves on the Big Wood River Irrigation Company. He said that when redrawing the boundaries of District 21, it would not be a good idea to shift Blaine County to Custer and Lemhi counties. The historical connection is to the south. Alturas contained both Lincoln and Blaine. Shoshone was a stop off for the travelers to the mines in Blaine County. Blaine now provides many of the jobs for residents of the south. Much of the residential growth in Lincoln is due to the jobs in Blaine. The Judicial, Health and Welfare, and Fish and Game districts are all based on the Magic Valley. Lincoln, Gooding and Blaine Counties are in the process of creating a solid waste district, and working together to address the tmdl process for the Big and Little Wood Rivers. The counties share the watershed, which is the most basic of all connections. The only intent in a change from Blaine County would be political. **Commissioner Stuart** asked if **Mr. Nance** had an opinion on the congressional concept plans. **Mr. Nance** responded that his greatest concern is about the legislative districts. **Commissioner Givens** asked which counties do relate to Blaine County. **Mr.**

Nance responded that Lincoln, Camas, Gooding, even Elmore make more sense than a move to the north.

Mr. Al Lindley was recognized to speak next. He is president of the Economic Development Board for the city of Hailey. He also was present tonight to read a statement from the Blaine County Commissioners. They had a previously scheduled public hearing, therefore could not attend. The statement is attached to these minutes and available at the office of the Commission. He wanted to reiterate the fact that all of the connections of Blaine County are with the counties of the Magic Valley. On his own behalf, he added that there are some common sense boundaries, which follow communities of interest, and they should be respected. As far as the congressional matter, he suggested a minor revision of the existing districts. **Commissioner Shurtliff** said that he hasn't seen any such proposal as **Mr. Lindley** is addressing, which connects Blaine County with Custer and Lemhi Counties. **Mr. Lindley** said that it is a rumor in the area. Maybe the rumor mill operates faster than the Commission.

Mr. Gary Atkinson from Wendell addressed the congressional concept maps. He suggested that the current configuration is the most logical. If it ain't broke, don't fix it. On the questions of legislative districts, cities and counties should be kept whole. He too has heard about splintering District 21, and he could see no reason for it. It would not be good for the rural areas.

Ms. Carole Stennett spoke next. She is a resident of western Twin Falls County and would like to see the city of Twin Falls become one district. The rural part of the county should compose the second district in the county. She acknowledged that Murtaugh fits with Cassia County because of the large size of the farms. As far as the congressional districts, she said that she sort of like the one which created one district in the south west corner and left the rest of the state in the other district. **Commissioner Givens** asked if **Mrs. Stennett** could suggest other connections with Twin Falls and specifically if Elmore County was a good connection. She responded that Twin Falls was more connected with Gooding County, but Elmore County wasn't totally illogical.

Ms. Jima Rice from Ketchum was next to address the commission. She urged that District 21 be maintained essentially as it is. There is a clear community of interest in this district. Many people travel from Ketchum to Twin Falls, Lincoln and Gooding counties to shop and recreate. These counties have formed a neighborhood and feel possessive of it. There is a flow from lower Magic Valley into Blaine as well, where jobs are available. **Ms. Rice** acknowledged that Stanley is related in many ways to Blaine County, but when you go further into Custer County, there is no relationship. As it is, District 21 is compact, and the addition of Custer, Butte and Lemhi Counties would make distances too great. **Ms. Rice** expressed her opinion on the congressional districts, saying that she found it bazaar that Boise should be split between two districts. **Commissioner Shurtliff** asked if **Ms. Rice** had ever been in Grace or Hope? He wondered if she found that they have anything in common. **Ms. Rice** admitted she did not know where they were, and that it might not be a good match. Still splitting Boise

doesn't make much sense.

Mr. Gerry O'Toole from Blaine County expressed his ditto to all that the commission had heard already about the relationship of Blaine County to the Magic Valley.

Senator Clint Stennett, who represents District 21 in the Legislature, shared with the commission his experience in serving on the legislative committee, which tried to redistrict ten years ago. He said the commission has a tough job and he appreciated the work they will do. He spoke of the eight counties in the Magic Valley and the many ways in which they are connected. The state agencies are organized around the Magic Valley and as the commission has already heard, the transportation, health and welfare, fish and game all see the valley as a region. In addition, CSI serves the region and connects the region. **Senator Stennett** suggested that the goal should be to preserve communities of interest. Market helps define a community, so look to the daily newspaper, the television market, even the telephone book. There are many reasons the Magic Valley is a community. History has already been described. Economy is another. Many people commute to work within the Valley. Geography is an important reason with all of the area sharing the watershed of the Big and Little Wood River system. The Magic Reservoir ties the communities as a water and recreation resource. The soil conservation district is organized around the Magic Valley. **Senator Stennett** shared with the commission that a redistricting plan has been drafted and been widely circulated among incumbent legislators. It is an incumbent protection plan and it splinters District 21. That is the plan that has inspired this turnout from Blaine County. There is not one shred of evidence that Blaine County shares any community of interest with Custer and Lemhi Counties. Custer and Lemhi are in the Idaho Falls phone book. If it is in fact important to add population to District 21, the Stanley precinct has 308 people and that city does share some interests with Blaine. Also, part of Elmore County is already in District 21 and that could be expanded. **Senator Stennett** concluded by saying that the commission has an awesome responsibility and he wished them luck. **Commissioner Hepworth** asked if **Senator Stennett** had an opinion on the congressional maps. **Senator Stennett** felt that the north/south connection would be a tough district and a tough sell. It did accomplish the combination of the Hispanic communities in Canyon and Minidoka Counties. **Commissioner Shurtliff** asked if **Senator Stennett** had an opinion on the number of districts. **Senator Stennett** said that 35 was best. However, if some other number best meets the needs of the preservation of cities and counties, which is a reason the flexibility was included in the number. **Commissioner Sellers** added that the rumors of plans are a good thing, not a bad thing. Everyone should be working on plans throughout the state. The commission is welcoming plans and has provided library sites so that plans can be drawn. However, she pointed out that so far the commission has not drawn a plan. **Senator Stennett** agreed that if the plan hadn't been out there 90% of the people present wouldn't be here.

Lawrence Schoen was recognized next. He addressed his remarks to the commission guidelines and said that if these guidelines are followed, the communities of

interest will be kept together. This will mean that an elected representative can focus on the interest that helps define his or her district. The economic, cultural and social factors, which make up a community of interest, will be the character of the district. As to the number of districts, he felt that the range had been provided to give the commission enough flexibility to maintain communities of interest. Clearly Blaine belongs in the Magic Valley and the counties south. As far as the congressional districts, when you consider the distance from Hope to Grace, in fairness to all, probably he would go with the existing format.

Ms. Sally Donart spoke next. She too brought the Ketchum telephone book, and like **Senator Stennett**, she thinks that it represents the community of interest. In the Ketchum phone book, they do list Stanley and Fairfield, and many small businesses from Magic Valley and counties to the south advertise in the Ketchum phone book. She said that she would favor discreet areas for districts A and B within the senatorial district. Her husband was a senator in the days of representation by county, and she knew that the closer to the people, the better for the representation. **Commissioner Shurtliff** asked if she would favor splitting all of the districts, and Ms. Donart said yes. This would enhance the ability to represent minorities. As it is now, you have two representatives who have to run just like senators.

Ms. Ann Christensen from Blaine County added her agreement with the remarks that have been made.

Mr. Doug Christensen from Ketchum spoke next. He emphasized the economic interdependence between Blaine County and the Magic Valley. It is a relationship that has been forced over 130 years, and it is a major issue to consider. As far as congressional districts, he suggested that the best direction would be to put the concept maps into the media and get the public comment that way.

Mr. Tom Faulkner, Gooding County commissioner, spoke about the existing districting which splits Gooding County. It is made slightly more tolerable by the fact that they do have a commonality of interests with the counties to which they are joined. He said that they consider all of the senators and representatives from the Magic Valley to be their representatives and they feel free to call any of them. All are very responsive to anyone in the Valley. **Commissioner Givens** asked **Mr. Faulkner** how far into Elmore County there continued to be a community of interest with Gooding County. **Mr. Faulkner** responded that most of the county really has some relationship. Many people in Gooding travel to Elmore County for recreation or business. **Commissioner Shurtliff** asked if **Mr. Faulkner** felt they were better served by two sets of senators and representatives or by one. **Mr. Faulkner** responded that they felt fortunate that **Senator Sandy** actually lives in Gooding County, but that might not always be the case. Still, he said, people in Gooding County would prefer not to be split. They will undoubtedly continue to call on all members of the Magic Valley delegation. **Commissioner Shurtliff** asked if the logic of keeping the county together should apply to Ada county and the congressional districts. **Mr. Faulkner** said that it might, but it was a little different when Ada County was so large that even when divided, they exercise a major

influence in both districts.

Representative Tim Ridinger spoke briefly. He said that he was not real adamant on any Congressional arrangement. He personally prefers the 35-district plan because the smaller the numbers of people in the district, the better able a legislator is to provide representation. The people deserve access to their legislators. **Representative Ridinger** said that he has been a lifelong resident of Lincoln County, and was mayor of Shoshone. District 21 has had pretty much its current configuration for at least the last 20 years. Some of the common interests have changed. Whereas the area once was based on a shared agriculture base, where sheep were ranged through the entire Magic Valley, now there are other connections. The local governments work together on public land issues, taxation and growth. The mayors, administrators and city councils have even formed a cooperative group to address these issues. **Representative Ridinger** urged the commission to try to keep counties whole, especially the small ones. **Commissioner Shurtliff** asked if **Representative Ridinger** had a position on splitting House seats. **Representative Ridinger** expressed support for the existing system. Everyone has access to two representatives this way. **Commissioner Shurtliff** asked if **Representative Ridinger** had any sentiment on whether to allow deviation from the ideal to be used to reflect the potential for growth in an area. **Representative Ridinger** responded that the commission would have to use their best judgment in applying the flexibility that was available.

Mr. Kent Just from Twin Falls spoke next. He assured the commission that the Blaine County folks are serious about their interest and that is why they have turned out in the numbers they did for this hearing. **Mr. Just** said that he wasn't sure it mattered if the city of Twin Falls is kept whole in a single district. He said that all six of the current legislative delegations are excellent representatives of the city's interests and only two live in Twin Falls. One lives in Gooding, but there is still a good rapport with Twin Falls. **Mr. Just** suggested that Elmore and Owyhee could be included within the Magic Valley, but the further west you go, the less sense it makes. **Mr. Just** concluded that which he does believe that county boundaries are important, within the Magic Valley there is such a strong identity and commonality of interest, you could just about draw squares and the people would be similar and well represented. He suggested that in 10 years, a commission would be back and hear the people defending what they don't like now having grown used to it over the decade.

The meeting adjourned at 8:55 p.m.



Idaho Commission on Redistricting
Public Hearing
Monday June 18, 2001
Todd Hall, North Idaho College
Coeur d'Alene, Idaho

Co-chairman, **Commissioner Sellers** called the public hearing in Coeur d'Alene to order at 7:10 p.m. Commissioners present were **Commissioner Givens**, **Commissioner Haagenson**, **Commissioner Hepworth** and **Commissioner Stuart**. Staff present was **Ms. Bennion** and **Mr. Borden**. After brief opening remarks, the commission took testimony from those present.

Dolly Hartman from Benewah County was the first to address the commission. She described the community of interest defined by the St. Joe River. It begins in Shoshone County and ends in Benewah and some of Kootenai Counties. The river ties Shoshone and Benewah together. If it is necessary to add territory or population to these two counties to create a district, it should be from Kootenai, not from Clearwater. But the most important thing would be to create a district and leave it that way for long enough for the people to consider it their own.

Mary Lou Reed, a former state senator and resident of Coeur d'Alene, shared with the commission some of her experiences serving on the committee that completed the last redistricting. She said that she had great hope that the commission effort would be much more fairly completed. She addressed the issue of communities of interest. This is a very important issue and one that the commission should place at the top of their list. And among potential communities of interest, a very important one is cities. There is no reason to cut across any city except the four that are too large to be in a single district. Another important interest is the Coeur d'Alene Tribe. She also suggested that the commission be aware of the unfortunate consequences of the plan that was adopted in 1992. There was a concerted effort to place some districts above the desired deviation but the effort was based on politics and not on the potential growth patterns. As the questions of how many districts should be created, **Ms. Reed** said that this was less important than that the commission use the number that best fits with the population to provide the fairest representation. As far as sub-districts, she thought they might be justified where the geographic area is enormous as can happen in Idaho. The commission might consider a rule of thumb based upon some number of square miles. Then it would be consistently applied. **Ms. Reed** added that she felt it was an embarrassment to the state that there are no people of color represented in the Idaho Legislature. She thought it would be a wise thing if everyone in the state could contact at least one legislator without running up a big long distance phone bill. **Ms. Reed** urged the commission to be fair and be wise and adopt a plan that they could be proud

of in 2011.

Representative Mary Lou Shepherd spoke next. She thanked the commission members for their efforts. She said that much of north Idaho is very rural. The cities are growing and the rural areas are in decline. But the rural areas also deserve representation. Every citizen deserves equal voice. Do not carve the cities up, and keep the counties intact. She also identified the Tribes as important communities of interest, which should be preserved. **Representative Shepherd** urged the commission to refrain from protecting parties or incumbents to serve the future of the state for the next 10 years.

Freeman Duncan said that he too was a participant in the 1991 committee that redistricted the state. He participated in a task force formed three weeks ago in Kootenai County to redistrict the northern counties. He was particularly proud of the diverse membership of the task force and the fact the political incumbency was not part of the deliberation. He expressed appreciation to the Coeur d'Alene Chamber of Commerce and the work of Gordon Crow as a staff person. On behalf of the task force, **Tony Stewart** would present the criteria used.

Mr. Tony Stewart was recognized. He stated that he too wanted to emphasize that one of the criteria, which was not used, was political consideration. The criteria were essentially those that the commission itself has indicated it will follow. First the requirements of the U.S. Constitution. Second, the requirements of the Idaho Constitution. And finally the statutory requirements adopted into law by the Idaho Legislature. The task force used these criteria to create five northern districts. It is not always possible to absolutely maintain all of the criteria but he felt that the task force had remarkable success. The task force was sensitive to communities of interests, the northern Tribes, and the requirement that voters not be confused. He expressed appreciation for the excellent quality of the data available for the redistricting and the excellent program at the library.

Gordon Crow was recognized next and he presented the task force plan. A detailed description submitted by the task force is on file in the office of the commission. **Commissioner Givens** asked if the task force had addressed the question of the number of districts. **Mr. Duncan** responded that the task force had looked at different numbers from 30 to 35. It had been the conclusion of the task force that 33 was a number that would work well for the panhandle. However, other numbers worked as well. **Commissioner Haagenson** asked about the split of one precinct from Clearwater County into the district 5 in this plan. **Mr. Duncan** responded that this was done primarily because the precinct really connects better with District 5 than with Clearwater County. This wasn't an essential part of the plan, but it truly makes sense in terms of community of interest. **Commissioner Haagenson** added that this was excellent work by the task force and the deviation sets a high standard for the rest of the state.

Anna Wilson asked about the discussion concerning the number of districts. She read in the paper that the Attorney General was quoted, as saying that changing

from 35 districts was unequivocally a bad idea. Would the commission continue to consider a change in view of this opinion? **Mr. Duncan** responded that the Attorney General was capable of having a bad idea.

Mr. John Ferris of Benewah County added his agreement that the precinct in Clearwater County was more appropriately added to District 5. There is very little community of interest with the Elk River precinct and Clearwater County.

Senator Clyde Boatright addressed the commission next. He said that he has served in the Senate since 1994 and he most wanted to address the question of the number of members. There are 10 standing committees in the Senate and 14 in the House of Representatives. The state's business is expanding and you can't keep up with expanding business with fewer employees. The members of the legislature are the employees of the state and are running the business. On the question of dividing the districts for members of the House of Representatives, he really had no opinion except to express the concern that the people won't know what district they live in. Finally, **Senator Boatright** urged that if a city must be split, the commission should use a major geographical feature. It would be a service to the voters if they could know the boundaries.

Ms. Dawn Montgomery from Hayden Lake spoke only to agree with **Senator Boatright** that the number should be maintained at 35 districts.

Mr. Chuck Matheson representing the Coeur d'Alene Tribe said that he appreciated the time to address the commission and their efforts to hear from the people. His concerns have already been address by other speakers but he would reiterate the importance of maintaining the Coeur d'Alene Tribe as a unit.

Mr. Jon Furbee stated that he would submit written testimony.

Ms. Gloria Klotz, representing the League of Women Voters, commended the members of the commission for their work. The League had been among the first to promote the commission concept and they look forward to the good work of the commission.

Ms. JoAnn Harvey, a resident of the Coeur d'Alene area and a teacher in Dalton Gardens said that she had only one concern with the plan described by the Chamber of Commerce. Schools are an important community of interest. Dalton Gardens is in the Coeur d'Alene school district, but the plan does not include it in the appropriate district. If this can be addressed, it should.

Mr. Buell Hollister next spoke and commended the work of the Chamber of Commerce to the consideration of the commission.

Mr. John Ferris from Benewah County spoke next. He said that he was here to represent the rural districts. There are still a lot of people who live in rural areas. He

lives in district 7 now and it takes 5 hours to drive across the district. The new plan would result in reducing the time to 2 hours. **Mr. Ferris** said that Shoshone County is a unique county. It is really the only site with mining and it has a long and colorful history. He felt that Benewah and Shoshone could be a district, but as it is now, the relationship is on and off every 10 years. About the time the two counties build the connections necessary to make a district, the redistricting changes the combination. He urged that the district be created and then kept that way. **Commissioner Givens** asked about the earlier comment **Mr. Ferris** made about the one precinct in Clearwater County moved in the Chamber of Commerce plan to their District 5. Does **Mr. Ferris** favor this combination? **Mr. Ferris** said he favors the combination. It takes an act of God for people in the Elk River precinct to get to the Clearwater County seat.

Mr. Mike Kennedy spoke next. He said that he was very interested in the Chamber of Commerce and felt that it well represents the area. He was concerned that the high tech, high growth aspects of the Idaho economy are not well represented. There certainly are rural interests that deserve representation but economic interests can also be a community of interest. If issues from urban areas aren't addressed by the Legislature, neither the urban nor rural interests will be well addressed. As far as the membership of the legislature, **Mr. Kennedy** felt that the commission should go with the number that works best.

Ms. Susan Smith stated that she only wished to reiterate points already made, that communities of interest, particularly cities should not be split. She felt that the House districts should be split because the member would be better able to concentrate on the issues of one area.

Mr. Jerry Shriner, currently a resident of District 4, would be in District 5 in the Chamber plan. He said that he agreed that it is important to consider community of interest. He also felt that there is a rural sense in much of Idaho, even though many of these rural people work in urban areas. There is more to ones life than their employment. There is a rural sense of community, which also addresses the social fabric of the people.

Representative Don Pischner spoke briefly. He said that he had been asked by the Speaker to share his observations of the commission's hearings, and he would report that this was an excellent meeting. He said that he had purchased his own zip disc and worked on creating districts. He said that it was one thing to achieve precise mathematical balance, but it was another thing to actually address community of interest. He recognized the hard work of the commission. On the question of discreet areas for representatives, he felt that the people would lose representation this way. As it is now, each person can call upon two representatives, but discreet areas would reduce this to one.

Ms. Patricia Scott submitted written testimony, which is on file in the office of the commission.

At 8:45 the meeting adjourned.



Idaho Commission on Redistricting
Public Hearing
Tuesday June 19, 2001
Clearwater River Room, Williams Conference Center, Lewis-Clark State College
Lewiston, ID

Co-chairman **Commissioner Stuart** called the meeting of to order at 7:05 p.m. Other members present were **Commissioner Givens**, **Commissioner Haagenson**, **Commissioner Hepworth** and Co-chairman **Commissioner Sellers**. Staff present was **Ms. Bennion** and **Mr. Borden**. After a brief introduction, public testimony was taken.

Shirley Ringo of Moscow was the first person recognized. **Ms. Ringo** indicated that she was speaking on behalf of a Latah County citizens' committee. **Sue Hovey**, who served as chairman of the committee, was unable to be present. **Ms. Ringo** submitted a draft plan for the districts surrounding Moscow. She said that this was a conceptual plan and may need additional fine-tuning. The effort was to keep the communities of interest together. The resulting districts are compact. They maintain the Tribes in a single district and do not fragment minorities. **Ms. Ringo** said that, speaking for herself not the committee, she favored the combination of Ada County and the northern counties. She also said that she would favor sub districts only in the event of very large geographic districts. In response to a question for **Commissioner Haagenson**, **Ms. Ringo** said that the plan was based upon 35 districts.

Ms. Betsy Thomas of Harvard, in Latah County, spoke next. She has lived in Harvard and work in Moscow for the last 30 years. Harvard is now in District 7, grouped with St. Maries, Orofino and Pierce. As a result, she doesn't even vote in the district where she works, only a few miles from her home. The district was created for population purposes exclusively, with no attempt to create an alignment of interests. **Ms. Thomas** urged the commission to keep communities of interest in a district and a county is a community. Also, **Ms. Thomas** said that if Latah County needed more population, it should be along the Highway 95 corridor as presented in the Latah committee plan. **Ms. Thomas** said that she favored the Ada County north Idaho combination. **Commissioner Givens** asked if the people in Harrison, who in the Latah plan are connected to Clearwater County, have a community of interest with that county? **Ms. Thomas** responded she was not actually a member of the committee and not familiar with the details of the plan. She was really only speaking to the community of interest created by the highway corridor.

Ms. Kathleen Hardcastle of Moscow spoke next. She said that her interest was

in preserving the integrity of the county lines, particularly in Latah County. There are nearly 34,000 people in Latah County and she suggested that this might be enough to be a single district when allowing for the potential of growth in the area. If not, she too felt that the most closely related population would be along the highway corridor. Clearwater has little connection to Latah County. Benewah is more of a community. Clearwater and Nez Perce have a relation and a highway connects them, too. She also preferred the Ada/North Idaho congressional district. She said that she could see little to recommend concept plan #3. **Commissioner Givens** commented that he had identified one commonality between the people in Bannock County and the people in Kootenai and Latah and that was their opinion of concept #3. **Commissioner Givens** pointed out that the Coeur d'Alene Chamber of Commerce plan used Benewah, Shoshone and some of Latah in a district with part of southern Kootenai County. Could this work for Latah County as well if Moscow were kept whole? **Ms. Hardcastle** said that she urged the County be kept whole, with the city. She said that western Benewah County has a community of interest with Latah County. Eastern Benewah County looks toward Coeur d'Alene. Additionally, Shoshone is in that judicial district.

Ms. Annabel Osborn from Lewiston was recognized. She said that as a member of the League of Women Voters she and others had worked on behalf of the concept of a commission for over 30 years. They felt strongly that the redistricting plan should be drawn without regard to the matters of incumbency. She congratulated the commissioners on their dedication to public service.

Mr. Jim Wallis from Moscow spoke to the commission. He referred to an article in the paper, which linked Latah and Orofino. He said that he didn't know the numbers, but if Latah actually needs more population it is only logical that it be population from the north. There is a community of interest in the agricultural industry and a cultural exchange with the Tribe. Students from tribal lands attend the University of Idaho and there are many cultural ties. The agricultural climate is more similar than the forest interests of Clearwater. As far as Congressional districts, Mr. Wallis prefers concept #1, which combines Ada and north Idaho. Subdistricts for House members seem even more difficult for the commission.

Mr. Rich Levergood from Moscow spoke next. He stated that there were many ways in which there is a community of interest between Moscow and Benewah County. There is no economic exchange between Orofino and Latah. The Highway 95 corridor runs north and south and economic interest follows that same path. The Coeur d'Alene Tribe also belongs to the community of interest because of the many connections with the University of Idaho. As to the issue of subdistricts, the commission should exercise the authority they are given in the constitution to make this decision. **Commissioner Stuart** indicated that with regard to subdistricts, the commission is not entirely certain of the constitutional authority. They have sought an opinion from the Attorney General. There are aware, however, are some minority communities which may only have representation with subdistricts. **Mr. Levergood** asked if the commission might combine the concepts by creating some districts with subdistricts where they were warranted and others without. **Commissioner Haagenson** added that he personally felt little

likelihood that subdistricts would be created because of the confusion this would add for the voters. It did not seem a very likely idea but the question has been posed to the Attorney General.

Mr. John Ringo spoke next. He said that as individuals we are free to choose where we live. This is an important choice and when it is made it creates a community of interest. Each person should have access to representation but without commonality of interests they are not well represented. To connect Latah with population east in Clearwater County does not serve the interests of either group. There is a synergy between Latah and Benewah that does not exist with Clearwater County. **Mr. Ringo** suggested that if the commission were to extend the concept of subdivisions the guiding principle would have to be creating community of interest. He felt that this would be justified only in geographically large districts. It would make the job of locating quality candidates even more difficult. Regarding congressional districts, **Mr. Ringo** too favored the concept of #1.

Mr. John Tait of Lewiston expressed his appreciation to the commissioners for the time being dedicated to this task. He joins with **Ms. Osborn** in acknowledging the support of the League of Women Voters for the commission amendment. He said that he had been active in Democratic Party politics in Nez Perce for many years and was in favor of leaving Nez Perce as a single district. Trying to split subdistricts would be a nightmare. Trying to educate people about the issues was hard enough without the added challenge of explaining that they were only eligible to vote in half the district. Additionally, the campaign costs would not be reduced just because the territory was reduced. To cover the territory of the subdistrict you would have to pay for advertising in the same newspapers or other media as the entire district. Regarding the congressional districts, **Mr. Tait** supported concept #1. **Commissioner Stuart** indicated that **Mr. Tait** had made a case that there is not a fit between Nez Perce and Latah, but could he speak more to the connection between Nez Perce and Clearwater. **Mr. Tait** responded that Clearwater did have more of a connection. There is interaction along the river. They share a newspaper and radio station that reaches to Grangeville and Orofino. They also share the economic interest of the timber industry. People in Clearwater County shop in Nez Perce County and people in Nez Perce County recreate in Clearwater County. There is regular commerce back and forth. **Commissioner Haagenson** asked **Mr. Tait** about the congressional districts. He agreed that concept #3 was not going anywhere, but regarding concept #1; it puts Canyon County in District 2. It has not been that way in any time in recent history. That would be a big change for Canyon County as well as Ada County. **Mr. Tait** said that in many ways, Canyon County is a community unto itself. He said that finding the best fit for Canyon County might actually be with District 2. They might have the rural economy in common with eastern Idaho.

Ms. Connie Miller, a resident of Ahsahka in Clearwater County next addressed the commission. She said that Clearwater County does not have a good connection with Latah and Benewah Counties. She suggested that consideration of the highway connections, the drainages, or the economic factors all argue against the connections of

Clearwater County with Latah and Benewah. Newspaper circulation is a gage of community of interest and no newspaper circulated in the area now included in this district. **Commissioner Givens** asked if Clearwater connected more logically with Lewis and Idaho Counties to the south, how far to the south could this be carried to get enough population? Is there a line that separates the north from the south in Idaho County? **Ms. Miller** responded that certainly Riggins is connected. She suggested that the commission might look along the length of Highway 12 and see how much population could be added there. **Commissioner Givens** asked about links with McCall and Council. **Ms. Miller** said that these people seem to be more distinct in their orientation.

The next speaker was **Nathan Weeks** from Reubens. He said that existing District 7 just doesn't fit together well. Nez Perce should be a single district. **Mr. Weeks** said that he grew up in Idaho Falls and he could hardly find common interests with his own family.

Representative Twila Hornbeck next addressed the commission. She urged the commission to be most cognizant of the cities and counties as communities of interest. She said that the Coeur d'Alene plan seemed a good one for the 5 northern districts. As far as subdistricts were concerned, she did not support them. She has sometimes informally worked with the other representative in her district to subdivide the district. However, it never works because the people see no division. She estimates that she travels approximately 25,000 miles each year to represent the district. She has 8 weekly newspapers in her district and she doesn't even advertise in the Lewiston or Boise press. They are too expensive and are of less importance than the weeklies. **Commissioner Givens** asked if **Representative Hornbeck** thinks there is a community of interest in her existing district? **Representative Hornbeck** said that for the most part there was. Possibly with the exception of Gem County which is irrigated agriculture. The rest of the district is forest, cattle and mining. Lewis and Clearwater Counties would also fit well into this community of interest.

Mr. Marvin Hall, a resident of Lewiston and District 7, said that he sees no way that anyone could realistically represent this district. He urged that Clearwater County has much more in common with Lewiston.

At 8:15 p.m. the commission recessed briefly.

When the commission reconvened, **Commissioner Stuart** said that he was seeking the input of the members concerning the receipt and distribution of plans from the public. The plans could be filed and maintained only in the office, or each commissioner could receive them basically as they arrive in Boise. He asked what the commissioners would like. **Commissioner Sellers** suggested that the plans be transmitted to the staff of each secure room and evaluated. If they were something of interest, they should be further distributed. **Commissioner Hepworth** said that it was very important to him that every plan receives a review by all members of the commission. All members of the commission concurred with this point. **Mr. Borden**

described the data base program, which was already in place for plans received at the commission office. It will identify each plan, and then briefly describe it, and it will be available for review by the staff, commissioners, and the public. The members of the commission concurred that the each plan should be catalogued and made available to the commissioners. If they wished to have further analysis, the staff of the respective secure rooms would do it. The meeting adjourned at 8:45 p.m.



Idaho Commission on Redistricting
Public Hearing
Wednesday June 27, 2001
Gold Room, State Capitol Building
Boise, Idaho

Co-chairman **Commissioner Tom Stuart** called the public hearing of the Commission on Redistricting to order at 7:05 p.m. Other commissioners present were **Commissioner Givens, Commissioner Haagenson, Commissioner Hepworth, Commissioner Sellers** and **Commissioner Shurtliff**. Staff members present were **Ms. Bennion, Mr. Borden, and Ms. Wilkins**. After a brief introduction of commission members and issues addressed to date, the first individual was called forward.

Ms. Kathie Garrett, Ada County Republican Central Committee Chairman, said that she has seen herself and others who are attending these meeting referred to as political junkies in the Statesman. She said that she personally is involved because she loves her country, her state, and Ada County. She is involved in the process, and she thanked the commissioners for their willingness to be involved. She reported that since the last hearing in Boise, the Ada County Central Committee had met so that she can tonight speak for their positions. Among the positions taken by the Committee was that they favor plans with 35 districts with the smallest variance among district populations as possible. The minimization of deviation takes priority over keeping counties whole. She also stated that Ada County should have 8 districts, plus at least 5,000 in another district. On the matter of congressional lines, a straw poll of the Committee favored moving the existing line to the west. There was only one dissenting vote. Ada and Canyon Counties belong together. In matters of planning, zoning, transportation, media coverage, and so many other ways, the two counties are related. It is important to insure representation of urban and rural interests. That is the only way for Idaho to survive and maintain the quality of life that is supported by this duality. **Commissioner Shurtliff** asked, concerning deviation, does the growth warrant some deviation? Should Ada districts be purposely under the ideal so that growth can be accommodated? **Ms. Garrett** said that this is a valid concern. But the census and therefore the redistricting is a snap shot in time. The court will hold the commission to a very high standard on deviation. **Commissioner Givens** asked if **Ms. Garrett** could support plans which anticipate growth by leaving Ada districts three, five or even as much as seven percent low? **Ms. Garrett** said it is tempting but Ada County is already seen as the bully on the block. This would further that reputation. Certainly she would not recommend going so high as 7% deviation.

Mr. Tim Teater is a resident of Boise who has resided in Ada County since 1979. He said that both Ada and Boise must be kept whole in the congressional district. He was stunned in 1970 when the north end was split out of the county. This furthered the over representation of rural interest by splitting a major urban area. Above all he urged the commission to keep Ada and Boise in a single district in a fair and equitable way.

Ms. Barbara Roberts, Ada County Democratic Party Chairman, said that she hopes to submit a written plan, but in the mean time would like to address some issues in verbal testimony. She expressed her opinion that a vote should be worth as much in one district as for any other citizen in the state. But that is not the case now. She also said that the admonition in the constitution to avoid splitting counties should be applied as much to congressional as legislative districts. Splitting Ada County results in a dilution of influence. The opinion expressed by some that two districts are better than one isn't realistic and it results in a lot of confusion for voters. She wasn't anxious to separate Ada and Canyon and asked the commission to look for other alternatives than those presented tonight. In the last redistricting, urban areas were under represented from the outset and it only got worse. The opposite would be better. If part of Ada County must be broken off, it should be connected with a portion of Canyon County with a common interest. And finally, **Ms. Roberts** urged that while there would not be time for public hearings on a proposed plan, she hoped there would be enough time for comment. **Commissioner Shurtliff** posed a question concerning the constitutional mandate regarding county boundaries. Persons testifying often cite this. **Commissioner Shurtliff** wondered if these county boundaries, decided for many different and sometimes political reasons, were really so important. Is it more important to consider communities of interest or the artificiality of county boundaries? **Ms. Roberts** agreed this was an interesting question. She did not feel competent to discuss the constitutional issue, but did agree that some county boundaries appear to be quite arbitrary.

Mr. Arnold Hartingan spoke next. He has been a resident of Boise for 26 years and has watched as Boise has gone from a large small town to a mid-size city. He was speaking to voice the opinion that the Chamber of Commerce, as reported in the morning paper, was wrong to favor the continued split of Ada County in the congressional redistricting. Urban communities have a genuine interest to be represented, and both the urban and the rural will be best served by being separately represented. He has served as the state legislative chairman for retired federal employees, and he knows that being one-quarter of a largely rural district does not mean good representation for the part of Ada County so split off. He stated that he is very concerned that Ada County be kept whole in one congressional district.

Mr. Mark Arstein from Boise suggested that he would present a different perspective he hoped the commission might consider. He said that the redistricting would be reflective of the values held by the commission in creating the plan. If incumbent protection is a value, if partisan issues are the value, or whatever the value it will govern the plan. Squiggly lines will likely result from this sort of value. On the other hand, drawing lines which value geographic and economic communities of interest will make more sense. The values will show in the result. **Mr. Arstein** also urged the commission not be too bashful in recognizing the areas which will experience growth and use the math to calculate accordingly. Referring to the congressional district, he said that cities are best represented when they are kept whole. When cities aren't split and communities of interest aren't split, this will reflect the values of Idaho. Let communities of interest be the driving value in the process.

Mr. Ken Lenon said that he is a student in a class at Lewis-Clark and participating in a directed study to redistrict the state. He will be submitting his plan later, but he said that he has concluded that 35 districts is the best number, adding two districts to Ada County, one districts to Canyon County, and respecting communities of interest. He concluded that county lines were less important than communities of interest. In response to a question from **Commissioner Shurtliff** concerning why he used 35 districts, **Mr. Lenon** said that it fit the numbers best. Areas, which are losing population, became so large in a 30-district plan that people weren't well represented. He did not attempt to subdistrict and had no opinion on the advisability of doing so.

Mr. Jerry Carter, a resident of Boise for the past 22 years, spoke next. He said that as a citizen he felt it important that he speak up and ask that the commission serve the interests of the common citizen. Ada County should not be divided in the congressional districts. He said that he felt this was a benefit to special interests, but not to the citizens. He supported subdistricts, which might be needed to better represent some interests. In large geographic areas or where a specific community of interest would be better represented, subdistricts could be useful. He agreed that some counties would have to be split and that was all right. The important issue is that the commission does what is right for the citizens of Idaho.

Ms. Andrea Leeds is a member of the National Association of Social Workers and said that she was speaking primarily to ask the commission to recognize the diverse communities of interest in Idaho. The state of Idaho is enriched by its diversity and diversity should be encouraged by good representation. She said that there is some community of interest in a congressional district in southern Idaho including Canyon County because of the economic, religious, ethnic and other similarities. The concept of community of interest is essential to give each citizen the feeling that he is represented. She favored subdistricts because each district would be smaller and represent more

communities within each district. A good redistricting plan will encourage minorities and all citizens to be involved because they will feel that their voices are heard.

The next speaker recognized was **Mr. Larry Eastland**. He said that he is a resident of District 14, and currently serving as Region IV chairman of the Idaho Republican Party. Many of the issues of interest to him have been covered, but he wanted to speak on the question of the congressional district. He favors continuation of the existing district scheme. It is essential that the Idaho congressional delegation work together. In reality, Idaho doesn't matter very much in Washington. He expressed a concern that the commission not take any steps that would divide the state rather than bring it together. He also said that cost is an important question. A wonderful thing about imagination is that you don't have to budget it. That applies to a candidate running from Coeur d'Alene to Ashton. The costs would almost guarantee incumbency. With Ada County divided, there an equal chance at adequate funding to mount a challenge to an incumbent. He said that more than 80% of all political money raised in this state is raised in Ada County. He wondered why the commission would want to consider 30 districts as opposed to 35. Idahoans want politics at the lowest level possible so they have a chance to be part of it. The cost of democracy is on the participants to be sure that they have a chance to be heard. **Commissioner Givens** articulated his opinion that the commission should not, and he personally would not; consider the cost or the difficulty of raising money for politicians as a reason for a redistricting decision. He asserted that lines should be drawn for the people not for the politicians. **Mr. Eastland** concurred, and said that he was speaking of the costs of campaigning, which can keep candidates out of the race. The spiraling costs for campaigns means that some candidates are not heard. He hoped that it would always be possible for every citizen to participate in the process.

Mr. Richard Jackson, chairman of the Boise Metro Chamber of Commerce committee on redistricting, spoke next. He indicated that the committee is a very diverse group. He suggested that the Ada County legislative districts should be as low in population as the constitution will allow because they are growing rapidly. This is true in some other growing areas as well. The committee is continuing to meet and will continue to contribute when they can. The Chamber of Commerce has expressed the position that Ada County should participate in both congressional districts. Any plan to keep Ada County whole leaves a very large district in order to make the population equal. **Mr. Jackson** also is a resident of Gem County, and as an individual speaking for himself; he urged the commission to keep Gem County whole. He lives in one of the three precincts carved out of Gem County and he doesn't feel well represented. Wearing his third hat, that as chairman of the Legislative Compensation Committee, he said that he opposed 30 districts. He said that the compensation committee has heard from legislators representing the huge geographic areas required in Idaho to make a

district, and their expenses of travel to meet the needs of the constituents is enormous. A larger district makes it harder and more expensive to meet the even greater needs. **Commissioner Givens**, referring to the compensation commission hat, asked if **Mr. Jackson** would favor some subdistricts in the larger areas. **Mr. Jackson** noted that the flatorial scheme had utilized something like subdistricts with voters having more than one person to vote for based on their location. It was confusing and he opposed subdistricts. **Commissioner Shurtliff** asked if **Mr. Jackson** had an opinion on the appropriate number of districts. Would a smaller legislature reduce costs? **Mr. Jackson** said that the legislature tends to operate within the existing budget and reducing size would probably not save money. **Mr. Jackson** responded to a question from **Commissioner Shurtliff** concerning why the constitution allowed the range between 30 and 35 that he did not know why that was done. **Commissioner Haagenson** said that as the author of the amendment in question, he had intended to give flexibility to achieve numerical equality but within a narrow band of overall size. Other amendments, which were considered at the same time, had other provisions and this was the one approved.

Mr. Brian Dale addressed his remarks to the question of the congressional districts. As a resident of east Boise, and a newcomer to Idaho, he felt gerrymandered out of his voice in Congress. He said that he could not more strongly disagree with his friends who say that the line should just be moved to the west. Splitting Ada County is not OK! Any alternative plan would be better.

Ms. Elinor Chehey representing the League of Women voters spoke next. **Ms. Chehey** described the history of support by the League for the commission process. She said that the League has no position or plan, but they look forward to an excellent product from the commission work. **Commissioner Shurtliff** asked if **Ms. Chehey** had any opinion on using the deviation to attempt to compensate for growth, which will occur. **Ms. Chehey** responded that deviation has been used in the past in exactly the opposite way. Ten years ago, urban districts were packed to the maximum while rural districts were at the bare minimum. She acknowledged that, speaking only for herself; she could see some merit in the appropriate use of the very small deviation allowed.

The next speaker recognized was **Representative Steve Smylie**. He commended the commissioners for their commitment and said he personally felt it wise that this assignment was in the hands of a commission. He spoke favorably of the current system of one senator and two representatives from each district. Having two representatives is an advantage because they have the opportunity to develop different fields of expertise. They can share the questions from constituents and better cover all of the areas of concern to the Legislature. While a multi-county district might warrant subdistricting, in a single county district it would only create confusion for the voters. Of

the 15 precincts in his district, six are already split by the Boise/Meridian school district boundary. The electors need fewer boundaries, not more. He listed six recommendations for the commission: 1) maintain current boundaries to the maximum extent possible. People identify with their legislative district; 2) leave the number at 35; 3) do not subdivide districts; 4) split Ada county for the congressional districts. The size of Ada County in one district would be overwhelming to the smaller counties included with it; 5) do not be overly creative in attempt to represent minorities. Assume that all Idahoans will work together; and 6) do not draw lines to defeat current officeholders. Be fair and do not attempt to do things that are better left to the voters or to elected policy makers.

Professor Jasper LaCalzi from Caldwell spoke next. He will submit written testimony but also wished to make some brief observations. Subdistricts can improve representation of small communities within a district. Subdistricts would further the sense of bicameral representation. It has been said that subdistricts are a means of helping represent Hispanics, but it actually will further the interests of many other small communities of interests, particularly rural areas that are included in a larger district. Citing the enabling legislation, he recommended that the commission follow the criteria there. Preserve neighborhoods and communities of interests by not cracking or splitting them. Do not submerge communities within larger groups by stacking them so that they lose their identity. This almost mandates that the House districts be split to represent communities to the maximum extent possible.

Representative Bill Sali was the next speaker. He reported that he has served eleven years in the House of Representatives. He was present for the last redistricting done by the Legislature. As an individual, each member of the commission has a partisan identity, but the commission should try to avoid being driven by partisanship. This is critical, he said, because the citizen legislature hangs in the balance. Among the issues, he cited the size of the legislature. The commission should retain 35 districts. There is too much work to be done in a legislative session to be done by any fewer members. As the workload increases, more and more citizens will find it impossible to serve. When he began he represented about 30,000 people and the district is now 38,000. The 8,000 difference has made a difference in the number of calls and the workload he faces. Concerning the opportunity to reduce costs by reducing the size, he said the people of Idaho are already getting a bargain. If the districts get too large, the pay will have to be increased. **Representative Sali** cautioned the commission against trying to anticipate the growth areas. He cited Kuna, and said that in 1990 no one would have projected the growth that has occurred there. He urged the commission not to consider subdistricts. It is sure to draw a legal challenge and it would be a bad idea. It is an additional confusion for voters. Having two representatives gives constituents balance in the areas of expertise and opportunity to be heard by one more elected

official. **Representative Sali** also advised against extreme measures to create minority districts. Minorities will not be elected because of their race or ethnicity, but because they have a good message. He cited **Jesse Berain** who was elected in a district with no special ethnic majority. He was elected not because of the color of his skin but because of the power of his message. All representatives do their best to represent all the people.

The next speaker to address the commission was **Agnes Burkholder** a member of Church Women United. She described CWU as a national ecumenical movement of main line religions. The CWU strongly supports the Hispanic Caucus in recommending that their communities not be split. Also, they support subdistricts where they will improve representation. Diversity in the state and in the legislature enriches everyone. It is important that the diverse citizenry feel well represented. The commission has been charged with a heavy load, but **Ms. Burkholder** expressed her confidence in their ability to achieve their goal.

Mr. Christopher Rich, chief deputy to David Navarro the Ada County Clerk, asked the commission to do their best to reduce the number of boundaries involved. He said that in the next general election, Ada County could realistically expect to produce 20,000 absentee ballots. With a 12-page ballot, it is increasingly difficult to produce an accurate ballot with the number of overlapping geographic boundaries, which now exist.

Following a brief recess, **Ms. Susan Grey** spoke. She said that her interest was very small compared to some others, but to her and her neighbors, it is a very important issue. Table Rock Road was used as a boundary line in 1990 with the result that neighbors on the north side of the road are in district #13. They want to be returned to their neighborhood. She presented petitions signed by the neighbors including 48 individuals representing 25 of the 39 houses on the street. The commission has a real opportunity to correct a wrong and she would urge them to do so. One of her neighbors expressed the sentiment that she gets very angry every time she votes. That shouldn't be how a voter is made to feel. **Ms. Grey** applauded the citizen effort involved in the commission's work. She asked that Ada County be kept whole in a congressional district. It only follows that if she and her neighbors feel disenfranchised because they are separated from their neighbors, being split away from the county also disenfranchises part of Ada County.

Ms. Lauren McLean expressed her opinion that redistricting is a unique opportunity to insure that all the citizens feel included and respected. This would be an important step in renewing the sense of citizenship so important to our democracy. Recognize the sense of community, of unique cultures, of communities of interest, and of minorities. Each person has a sense of place that should connect him or her to the

city and county culture around them. **Ms. McLean** was optimistic that the commission would continue to cooperate to assure the best representation to all people and their unique history.

Mr. Brad Hoaglund, as resident of Meridian since 1970, described a challenge he gave himself in junior high school to ride on every street in Meridian. He was successful, but today he wouldn't think of letting his children undertake such an activity. He said that he opposes the reduction in size of the Legislature. The continued growth will increase the size of each district enough without reducing the size. **Mr. Hoaglund** described some unique problems in representing communities of interest in a large area like District #14. Many precincts are so large in Meridian that even they involve more than a single community. School attendance lines divide precincts. Concerning the excess population of Ada County, which must be moved to another district, he recommended attachment to Canyon County. Emmett is over the hill and less desirable. He counseled against subdistricts. He described this as a micro management technique, which would prove very difficult. Regarding the congressional districts, **Mr. Hoaglund** commended the existing split of Ada County. He described working in Washington, D.C. and how **Representatives LaRocco** and **Crapo**, while they disagreed on many things, worked closely to be aware of Ada County interests and represent them with a united front.

Ms. Marty Durand, legislative counsel for the ACLU, presented information on the application of the voting rights act. She left copies of two documents; one a booklet prepared by the national organization on issues of vote dilution, and the second a brief on the question of whether districts may be subdivided. Her conclusion is that it is unclear whether the divisions are constitutional. The language is unclear in referring to legislative districts, senate districts and representative districts almost synonymously. Because the language is unclear, and because the subdistricts would improve representation, the ACLU believes that they should be used if they improve representative of communities.

Mr. Sam Greer, a resident of District #17, described that district as land locked. It is a microcosm of what went wrong last time. It resembles a triangle that had an accident. Once it was composed of a neighborhood. Then precincts were added that had no commonality. There are precincts that could be added and maintain a community, but for purposes of incumbent protection they were not added. Also District #17 is split between the congressional districts. That too means that they don't have any sense of belonging to the district. Subdistricts, in **Mr. Greer's** opinion, are not a good idea. The boundaries are already confusing and subdistricts would only make it more so. **Commissioner Givens**, whose parents reside in District #17, said that he was slightly familiar with the district, and had been led to believe that the interstate and

connector actually do form good, well-defined boundaries. What does **Mr. Greer** find missing in these boundaries? **Mr. Greer** said that more important than the roads, is what the people do on the ground. Consider the neighborhood associations rather than major roads.

Mr. Alan Hausrath, a resident of Boise for 25 years, was the next speaker. He said that speaking for himself, he thinks Ada County should be in one congressional district. The current congressional line split his neighborhood, legislative district, city and county. Legislative districts should conform to the natural structure of city neighborhoods. The river is such a natural boundary. Neighborhood associations also help define neighborhoods. **Commissioner Shurtliff** asked **Mr. Hausrath** what about the most eastern part of Ada County north of the river, but not in the city limits. **Mr. Hausrath** said that the populated areas will soon be annexed, and the unpopulated areas really won't matter. **Commissioner Shurtliff** inquired further about Garden City, which is on both sides of the river. **Mr. Hausrath** responded that he was really only speaking from the perspective of his immediate neighborhood and had not studied the area further to the west.

Ms. Janet Miller, a resident of District #17, spoke next. **Ms. Miller** said that the boundaries of District #17 have remained largely unchanged since she moved there in 1966. There have been some precincts come and go, but there is a sense of neighborhood in that district. She said that existing legislative districts should form the core of the new districts being created. People have an identity with their legislative district. She also spoke against subdistricts. An entire delegation works well to give constituents diversity in the legislature.

Ms. Lee Flinn representing the Idaho Women's Network was the next speaker. She described the Network as families and women involved as citizens in the political process. Redistricting is an important aspect of the political process because it helps to define participation. She made four recommendations to the commission: 1) communities of interest should be respected. Hispanics were divided in the past and this should be avoided this time. 2) Cities should be kept intact to create a balanced urban/rural representation; 3) subdivision of districts would provide greater representation particularly in the very large districts; and 4) make every vote count. Focus on creating districts that make people know they are represented rather than districts that give the perception they were created to protect incumbents. **Ms. Flinn** said that there is much work to be done in Idaho to address the composition of the present Legislature. The current homogenous Legislature is not a real reflection of the diversity of the state. The commission should engage in solution that result in fair representation.

Ms. Sharon Ullman, Ada County Commissioner, asked the commission to retain 35 legislative districts. She said that reducing the number would mean larger constituencies. There should be eight districts in Ada County, and the fraction remaining should be joined with Canyon County. Ada and Canyon counties work closely together and share many interests. **Ms. Ullman** confirmed that Ada County is growing rapidly and to create only eight districts would overload the districts and under represent the people. **Commissioner Givens** recounted testimony given some years ago in the case involving the flatorial districts by then **Senator Dean Summers** that for every legislator added, the length of the session is extended by a day. **Ms. Ullman** conceded that there is probably no perfect number, but she wasn't sure about the correlation to length of session. Her position was based upon the number of people who would be included in a district if the size were decreased.

The next person recognized was **Sue Reents** who served as Senator from District #19 from 1989 to 1996. In her opinion, the Legislature is better served with 35 members than a reduced number. She served when there were 42 members, and it didn't seem to her that length or size of the legislature necessarily related to the quality of the work. She believed that subdistricts would make some sense in areas with large geographic territory or in parts of the state where small communities could be better represented. When it is suggested that subdistricts might result in gerrymandering, she said that she can only refer to Canyon County today, that is gerrymandering. Regarding deviation, she said that might be referred to as the fudge factor. It can, and probably should be used to work for the future of good representation. Speaking to the issue of congressional district boundaries, she said that it made some sense to put Canyon County into the Second District because of the rural community of interest. She suggested that if Ada County must be divided, at least the city of Boise should be kept whole. People in the Second District don't feel represented. She referred to a favorite quotation, which is often misquoted, that politics is the art of making possible, that which is desirable. She wished the commission well in making it possible for the Legislature to truly represent the people of Idaho.

Ms. Kay Hummel spoke from the perspective of a lifelong resident of Idaho. She agreed with others who have urged that neighborhoods be combined. In District #17, Warm Springs Mesa should be added and the BSU and bench precincts should be taken out. They fracture neighborhoods rather than preserve them. Each community should be considered for the character of that neighborhood and combined with like neighborhoods. Harris Ranch may be connected to the area across the river because of the new bridge to be constructed there, but this should be individually addressed. On the issue of the congressional district line, **Ms. Hummel** said that splitting the city between two districts is very confusing to voters. **Commissioner Givens** asked if **Ms.**

Hummel would consider using a library machine and providing the commission with the benefit of her knowledge of Boise neighborhoods. **Ms. Hummel** responded that she intended to try the machines and she expressed her appreciation for this effort to give the public the opportunity to participate.

The final speaker to address the commission was **Mr. Stan Swanson**. **Mr. Swanson** said that the growth in Eagle has placed a real strain on the area. He is convinced that when all the land is used up, they will start to build high-rise. He asked the commission to keep the geographic size of districts as small as possible. He believes that 35 members work well and that reducing the size will only make districts bigger. He favors keeping representatives running at large. He has found that is one doesn't listen, the other might.

The next meeting of the Commission is scheduled for 9:00 a.m. on July 10, and continuing on July 11, 2001, in the Gold Room of the State Capitol Building. There being no further business the meeting adjourned at 10:20 p.m.



Idaho Commission on Redistricting
Public Hearing
Wednesday June 27, 2001
North Banquet Room, Nampa Civic Center
Nampa, Idaho

Co-chairman, **Commissioner Sellers** called the Nampa public hearing of the Commission on Redistricting to order at 2:10 p.m. Other commissioners present were **Commissioner Givens**, **Commissioner Haagenson**, **Commissioner Hepworth** and **Commissioner Stuart**. Staff present was **Ms. Bennion** and **Ms. Wilkins**. After brief introductory remarks by the commissioners, public testimony was taken.

First to be recognized was **Ms. Helen McKinney**, a resident of Canyon County. She recounted some of her history as a representative first elected from a single county prior to the 1965 one man, one-vote decisions. She had also served in a district created from Lemhi, Custer, Jefferson and Clark Counties, and was in a sub-district of the larger district. It is difficult to adequately serve such a large area and people you don't know. She has lived in both congressional districts, and believes that the current configuration works best for all concerned. Relating to Canyon County, she indicated that the best combination for the overage in Canyon would be to go west into Owyhee County. This is a traditional and historical connection and is a valid community of interest. **Ms. McKinney** said that she would submit written testimony later on the subject of subdividing House districts into discreet single member districts.

Mr. John Foard spoke next. **Mr. Foard** is the chairman of the Board of County Commissioners of Boise County. He currently resides in District 8. He said that there is a tendency toward a more urban base in much of Idaho, and he is anxious to retain the rural integrity that remains. Teaming Boise County with Gem and Valley Counties is logical. They have many land interests in common. He shared the distinction enjoyed by Boise County that it is the only county in Idaho without a stoplight, and he said he feels that means the county is still rural. **Commissioner Givens** asked **Mr. Foard** if he felt a tie with Ada County for part of a district. **Mr. Foard** responded that would be feasible if Boise County was not divided. He suggested retaking the census this weekend while the Rainbow Family is in the county. On a serious point, **Mr. Foard** did say that the growth in Boise County is due to growth in Ada County. **Commissioner Givens** asked if the residents of Boise County felt well represented in the current District 8. **Mr. Foard** responded that the current office holders do make a concerted effort to attend events and make meetings in the County. **Mr. Foard** said that there is a strong community of interest with Valley County. In fact, all of the current counties in

the district, including Adams County, share many natural resource issues. The current district, with a core of Gem, Valley and Boise Counties share a common interest.

Mr. Chris Salove, who is a county commissioner in Owyhee County, said that his county has nearly 5 million acres and only around 12,000 people. The population is divided into two distinct areas, and the rest of the county is largely public grazing land. In the current districting, the population base is in Mountain Home and it controls the district. Much of the Owyhee population is close to Canyon County such as the rural communities of Marsing and Homedale. But the rest of the county is more closely tied to Twin Falls or Elmore County. As far as connecting part of Owyhee County to Kuna in Ada County, he would oppose that. There is no community of interest. Speaking to the question of the Congressional Districts, he felt comfortable in a district without Ada County. **Commissioner Givens** asked if it might be advisable to divide Owyhee County, connecting part to Canyon County and part to Elmore County, or should the county be kept intact. **Mr. Salove** said that his personal opinion was that dividing wouldn't be a bad thing. He was aware and shared with the commission the opinion of **Representative Francis Field** who is adamant that the county should not be divided.

The next speaker was **Mr. Hal Tolmie**, a County Commissioners in Owyhee County. He said that the important message he wished to deliver was that Owyhee County should be kept whole and should be connected to Canyon County.

Mr. Larry Trimble from Nampa spoke next. He shared his experience as a veteran, and said that he did not fight and risk his life to now see ethnic groups separated from the rest of the community and given special representation. His own family history includes his grandmother who came to America from Germany. She spoke German, but she insisted that the family was American now and they would speak English. Representation should be the same for all Americans.

Mr. Harry Granger, Gem County resident, was recognized. He urged that Gem County be kept whole. At present, three Emmett precincts have been split off into another district. They really have no voice. The growth of Gem County warrants that they remain inviolate. They might be aligned with part of Canyon County or areas in Payette County. But the county should not be divided. On the subject of number of districts, he urged that 35 districts be retained. He pointed out that a smaller number of districts mean more people in a district, and that means more people trying to get to the individual members. Thirty-five districts works well. **Commissioner Givens** asked about alignment with Boise and Valley County. **Mr. Granger** responded that if Gem is taken out of existing District 8, the remainder has the number of people for a district. **Commissioner Givens** inquired further, saying that he wasn't referring to existing districts, but future districts. In response, **Mr. Granger** said that Boise and Valley do have commonality of interest, better than with Canyon. When asked about Ada County, **Mr. Granger** said only the Star areas is still agricultural enough to work well. **Commissioner Stuart** asked about Washington County. **Mr. Granger** agreed that

Washington County shares rural and agricultural interests. However it was his understanding that the numbers do not work well. He wants Gem County kept whole, but he isn't necessarily advocating splitting another county.

Representative Darrell Bolz, District 10, spoke next. He asked the commissioners to look at the state of Idaho. In his opinion, Idaho is still essentially a rural, agricultural state, and Canyon County is a rural, agricultural county. There is an area of Canyon County, which can, and should, be preserved as a very rural district. Marsing and Homedale in Owyhee County do work well with the rural Canyon County district.

Mr. Ned Kerr, formerly the county clerk in Canyon County, and currently the Republican party Region 3 representative, said that he wished to make some observations more than recommendations. He asked that the commission avoid splitting counties wherever possible. He suggested that Canyon, Gem and Owyhee have population for an ideal 4 districts. He also described the difficulties that arose after the 1991 redistricting most specifically in Nampa. The boundaries used the precinct boundaries, which used the city boundaries. However, Nampa is expanding rapidly and each annexation created a substantial confusion for voters. He urged the commission to use an east-west or north-south line and avoid using precincts along the edges of growing cities for legislative boundaries. Leave a buffer zone for growth. **Commissioner Givens** noted that **Mr. Kerr** was the first county clerk to testify and perhaps he could answer some questions about the strange shapes of precincts. **Mr. Kerr** responded that these boundaries originated with city annexation. In Nampa there are even land locked enclaves that are within the city, but not part of the city precinct. That was why he suggested use of a major street, so that you don't have any rural precincts next the city in a different legislative district.

Mr. Al Sanchez, executive director of the Idaho Hispanic Caucus, spoke next. As a Latino living in Idaho for sixteen years, he stated that he had been very active in election and community interests. He votes a split party ticket looking for the best candidate. Still, he said, he feels that elected officials of Idaho do not represent him or the 102,000 individual Hispanics who are resident of Idaho. There are 26 different Latino organizations in the state representing interests in every aspect of life. There are businesses, students, artists, professionals and others, yet there is no voice in the Idaho Legislature. The legislative districts appear to be drawn to prevent representation of Hispanics. The congressional district, for example, splits the Hispanic population is half. With percentages of the population ranging as high as 25-30% in Canyon County cities, and as high as 57% in some individual precincts in Canyon, Cassia, Power and other counties surely they warrant some representation. If people feel that their voice does not count, they will not participate. A representative government and representative legislature that reflects the diversity of the state is the right of all citizens. **Commissioner Haagenson** asked if it would be correct to interpret **Mr. Sanchez** to be saying that only a Latino can only represent Latinos? **Mr.**

Sanchez said no, that was not correct. He has participated in many elections and supported people who listen to and represent Latinos. **Commissioner Haagenson** inquired further if a Hispanic were elected, would he also represent the non-Hispanics in the district? **Mr. Sanchez** responded that was precisely his point, that all would be represented. **Commissioner Haagenson** asked if it is wrong to dilute Hispanic votes, as it certainly is wrong, why would it be right to design a district to leverage a specific population thereby diluting another? **Mr. Sanchez** pointed to the history of institutional barriers and the existence of the all white legislature representing a state, which is actually quite diverse. Hispanics are not asking for special treatment, only fair treatment. In the past, districting has not be fair to their community of interest.

Mr. Humberto Fuentes, executive director of the Idaho Migrant Council, was recognized next. He described the Idaho Migrant Council as an organization representing 3,000 dues paying families with a history of over 30 years in Idaho. He said that the Council in cooperation with the Hispanic Caucus would present a plan to the commission. He said that he has been a participant in the redistricting struggle in the past and it is now time for this legitimate community of interest to gain fair representation. In the past decade, the Hispanic population has nearly doubled. This state is rightfully concerned about its image. An important way to address that image is to be equally concerned about what is fair and right. He said that it isn't an exaggeration to estimate that there may be 250,000 Hispanics in Idaho by 2010. This community is too large to ignore. **Mr. Fuentes** also suggested that the rural interests involved in a district with a Hispanic population are another legitimate community of interest. He said that the commission has an opportunity to correct a wrong and restore the faith of many in the democratic process. He recognized that this is not an easy task. **Commissioner Hepworth** asked if the plan to be submitted will involve sub-districts and **Mr. Fuentes** responded that it does.

The Mayor of Caldwell, **Mr. Garret Nancolas**, was the next person to address the commission. He admitted that he might be naive about the redistricting process, but he urged the commissioners to consider very carefully the wisdom of spitting Ada and Canyon counties between the two congressional districts. The Treasure Valley has a genuine community of interest. They are cooperating on many issues around air and water quality, the growth issues, and others. As far as legislative districts, **Mayor Nancolas** suggested that the state is made up of communities that share economic concerns. The commission should keep them together to give the opportunity for each community to be heard. **Commissioner Haagenson** asked if, based upon his opinion concerning congressional districts, would **Mr. Nancolas** favor the current congressional lines. He said that he would. That the two counties are working together on so many issues that it would be unwise to split them apart.

Scott McDonald, representing the Nampa school district, spoke next. He agreed that there are some strange precinct boundaries in Nampa. He has been working to redistrict the school district trustee zones, and he has reached some

conclusions he would like to share. First, maintain rural integrity and on the flip side, maintain, or rather establish, urban integrity. He suggested that urban integrity had been ignored in the past. Start with the populous areas and do what is logical to them, then move to rural areas. You will in the end protect both urban and rural. He suggested that Canyon is the most diverse county in the state. The commission should be constrained from artificially separating or combining minority populations. He made an analogy to painting a large floor; you should not just start anywhere. He said that if you start in eastern Idaho, you maximize eastern Idaho representation, but minimize options in the populated areas. He thought that the public library process was an excellent program and commended the commission for providing this public access. It will make it possible for anyone to review the final plan so it means that the commission will have close scrutiny of its work. **Commissioner Haagenson** commented that **Mr. McDonald** must be aware of the geography that dictates certain actions in Boundary and Bonner Counties, and similarly in Butte County and in the southeast corner of the state. **Mr. McDonald** said that this really proves his point. By starting in the population areas and providing fair representation, the amount left at the border will be a piece that fits the criteria. **Commissioner Stuart** asked if **Mr. McDonald** had actually tried the method he recommends. **Mr. McDonald** replied that he has done so for the Nampa school district. The resulting deviation was less than 4% from top to bottom.

Mr. Jim Hansen, executive director for United Vision for Idaho, strongly endorsed the work of the Hispanic caucus. He reminisced that he had been in the commissioners' shoes ten years ago, and he still wears the scars. Because he was involved directly, he knows the process. He said that redistricting is an insider's game, and those traditionally on the outside tend to stay that way. Neighborhoods in Nampa, Rupert, Hayburn, Burley and others were split down the middle primarily to protect incumbents. In the process, this compromised away the interests of the communities including the Hispanic communities. **Mr. Hansen** warned the commissioners that the reality of their situation is that within 24 hours of drafting a plan, they will be made aware of the impact on incumbents. Ten years ago many of the plans under discussion would have had better impacts upon communities, but were politically unacceptable. But **Mr. Hansen** maintained that incumbency does not create a community of interest. Where districts are well drawn, there may be an underlying community of interest and the commissioners should watch for that. The core of District 10 in Caldwell might be such a district. But in many cases, it will be up to the commission to remedy what happened 10 years ago. On the subject of sub-districts, **Mr. Hansen** again referred to the history of the process. When the amendment was under consideration, the goal was to assure an upper limit on the legislative size. The floterial districts created too many districts, and too many that were too large. There was no real intent in the amendment to prohibit sub-districts. In some areas, sub-districts would be a good idea. In almost every other state, the House has more members and smaller districts than the Senate. Subdividing may make it possible to give further emphasis to neighborhoods. **Commissioner Haagenson** asked **Mr. Hansen** if he would agree

that the constitutional amendment created a hierarchy of priorities. Population equality should be the first goal, and county lines should be crossed only as necessary, and then respect communities of interest. **Mr. Hansen** concurred, and added that splitting counties must not occur to protect incumbents.

Ms. Marie Salazar spoke next. **Ms. Salazar** is a resident of Emmett and she urged the commission to keep Gem County whole. Even if that is not impossible, surely the city of Emmett should be whole. As it is now, three Emmett precincts are in a district that reaches to Grangeville. She suggested that Gem is closer to Ada in its interests. It is a commuter community and most of the people work in Ada or Canyon County. Her second point was that sub-districts would provide greater accountability, would not increase the numbers of members, and would offer more representation to rural and minority communities. And finally, she asked that the commission seriously consider the plan to be submitted by the Hispanic Caucus and look at the communities it protects. She said that she looks forward to a plan that is objectively based on good data. It will provide accountability and encourage all citizens, Latino or not, to become politically active. **Commissioner Haagenson** said that he looks forward to seeing the Hispanic plan, but he hopes that it does not appear to carve out areas exclusively for the purpose of Hispanic strength. That is no more fair than the opposite. **Ms. Salazar** agreed, but she also pointed out that any plan, which protects the community of interest, would in fact leverage the Hispanic representation. She felt that it was important not to become entangled by words, when the goal is merely fair representation. No plan should ignore all other interests to the benefit of a single interest; but no plan should ignore an interest with the significance of the Hispanic community. **Commissioner Givens** pointed out that Gem County is a rather easy target in that it touches seven of the counties in the nine county area. Is **Ms. Salazar** comfortable with the community of interest with Ada County? **Ms. Salazar** said that she was, and with Canyon County as well. **Commissioner Givens** asked about Boise and Gem. **Ms. Salazar** responded that the future of Gem County is to the south, so that reduces the relationship to Boise, Gem, Adams Washington and Payette. They have been closer in the past, but will continue to grow apart.

Ms. Kathy Skippen, Gem County Commissioner, spoke about the need of Gem County to be kept whole. The population of 15,145 makes it a nice fit with many other counties. As a part of District 9, the county is insignificant. She suggested that both **Mr. Foard** and **Ms. Salazar** have valid points, but the critical issue is that the county be kept whole. The economy is changing so there is much to recommend a southern orientation. She said that she had run in District 8, and pointed out that it is bigger than some states. It is very costly to run such a campaign.

Mr. Dar Olberding, a resident of Emmett and a precinct committeeman, said that one thing which hasn't been mentioned is the importance of irrigation water to Gem County. The river is the lifeline. Keep Gem County whole and connect it with some other counties with similar water districts. As a water district board member, he

knows that there is a community of interest with those counties that have similar water districts.

Ms. Patti Anne Lodge, Senator from District 11, spoke next. She thanked the commission for the opportunity they were giving the citizens to have input in the process. She said that her district is so oddly shaped that she must cross two other districts to go from end to end of her district. This is confusing to voters and makes it difficult for them to participate. She agreed that Owyhee County is under represented. Those who live in Homedale and Marsing shop in Canyon County therefore are a community with much of Nampa. She felt that the important thing was to assure that the plan is easy to understand. She agreed with **Mr. Kerr** that the annexation in Nampa has caused confusion. But she also pointed out that there are parts of 9 school districts in her district. She suggested that, with regard to sub-districts, it may be that its better to have all three members of a delegation represent all 37,000 people. That too, is less confusing for voters and easier for the people.

Mr. Todd Lakey, chairman of the Canyon County Board of Commissioners, said that he thinks Idaho is blessed with a real mix of urban and rural and that Canyon County is particularly diverse. He felt the commission should keep neighborhoods together and that will give the best representation of interests. He felt strongly that the Treasure Valley should be in a single congressional district. They share planning and economic development issues. He said that he disagrees somewhat on the question of Hispanic issues. He feels that they do have a voice in Canyon County. He pointed to the political career of **Ab Vasques** who was the chairman of the Board of County Commissioners, and had personally asked him to run. As a speaker of Spanish he feels that he can communicate and represent his Hispanic constituency. He urged the commission to use nondiscriminatory criteria in all of their work.

Written testimony submitted by several individuals is on file in the office of the Commission. There being no further business, the commission adjourned at 4 p.m.



Idaho Commission on Redistricting
Public Hearing
July 10-12, 2001
Gold Room, State Capitol Building
Boise, Idaho

Co-chairman Commissioner Sellers called the meeting to order at 9:15 a.m. Also present were **Commissioner Givens, Commissioner Haagenson, Commissioner Hepworth, Commissioner Shurtliff** and **Commissioner Stuart**. Staff present was **Ms. Bennion, Mr. Borden** and **Ms. Wilkins**.

Commissioner Sellers indicated that two persons were present who had asked the Commission for time to make brief comments. She first recognized **Larry Turnbull**. **Mr. Turnbull** recounted a recent series on Public Television, which traced the history of the founding fathers. It highlighted the costs that were involved personally to these individuals in accomplishing the freedoms we enjoy today. We are Americans, period. We are one nation, under God. To focus on the nationality of individuals in creating legislative representation is not what this country stands for. He said that he was appearing today because he read in the newspaper that the Hispanic Caucus would be making a presentation and he felt it very important to respond to their comments recommending divisiveness.

Commissioner Shurtliff commented that he appreciated **Mr. Turnbull's** comments even while he disagrees with them. He reminded that the history of the founding fathers was very complicated, and some of the history may not fit in today's circumstances. Further, one should remember that neither Blacks nor women were full citizens in the constitutional times. An editorial in the Twin Falls paper was also narrow. In reality, community of interest has always been a part of representation. It is an oversimplification to suggest that we are all one, because we do not think alike. **Commissioner Shurtliff** said that what he has heard from the Hispanic Caucus today is not a request to create a special district just for them, but do not go to extremes to diminish their influence. He suggested that it is appropriate to be cognizant of the many communities of interests.

Commissioner Haagenson observed that what **Commissioner Shurtliff** is saying makes good sense, but in some of the remarks of members of the Hispanic Caucus, they have specifically said that they do want to maximize their influence. He said that districts should be created based upon numbers and not to emphasize differences

among people. **Commissioner Givens** also commended **Mr. Turnball** on his interest and recognized that he was speaking from his heart. **Commissioner Givens** had also served in the military and has great respect for this nation. **Mr. Turnball** interjected that he thinks it is time to assert ourselves and keep our country as it is. **Commissioner Givens** continued that we might not have the alternative to keep this country precisely as it is. This is a unique state with unique geography. Communities of interest, within that geography, present unique problems. **Commissioner Givens** described the interests of the Indian Tribal he has frequently represented. They have a government, language, cultural heritage and traditions that need to be respected. That can also be said of the Hispanic community. Other factors also apply, such as religion, economics, heritage are all part of the factors that must be considered. **Commissioner Givens** observed that we refer to America as a great melting pot, but we want to assure that it is not boiled down to mush. In the stew, we still want a carrot to taste like a carrot.

The Commission took a brief break, and when business resumed, **Mr. Ernesto Sanchez** was recognized. **Mr. Sanchez** said that he was appearing today on behalf of the Hispanic Caucus and that they had organized their presentation into three parts. He discussed the general responsibilities of citizens in the political system. All citizens should feel that they have power within the system. Involvement in this process is part of citizenship and is the reason the Caucus takes this so seriously. He indicated that he disagrees with the Attorney General's view that subdistricts are not permissible. He urged the Commissioners to look at the constitution and make their own decisions, setting aside politics. He said that ten years ago the Caucus had challenged the redistricting because the party in power blatantly controlled it, incumbent protection was evident. The gerrymandering in that plan totally disregarded the community of interest.

Mr. Sanchez referred specifically to the question of sub-districts. He advanced the position that the Voting Rights Act does give the state authority to sub-divide. He illustrated the point by noting that if you have 35 apples and you cut one in half, you will have 35 apples. Creating sub-districts to give recognition to communities of interest is not prohibited. He counseled that the discretion of the Commission is long and wide and urged that it be used judiciously.

The next speaker was **Ms. Gladys Escobel** from Burley. She said that she was here to speak about the Minidoka-Cassia Counties area and the interests of Hispanics within this area. She has personally lived in Burley since 1963. It is a rural area, but is growing. There is a community of interest in the education arena, as illustrated by sports and other activities. The potato processing plants create employment and income similarities. She said that the Mini-Cassia area should be viewed as a community of interests. **Commissioner Givens** asked about the changes in the area. He indicated his surprise at the changes in the area, the employ store fronts that represent changing economics. Do the cities still largely keep together in the face of

these changes and are the Hispanic communities still quite compact? **Ms. Escobel** said that they are. She said that some communities in the area may be nearly 90% Hispanic. She also agreed that although many of the Hispanics live in rural communities, they are also closely connected with Twin Falls because it is a major economic center.

Mr. Carl Sanchez from Nampa was the next speaker representing the Hispanic Caucus. He is a resident of Nampa. He described some of the changes in the Nampa area over the last decade, detailing the increases in the Hispanic population. He cited an ethnological study conducted by BSU in 1999, which indicated that, the Anglo community and Hispanic communities are two distinct communities. There is a community within north Nampa that is essentially a little Mexico. The community campus now in planning for BSU will also constitute a focal point for this community. The new recreational facilities and even a police substation address this community of interest. These citizens need a voice in the impact of industry and population. They need to be able to elect representatives who understand the needs of the community. **Commissioner Givens** asked about the city of Nampa and how it should be split considering that the city is too large to be contained within a single district. **Mr. Sanchez** responded that this has been addressed and the plan to be presented on behalf of the Hispanic Caucus will recommend the most appropriate division of Nampa.

Mr. Humberto Fuentes was the next speaker on behalf of the Hispanic Caucus. He has been closely associated with the Migrant Council and the population particularly located in west Canyon County. He said that the area of Caldwell, Wilder, Parma, Marsing and Homedale are rural, agriculture largely associated with farming. Marsing and Homedale, he said, associate much more closely to Caldwell than with Mountain Home or Murphy. He urged the Commission to recognize the importance of the opportunity not to dilute the voting strength. They are not asking for special consideration. Just as it makes no sense for farmers to elect a Boise lawyer to represent them, the Hispanics need to elect someone who understands their needs. It will then be the responsibility of the Hispanics to get out the vote and assure that they take advantage of the opportunity to fully participate in the American dream. In response to a question from **Commissioner Givens**, **Mr. Fuentes** said that **Dr. LaCalzi** would present maps with specific recommendations concerning the most appropriate representation.

Dr. Jasper LaCalzi spoke next representing the Caucus. He said that he had used the computer provided to the public at the College of Idaho and was prepared to show some ways that representation could be achieved. This is not the only way that this can be done, but it is one way. He added that he did not go to the block level, but used only whole precincts.

One of the districts he created consists western parts of the county including northern Caldwell, Wilder, Homedale and Marsing. These combinations make sense in relation to

other governmental units as well. The remainder of Owyhee County connects with Elmore County. Within this district, subdistricts can be created with 39% and 21% Hispanic, whereas the whole district is 31% Hispanic. **Commissioner Givens** asked if this proposal maintains the city limits of Caldwell. **Dr. LaCalzi** responded that it does not. He added that he lives in Caldwell and the city limits really do not represent Caldwell. The northern portions of the city are an older working class city, while the southern portions and the newer expanding areas are very different. He also suggested that using blocks would make it possible to refine the boundaries. **Dr. LaCalzi** also presented another option dividing Caldwell. The next district is one that includes northern Nampa. Karcher Mall is included in this district. Nampa is too large for a district including the entire city. Another set of districts is built around several alternatives for the Mini-Cassia Hispanic core.

Mr. Sanchez concluded the presentation with an observation that the presentation is not directed toward the elevation of the Hispanic interest, but about achieving equality of representation. Related to the matter of congressional districting, the Caucus favors a district that includes Canyon and Mini-Cassia in one district.

The Commission took a break for lunch. **Commissioner Hepworth** urged that the afternoon start to get plans on the table.

The Commission reconvened at 2:20 p.m. **Commissioner Sellers** indicated that the correspondence from the Attorney General was the next item on the agenda. **Commissioner Hepworth** mentioned, as an aside, that he was personally very impressed with the speakers from the morning presentation. He asked why some of these individuals have not run for political office. They are very articulate and would undoubtedly be excellent candidates. With respect to the letters from the Attorney General, he indicated that the communication was in response to questions posed by the Commission. The questions were drafted by **Commissioner Givens**, approved by **Commissioner Hepworth**, and the response from the Attorney General should be the last word on the subject. **Commissioner Givens** asserted his recollection of the record that leads to the answers given by the Attorney General. Initially two questions, the first whether subdistricts could be created, and the second whether there could be fewer than 35 districts were submitted to the Attorney General by **Commissioner Sellers**. After discussion, at the request of the Commission, he drafted six questions with somewhat better phrasing. After consulting with **Commissioner Hepworth**, they concluded that the answer to the question regarding the range in size from 30 to 35 was so clear that there was no need to ask it, so the questions were trimmed to three. **Commissioner Givens** stated that he does not think much of the opinion from the Attorney General. It clearly is an attempt to diminish the role of the Commission. Unfortunately, it sets a bad precedent. Ultimately, these issues may only be resolved through litigation. He stated that the Gingles decision applies when a minority reaches a certain level, and must not be diluted. Probably, Idaho does not yet reach that level.

Commissioner Givens continued that the opinion answered more than the Commission asked. Additionally, a letter from the Attorney General's office, signed by Mr. Orton, added to the opinion. The analysis is woefully inadequate. The constitutional and statutory actions are analyzed in the wrong time sequence. The opinion says that the statute implementing the 1990 redistricting specified the size of the Legislature. But that was adopted before the constitutional amendment under which all of these decisions were taken from the Legislature and delegated to this Commission. If the Legislature can dictate to this Commission the number of districts, it could just as well dictate what precincts must be in the districts. The issue may not be adjudicated unless the Commission uses some number other than 35.

Commissioner Hepworth countered that he found the opinion to be reasonable. It is part of the duty of the Attorney General to represent the Commission. Once the Commission asks for guidance, it should not simply disregard the answer. **Commissioner Hepworth** stated that he would not have voted for any plan with less than 35 districts under any circumstances. Reducing the size of the Legislature would further reduce the power of the people.

Commissioner Givens agreed that if you ask for advice, you should follow it, but he pointed out that the Commission didn't ask for this opinion. In fact, it is a letter written to a strongly partisan individual by another partisan individual. It was intended that party politics not become part of the Commission work.

Commissioner Haagenson stated that he felt sure the Commission plan would end up with 35 districts, and there would be no subdistricts. Subdistricts, in his opinion, would create much more confusion for the population than it would enhance representation. He added that it made no sense to him that the Commission would not have that authority. He said that he was very familiar with the constitutional amendment, and he could not understand the reasoning. He suggested that **Mr. Orton** be invited to come and discuss the opinion with the Commission. **Commissioner Hepworth** endorsed the suggestion that **Mr. Orton** be invited. But, he added, he was not going to support anything but 35 districts. **Commissioner Stuart** asked if **Commissioner Hepworth** really meant that he would rule out any number but 35, even if communities of interests were better represented with a reduced number.

Commissioner Shurtliff suggested that when you get advice you don't like, you could always search for another attorney. He indicated that he tends to agree with **Commissioner Haagenson** that the Commission will eventually approve 35 districts without subdistricts, so he is willing to simply ignore the opinion and move on. But the issues addressed in the letter are more troubling. This letter redefines gratuitous, in that it is addressed to the Speaker and attempts to limit the work of the Commission. **Commissioner Haagenson** agreed that the letter ties the hands of the Commission. It may not apply to this time, but it has a bad influence on the future.

Commissioner Hepworth stated that he saw no precedential (sic) value in the letter, and it was time to move on with plans.

Commissioner Sellers introduced L12, a plan for the state with a deviation of plus and minus 2%. It involves minimal city divisions, and splits one less county than the current plan. There is one district in Canyon County with a 26% Hispanic population and is responsive to Native Americans in the north. Members of the Commission engaged in a discussion of various districts. **Commissioner Haagenson** was concerned about the communities of Wallace and Mullan. **Commissioner Givens** said that it was not necessary to divide Coeur d'Alene in this manner; also the plan moves Blaine County into a district with Custer and Lemhi County. He has been very impressed by the testimony that this isn't a good alternative. **Commissioner Sellers** said that it comes down to a choice between Power and Blaine County.

Commissioner Stuart said that he has developed three concepts. The first is a 30-district plan identified as L7. He described this plan that works particularly well in the Magic Valley. It is not as effective in southeast parts of the state. The deviation is 15%, which **Commissioner Givens** feels, can be defended because it protects interests. **Commissioner Hepworth** asked if it doesn't seem that 35 is the most likely number of districts.

Commissioner Stuart introduced L8 with 33 districts. This is based most closely on the judicial districts in the state and they give a very logical way of dividing the state.

Following a brief break, **Commissioner Givens** introduced L9 with 35 districts. Following brief discussion the Commission adjourned at 4:20 p.m.

JULY 11

Co-chairman Commissioner Stuart called the meeting of the Commission on Redistricting to order at 10:20 a.m. Additional members of the Commission present included **Commissioner Givens, Commissioner Haagenson, Commissioner Hepworth, Commissioner** and **Commissioner Shurtliff**. Staff present was **Mrs. Bennion, Mr. Borden** and **Ms. Wilkins**.

Commissioner Stuart called on **Robert Huntley**, former Justice of the Supreme Court, to speak. **Mr. Huntley** said that he had asked for time to make a brief statement because he was asked by some to represent a different point of view from those received to date. He was aware that there would be a perception that he would lean toward one party and that might taint his presentation. He said, however, that the Commission is a constitutional office, and the duty of the Commissioners elevates his

duty to be straight with his advice.

Mr. Huntley traced some history of redistricting. The most difficult of the redistricting events was in 1965. In that year, the Legislature made drastic changes in the status quo. It was agreed that the House would do the House districts, and the Senate would do the Senate districts. However, that didn't work. Finally, a joint plan was devised and presented. There was no magic in the number of 35 Senators and 70 Representatives, but it met the need at the time. That should not impact the flexibility that was built into the system later.

In 1994, the Constitution was amended to create this Commission. The Legislature cannot amend the Constitution by bill. The 1994 amendments did not repeal Section 1, Article III. In interpreting the meaning the amendment and the law, the first duty is to interpret to give meaning to the Constitution. The 1992 enactment of legislative districts could not amend the 1994 amendment to the Constitution. The Legislature does not have authority, which was transferred to this Commission, and no legislative action can compromise the authority of the Commission.

Commissioner Hepworth thanked **Mr. Huntley**, but stated that he felt the Commission is now ready to move beyond the Attorney General's opinion and the issues it addresses. **Mr. Huntley** said that he felt that it would set a precedent if the Commission agreed to be bound by the dictate that it must adopt a 35-district plan.

Commissioner Stuart added his appreciation for **Mr. Huntley's** research and report to the Commission. He next invited members of the Commission to the issue of splitting precincts using block data for crafting districts. **Commissioner Haagenson** said that he felt an obligation not to split precincts unless it was necessary to accomplish one man, one vote. **Commissioner Sellers** added that the plan presented by the Republican Commissioners does not split precincts, so redistricting can be done without splitting. However, if occasion arises, in a specific instance, she suggested that it be discussed at that point.

Commissioner Givens described his work and said that he has found that it is possible to get to plus or minus 3 or 4. Doing so is a pure policy issue, which must be decided by each Commissioner. There is a scale of factors including not splitting counties, maintaining communities of interest, city boundaries, Hispanic communities, Native American territories, church concentration, whatever the interests, there are some reasonable combinations and some of them that reach higher deviations. The lower the deviation you reach, the more you violate precinct boundaries and even county boundaries. This leaves the voters confused and that is a bad thing. It was his opinion that the voters should be placed above the interests of deviations.

Commissioner Sellers admitted that the plan she presented may not be a perfect plan, but it does split fewer counties than the last redistricting and the deviation

is 2% without splitting precincts. **Commissioner Haagenson** suggested that both teams work on the drafts currently before the Commission, making recommendations based on these concepts, and compare their areas of similarity and difference. The Commission recessed for lunch.

Upon reconvening following lunch, **Commissioner Stuart** discussed the comparison he had made of the two plans on the table. He highlighted areas where they would be need for future work. Some areas, such as the Canyon County districts are quite reasonable and similar. In Ada County, they are close, but with minor differences. **Commissioner Haagenson** interjected at this point that the **Commissioner Stuart's** Ada County districts gave him a lot of concern. Over lunch he reviewed them, and found that there is an abundance of head to head incumbency when that really isn't necessary. Several legislators are moved out of their existing district, to run in entirely new territory. **Commissioner Stuart** said that was not his intent at all. He had not considered incumbency in preparing this plan. **Commissioner Givens** urged that particularly in Ada County, it would be important to keep the small communities within the county intact. He also urged that the neighborhood associations, which in a sense have defined their own neighborhoods, be used to define districts. **Commissioner Shurtliff** observed that the districts of Ada County were certainly gerrymandered in the last redistricting, and the Commission could only reap the harvest now.

Commissioner Stuart continued with the comparison noting that the Republican plan slices the cities somewhat more extensively. Then there is the major issue of the treatment of Blaine County. He noted that the county commissioners repeatedly said not to move Blaine County. He cited the boundaries of the Fifth Judicial District, noting that there was slightly more than enough population than that required for the legislative districts. That is a reason for his consideration of a 33-district plan. It fits much better into the population of the Magic Valley. This also keeps Burley, Rupert and Hailey together in a Mini-Cassia district. **Commissioner Givens** noted that he has an error in this area because the numbers are not accurate. He needs to go back and work more on that. **Commissioner Givens** asked **Commissioner Sellers** if the cities of Rupert and Burley are in the same districts in the Republican plan. She said they were not. **Commissioner Givens** noted that they are really nearly one town and seem to go very closely together.

Commissioner Stuart resumed the review with the treatment of Idaho Falls. The Democratic district uses an urban core approach, whereas the Republican plan divides the city into more pieces. **Commissioner Givens** reviewed again the problem in the Fifth Judicial District, which has slightly too much population for four districts at 35 districts. Only have two effective choices that he could identify. One is to put Blaine with Custer and Lemhi which everyone in all of the testimony agreed was a bad idea, and the other is to put rural Cassia with something to the east whether it be the counties around the horn or with Power County in some way. That is the problem that

drives the solution. We can deal with other chunks in the north and Ada County but we cannot solve the statewide issue until we deal with this problem. **Commissioner Sellers** reminded the Commissioners that when the hearings were held in Pocatello, the area in Marsh Valley was identified as an area that did not belong in Bannock County. It is an area that should go into the rural areas in the counties around the corner of the county. **Commissioner Stuart** said that there was some testimony on that issue on the other side as well. There remains the issue that Bannock County should not be divided. The issues that remain concern treatment of the cities, as well as the major issue of Blaine County and the numbers in Judicial District Five.

Commissioner Givens noted that at 33 districts, the Fifth Judicial District is precisely four districts, and you can combine Power County with Caribou, Bear Lake, Oneida and Franklin for a district. **Commissioner Haagenson** asked if there was any reason to be concerned with Judicial Districts. **Commissioner Givens** said it was not a requirement. Some county commissioners did point out that many of these regional districts are organized in a way that indicates the working relation existing among the counties now. They have built a community of interest by working among themselves.

Commissioner Stuart suggested that it might be time for the Commissioners to get these plans back to staff and work with them to bring them closer together. Commissioners discussed the next meeting date. All expressed a desire to continue to work toward a solution and toward that end agreed to meet on Thursday. The Commission adjourned until Thursday, July 14 at 9:00 a.m.

JULY 12

The Commission on Redistricting reconvened at 9:15 a.m., **Co-chairman Commissioner Sellers** conducting. Other members of the Commission present included **Commissioner Givens, Commissioner Haagenson, Commissioner Hepworth, Commissioner Shurtliff** and **Commissioner Stuart**. Staff present was **Mrs. Bennion, Mr. Borden** and **Ms. Wilkins**.

Commissioner Sellers recognized **Commissioner Stuart** for an administrative matter. **Commissioner Stuart** suggested that the several legal documents, which have been provided to the members, should be gathered and maintained in a separate notebook for each member. **Commissioner Sellers** asked for clarification, whether this was for a single copy in the office or for each member. **Commissioner Stuart** said for each member. This would include the NCSL books, the legal opinions, the ACLU booklet, and such as that. It was agreed, and staff was asked to provide this notebook.

Commissioner Sellers next reviewed changes made over the evening from the plan submitted yesterday identified for the record as L12. She indicated that it was her

intent that the northern districts shown on this map would actually be supplanted with the northern districts as developed by **Commissioners Haagenson** and **Givens**. She did submit that this plan shows the reservation divided among districts and that is because she is of the opinion that the reservation is already divided along counties, and she would prefer to honor the county boundaries. She reviewed the plan, district by district. Highlights included the adaptation of the Canyon county districts to more closely comply with the testimony of the Hispanic Caucus. This would mean splitting Marsing from Owyhee County into a district with Parma, Wilder and western Caldwell, with a Hispanic percentage of 27%. Also, the area of Star is split away from Ada County and included with the city of Emmett. **Commissioner Sellers** noted that the Democratic position has been to split Cassia County and the Republican position as involved a split of Blaine. This plan splits neither, instead creating a district with five whole counties, Lemhi, Custer, Butte, Blaine and Lincoln. **Commissioner Givens** noted that this would combine INEEL and Sun Valley in the same district, creating a distinctive opportunity for a serious contortionist to serve as the legislator representing those communities of interest. In the Twin Falls area, part of Twin Falls County is split away to be combined with Camas and Gooding. Most of the city is in one district. **Commissioner Givens** inquired about which parts of Twin Falls County most closely associate with the city, asking whether Kimberly and Hansen should be added as has been done in this plan, or whether Filer and Buhl should be added. Commissioner Hepworth responded that there is really little difference vis a vis the community of interests, but Senator Laird Noh lives just east of Kimberly so there is an impact on incumbents.

Commissioner Sellers continued with the review of L12. A district is created using the whole counties of Jerome and Minidoka. **Commissioner Givens** pointed out that part of Burley is split away from the balance of the city in Cassia County and **Commissioner Sellers** agreed, but added that it is a county boundary. This district has an Hispanic population of 22%. A district combining Power and Cassia County except for one precinct of Ft Hall in Power County plus rural Twin Falls County is #27. Bonneville County is divided among district 28, 29, 30, and 31, with the bulk of Idaho Falls in #31. District #32 is Bingham County except the two precincts on Ft Hall. In district #33, Pocatello is divided because it is too large for a single district, but the bulk of the city is in this district. District #34 is Chubbuck and other parts of Bannock County, all of Ft. Hall's populated precincts and one precinct of Power County. District 35 contains the whole counties of Caribou, Bear Lake, Franklin, and Oneida, and the Marsh Valley part of Bannock County. This is exactly as that district now exists with the addition of two Marsh Valley precincts. The Marsh Valley area has its own fair, its own school district, and is in every way distinct from Pocatello. **Bannock County Commissioner J. O. Cotant**, who was present at the meeting, added his observation that this is absolutely correct and is representative of the position of the people of Bannock County. **Commissioner Givens** asked if this was **Mr. Cotant's** position or the position of the entire Board of County Commissioners. **Mr. Cotant** said that it is the position of the entire Board. **Commissioner Sellers** added that the interstate and

major highways connect these communities together. There is actually 5 times the amount of traffic among these communities as there is between Canada and Coeur d'Alene. There is no connection between Cassia County and this district and no road to district 29. **Commissioner Sellers** noted that this is her home turf, and she feels very strongly about these lines.

Commissioner Sellers next recognized **Commissioner Stuart** to review the revisions made in the Democratic draft. He indicated that he had made very minor adjustments. He is still very concerned about the size of district 8 in the middle of the state. He could not reach a better solution to the Magic Valley and he expressed his concern that the Commission must develop some consensus on that. On city issues, he suggested that a city of 40,000 or larger should not be chopped up to be combined with rural areas as has been done in some districts in the plan advanced by the Republican Commissioners.

Commissioner Givens stated that the three plans on the table, two from the Republicans and one from the Democrats, are all 35 district plans and the illustrate the problem with 33 districts. The Magic Valley area presents a problem, which results in nearly absurd solutions. In the Democratic plan, Cassia with the west seems unlikely to some. In the Republican plans, Blain with Butte, Lincoln, Custer and Camas is no less offensive. Granted that 35 districts works best in the 5 northern counties. However, in the central Idaho district, it is huge in either a 33 or a 35-district plan. A district, which runs from Cottonwood and Ferdinand to Idaho City, is too huge. He recommended that all the Commissioners should continue to give some thought to other than 35 districts. He also expressed a strong desire to continue to work toward a solution even while the Commission is not in session in Boise. The time until the next meeting could be spent profitably by continuing to communicate by phone and through the staff.

Commissioner Stuart suggested that they look once more at the 33-district plan he prepared. It puts approximately 39,000 people in a district and fits so well in the Magic Valley. This draft is admittedly only in concept stage but it could be developed. **Commissioner Haagenon** said that he could not say that 33 is absolutely impossible, but there are problems with 33 districts, too. The size of the eastern central district is increased in a 33-district plan. Math simply makes some of the districts very large. **Commissioner Hepworth** indicated that he has trouble with the concept that bigger is better. The fewer districts there are, the more people there must be in a district. That means that each individual has less influence on his or her representative. **Commissioner Stuart** agreed that there are trade offs in the size and the fit.

The Commissioners discussed the next meeting time and agreed on Monday, July 23 at 10 a.m. **Commissioner Sellers** noted that the first statewide plan drawn by a citizen had been submitted yesterday. She recommended to the other members that they review this and the other plans which have been submitted for parts of the state.

Commissioner Givens said that now that they have worked on plans, they could more fully appreciate the time required to develop a statewide plan. He suggested that a thank you letter be sent to acknowledge the efforts of citizens. **Co-chairman Commissioner Sellers** agreed with **Commissioner Stuart** that staff would be directed to prepare such letters. The Commission adjourned at 10:40 a.m.



Idaho Commission on Redistricting
Public Meeting
July 23-25, 2001
Gold Room, State Capitol Building
Boise, Idaho

July 23

Co-chairman, **Commissioner Stuart** called the meeting to order at 10:40 a.m. **Commissioner Givens, Commissioner Haagenson, Commissioner Hepworth, Commissioner Sellers** and **Commissioner Shurtliff** were present. Staff present was **Ms. Bennion, Mr. Borden** and **Ms. Wilkins**. Co-chairman **Commissioner Stuart** discussed briefly the plans, which are presently before the commission, having been submitted by the public or at previous meetings. **Commissioner Haagenson** suggested that the commission might profitably consider addressing the state region by region, adopting a tentative plan for a region and then moving onto another. The interim vote on a piece of the state would not require support of the end result. Members discussed this concept. **Commissioner Haagenson** moved, seconded by **Commissioner Givens**, that the commission approach the state by regions with the understanding that this does not obligate a vote on the final result. The motion carried unanimously.

Commissioner Hepworth moved, seconded by **Commissioner Shurtliff** that **Commissioners Haagenson** and **Givens** be charged to write up the previous motion for the policies of the commission. Motion carried.

Commissioner Shurtliff brought to the commission the question whether the proceedings should be taken by a court reporter. **Commissioner Sellers** asked if this was redundant given the minutes that are being produced by the staff and the tape recordings that are being maintained. **Commissioner Shurtliff** moved, seconded by **Commissioner Givens**, that the Commission retain services of a court reporter to record the proceedings of the Commission. **Commissioner Haagenson** observed that there is high potential for a challenge of any plan adopted by the commission. A record by a court reporter would most accurately reflect the intentions of the commissioners. Commissioners discussed the costs of the court reporter as opposed to the costs of obtaining the verbatim transcription of the tapes. **Mr. Borden** indicated that the budget should be adequate to cover the costs and he would obtain additional information if necessary. **Commissioner Hepworth** stated his opinion that the tape

should be adequate if the matter is submitted to the court. After discussion, the motion carried, **Commissioners Givens, Haagenson, Shurtliff** and **Stuart** voting yes, and **Commissioners Hepworth** and **Sellers** voting no.

Commissioner Shurtliff observed that he and other commissioners were receiving letters, including the one distributed today from Cassia County officials, complaining about the specifics of the democrat plan. He had also seen newspaper coverage of a so-called democrat plan and republican plan. He stated that there were no such things. The commission had made it very clear that the proposals under discussion were in concept form only, and were not plans endorsed by the members of the commission. **Commissioner Haagenson** suggested that he was surprised that **Commissioner Shurtliff** was surprised. The fact that a plan was before the commission, whether supported or not, meant that those few people who have any interest in the process would react to that plan. In response, **Commissioner Shurtliff** suggested that a certain senator had gone to the Cassia elected officials and waved plans as bloody shirts to get them riled up. He wanted to put to rest the notion that there is a plan. **Commissioner Sellers** remarked that it would be up to the members of the commission to determine what is important, and that the materials submitted would be considered but not everyone could be satisfied.

Members discussed the importance of having all members of the commission present for all votes taken. All members agreed with this concept.

At this time, the commission recessed until 2:00 p.m.

The commission reconvened at 2:00 p.m. The first matter for discussion was the method of cataloguing plans brought to the commission by commissioners. **Mr. Borden** explained that they would be logged in consecutively. If the commission made changes and then considered the changed draft, it would also be logged with a unique identifier.

Commissioner Givens began a discussion of alternative proposals for the northern counties, which he and **Commissioner Haagenson** had developed. Option 1, (L18) districts 1 through 7, Post Falls and Hayden are combined, and Clearwater is not included. Option 2, with alternatives A, B and C. Option 2 separates Post Falls and Hayden and includes Clearwater County in the first 7 districts. To include Clearwater in these districts, Post Falls and Hayden almost must be separated. This is not necessarily something he or **Commissioner Haagenson** wanted to do, but it was necessitated to make the deviations work. Option A does this using only precinct boundaries, no blocs are used to divide precincts. Option B, which divides precincts in Post Falls, Coeur d'Alene and Hayden areas and along Highway 41. This has been done to assure that the city boundaries are preserved as opposed to precincts. The boundary between districts here is the Highway with the exception of the towns of Spirit Lake and Rathdrum where the town boundaries actually cross the Highway 41 boundary. Option C addresses the deviation in Latah County. Latah is at a minus 6% deviation in the first

two options. To remedy this, two precincts from Clearwater County, those west of the North Fork of the Clearwater River, are added to the Latah district. These are rural precincts with some community of interest with Latah County. **Ms. Bennion** advised the Commission that Option 1 is now identified as L18, Option 2A is L19, Option 2B is L20, and Option 2C is L21.

Commissioner Stuart reported that the motion governing procedure has not been reduced to writing, but given that the commission members understand the motion, and it was adopted, the commission will continue and be governed by that procedure.

Using the projectors, **Commissioners Haagenson** and **Givens** described the three options in detail including the presentation of deviations. **Commissioner Givens** moved the adoption of L18. The motion died for lack of a second. **Commissioner Shurtliff** moved, seconded by **Commissioner Haagenson**, the adoption of L20. **Commissioner Haagenson** stated that he felt it was not advisable to cross a county boundary for the purpose of reducing deviation by only 2%. **Commissioner Shurtliff** suggested that the integrity of the county boundary would justify the higher deviation. **Commissioner Sellers** said that she doesn't like the deviation that high, and has seen alternatives that are lower. **Commissioner Givens** stated that he would vote for this motion, but preferred option L18. The good things about L20 are that it has used the Highway as a boundary, which is easy and practical. The deviations are somewhat low, but that is acceptable because of the past history of having the divisions high and under representing the north. Also the Chamber of Commerce proposal combined Hayden and Post Falls, but that cannot be done if Clearwater County is included. The most objectionable thing about L20 is that the Nez Perce Reservation is divided into three different districts. That is not a good thing but is required to make the plan work. Commissioners voted unanimously in favor of L20.

Commissioner Stuart asked the pleasure of the commission concerning the next region to address. **Commissioner Givens** suggested dealing with Ada and Canyon Counties in one proposal, the other counties west of Elmore County as one division, and the balance of the state east as the final area. **Commissioner Shurtliff** expressed his thought that it will not be to the advantage of Ada County to work the rest of the state first and use what is left in Ada County. However, Commissioner Stuart agreed but added that there is a sufficient population in Ada County to warrant a specific number of districts and that will not be changed regardless of the area worked first. Furthermore, the policy clearly allows that the commissioners may vote for one division, and still not be bound to vote for the total. The Commission recessed briefly.

At 3:30 the commission reconvened. **Commissioner Stuart** suggested that the commission now address the counties of the state from L20 south to identify some of the concepts, which might be followed. **Commissioner Haagenson** suggested that consideration of moving Marsing and Homedale into Canyon County could be justified in

view of the community of interest it represents. That would leave the balance of Owyhee County to be added into the areas to the east and possibly Boise County. **Commissioner Stuart** suggested another alternative would be to split Valley County and then combine Boise, Gem and part of Payette counties. This responds to the testimony of the Gem County commissioners who pointed out that their county has been split for the last decade. **Commissioner Givens** suggested that smaller groups be delegated to develop options for these counties and report back to the commission. The commission recessed briefly.

At 4:15 the commission reconvened. **Commissioner Stuart** described three concepts to address the balance of these counties in questions. L22 would combine Idaho, Lewis, Adams, Washington and part of Valley County in district 8, and the remaining part of Valley, Boise, Gem, and part of Payette County, the north half, in district 9. L23 would combine Idaho, Lewis, Adams, Valley and Boise counties in district 8, and Washington, Payette, the part of Gem north of the Emmett highway in district 9. This would leave Emmett, the entire city, in another district. Finally, L24 would place Boise, Lewis, Adams Valley and Gem in district 8, and Adams, Washington and part of Payette in district 9. These three alternatives deal with the same counties but rearrange them in different combination. **Commissioner Sellers** moved, seconded by **Commissioner Hepworth** that the commission adopt L23. **Commissioner Stuart** indicated that he could not support a plan that splits Gem County. **Commissioner Givens** noted that you split either Gem or Valley County to achieve the balance. **Commissioner Haagenson** noted the huge size of district 8 in this plan. Not only is it geographically large, but also there is really very little community of interest among the people of Boise County who relate to the city of Boise and the population of Grangeville. **Commissioner Givens** noted that L22 at least follows along the drainage of the Payette River, which presents a greater community of interest. The commission recessed briefly.

The commission reconvened and reviewed the provisions of L22, L23 and L24. The motion on the table, that the commission adopts L23, was voted upon. **Commissioners Hepworth** and **Sellers** voted yes, **Commissioners Givens, Haagenson, Shurtliff** and **Stuart** voted no. The motion failed.

Commissioner Haagenson moved, seconded by **Commissioner Shurtliff**, that the commission adopt L22. **Commissioner Givens** pointed out that this splits two counties despite the mandate to the commission to split as few as possible. While it is unfortunate that this plan splits Valley County, it does maintain the city of McCall in a single district, and likewise, while it splits Payette County it maintains a community of interests with Canyon County. In his opinion, it was possible to justify the two county splits because any other alternative required that Idaho and Lewis counties be combined with Boise County. **Commissioner Sellers** stated that because of an additional unnecessary county split, she would vote no. The motion carried, **Commissioners Givens, Haagenson, Hepworth, Shurtliff** and **Stuart** voting yes,

and **Commissioner Sellers** voting no.

Commissioner Stuart suggested that moving into Ada and Canyon Counties appeared to be the next logical step. If commissioners bring suggestions for this region to the meeting tomorrow, they can proceed in the manner that progress has been made today. The commission adjourned until 9:00 a.m. on July 24.

July 24

The Commission convened at 9:15 a.m. on July 24. **Commissioner Sellers** was presiding and members of the commission present were **Commissioners Givens, Haagenson, Hepworth, Shurtliff** and **Stuart**. Staff present was **Ms. Bennion, Mr. Borden** and **Ms. Wilkins**.

Commissioner Stuart indicated that he was aware of three alternatives prepared for Ada and Canyon counties. **Commissioner Sellers** added that the Ada/Canyon arrangement from L12 is also still before the commission. The commission recessed briefly. When the commission reconvened, **Commissioner Sellers** was recognized to discuss L12. She described District 10 in Canyon County with part of Eagle and Emmett, district 11, which is 27% Hispanic and includes Parma, Wilder, Caldwell and Marsing. **Commissioner Haagenson** asked if this proposal marries with the districts that were adopted yesterday. **Commissioner Sellers** acknowledged that it did not, but could be readily adjusted to do so. She continued with Districts 12 through 20.

Commissioner Stuart indicated that three new options would be presented, L29, (option 1), by himself, L30 (option 2) by Commissioner Givens, and L31 (option 31) by **Commissioner Shurtliff**. **Commissioner Stuart** described the detail of L29. He indicated that the Ada county districts are a close approximation to the existing districts, but do attempt to reunite neighborhoods split by the current plan.

Commissioner Shurtliff presented a detailed review of L31. He said that he began with a slightly different approach. Canyon is left to stand largely alone, because he intended to keep Ada intact. While Ada County would technically be entitled to 8 plus districts, his plan proposes only 8 districts totally contained within the county. This is subject to criticism because Ada County is growing and should be low, not high, on the deviation scale. However, he agreed with many who had testified before the commission that small parts of a county added to another larger population from a contiguous county are really completely disenfranchised. It is better to have the districts too large, but all composed of Ada voters, than to send off 3-5,000 people to Canyon County. His plan recognizes the efforts to keep cities intact, and here he has gone to the level of neighborhoods because Boise is larger than a district.

Commissioner Givens presented L30 in detail. He acknowledged that he was not as familiar with Ada County as he had been with the areas in the north. However, it did use the input of others to follow neighborhood and natural geographic boundaries. The deviations were well within those recommended by the commission policy.

Commissioners discussed these three options. Not all were available for close review in either hard copy or on the computer system. This made intensive review and comparison difficult. A brief recess was followed by additional discussion. **Commissioner Haagenson** expressed the hope that the commission might take one of the three, make revisions, and adopt it. But for now, he felt that there had not been enough time to study and determine where to begin. The commission recessed.

At 2:05 p.m. the commission reconvened. **Commissioner Sellers** recognized **Commissioner Haagenson** to review the alternatives before the commission with particular attention to the question of retaining all of the Ada population within 8 districts or sharing some precincts with Canyon County. Consensus developed that L31 seemed closest to the goals of the commission. **Commissioner Sellers** suggested that perhaps they should leave Ada/Canyon for a later time and move to southeast Idaho. **Commissioner Stuart** expressed his desire to complete this issue before moving on. He was aware that more time might be needed to take a closer look at the details. **Commissioner Hepworth** recommended that while the Ada/Canyon area was familiar and on the table, it should be decided. He urged that it made sense to plow that field until it is plowed.

Commissioner Givens recommended the breakout model, which had worked efficiently in the northern districts. He expected the commission should be able to vote first thing in the morning if two members worked out a compromise agreeable to both and brought it back to the full body. Mean time, he suggested, another break out group could be addressing the tough sticking points in the rest of the state for presentation also in the morning. **Commissioner Hepworth** concurred that the break out concept has worked well. **Commissioner Givens** could be suggesting a very long night. **Commissioner Stuart** commended the concept of working on the two issues at the same time. **Commissioner Sellers** delegated **Commissioners Givens** and **Hepworth** to work on alternatives for the Magic Valley and she would work with **Commissioner Stuart** to develop Ada and Canyon with the additional assistance of **Commissioners Haagenson** and **Shurtliff**. With these assignments made, the commission recessed until 7:00 p.m.

The commission reconvened at 7:15 p.m. **Commissioner Sellers** conducting. All members were present. **Commissioner Givens** reported that the discussion between **Commissioner Hepworth** and him broke down. He regretted that this might have been largely his fault. But he continued that the counties of Blaine, Camas,

Lincoln, Gooding, Twin Falls, Minidoka and Cassia contain about 1/3 too much population for four districts. In a 33-seat plan it would be an ideal 4 seats, but that does not seem to be on the table. He indicated that he could not agree to a plan moving Blaine County north to a Lemhi/Custer district. That was the testimony at Idaho Falls, Pocatello and Twin Falls from the people in all three counties. Blaine County has no relationship with Lemhi and Custer counties. The judicial districts, the health districts, and all other regional combinations do not combine Blaine, Lemhi and Custer. In view of this he saw four viable ways to proceed. The commission could adopt a 33-seat plan, could move part of Cassia County into current district 32, could move part of Cassia County to Power and Bannock Counties, or could put rural Minidoka County east with a Blaine bridge to Power County. None of these are good alternatives, but all are viable. But he asserted that he has been advised that the republican members consider the only thing on the table is to move Blaine County to the north. If that is so, then an impasse exists and there will be no solution.

Commissioner Hepworth concurred that **Commissioner Givens** had taken a very aggressive position and that the meeting had ended abruptly after less than one minute. **Commissioner Hepworth** said that he was in mid-sentence when, without explanation, **Commissioner Givens** left. He too regretted the outcome and accepted **Commissioner Givens** apology.

At this point, **Commissioner Haagenson** suggested that this was indeed an unfortunate outcome to the effort, but now it would be appropriate to put this behind and work toward a solution. He suggested that members have known for some time that this would be the most difficult problem and while a compromise might be a contrived district, nevertheless all members could bend some and a solution could be found. Members agreed that they would proceed in good faith.

Commissioner Stuart said that **Commissioner Sellers** and **Commissioner Haagenson** had worked with him in revising the plan presented earlier. It now contains elements of all of the pending plans. **Commissioner Stuart** described the provisions of L31 and indicated that he felt it could be further refined concerning city limits with some work on the individual bloc level. **Commissioner Haagenson** moved, seconded by **Commissioner Stuart**, the adoption of L31, subject to minor bloc revisions. **Commissioner Haagenson** stated that he saw this as an acceptable plan and it provided a way for the commission to move on.

Commissioner Shurtliff stated that he would vote against this proposal. He explained that it violates the rules he started with, that cities ought to be respected. In this proposal, both Eagle and Meridian are violated and part of Nampa is knocked off and non-city residents are added into it. He said that people in a city ought to have the opportunity to vote together. He continued that this plan also violates principles of compactness. here are two unnecessarily large districts in Ada County where there only needs to be one. Rural Ada County deserves representation and to accomplish that it

must be all in one district. These districts may not be large by standards of the districts in central Idaho, but they are unnecessarily large. Most Ada districts should be the kind where you can campaign door to door.

Commissioner Givens indicated that he would vote for this proposal, but only because the cities will get the bloc work which was included in the motion, to as far as possible keep North Nampa, Meridian, and Eagle in their own districts. He indicated that in part his support was also an indication of his support for the effort that went into developing the plan. In other words, he respected the process.

Commissioner Haagenson, addressing the concerns expressed by Commissioner Shurtliff, said that Meridian and Eagle are mostly in a district. He pointed out that Nampa has a population of more than 50,000 people, and cannot all be in a single district. The split was made in a manner to keep the Hispanic community of interest intact. He added that the rural areas of Ada County make these districts large, but they do not affect population. The most southerly precincts are largely unpopulated, and the population is located in the north part of the precinct.

Commissioner Hepworth stated that he would vote no. He commended the effort and was not totally opposed to all of the part of the proposal. However, he would prefer to see the changes, which were being discussed, made, and then hold the vote.

The vote on the motion was **Commissioner Givens, Commissioner Haagenson** and **Commissioner Stuart** voting yes, **Commissioner Hepworth, Commissioner Sellers** and **Commissioner Shurtliff** voting no. The motion failed. At 8:00 p.m. the commission adjourned to meet at 9:00 a.m. on July 25.

JULY 25

The Commission convened at 9:30 a.m., **Co-chairman Stuart** conducting. He reported that the first item of business would be follow-up on the Ada/Canyon County plans where the commission left off the night before. He indicated that he was aware of two proposals, available on the in-focus projectors, so he and **Commissioner Shurtliff** would walk through these two for comparison.

Commissioner Stuart described L36 which was the revision with the adjustments of specific blocs to further refine city boundaries. He indicated that the major difference between L36 and L37 was that in L36, he takes two Ada precincts to add to Canyon. This provides a better balance because of the population distribution. **Commissioner Shurtliff** was recognized to describe L36. He concurred that the two plans are very similar, except that L37 keeps the county lines of Ada County. Other small adjustments were also made for further balance when these two precincts are

retained in Ada. The commission took a brief recess and reconvened at 10:55 a.m.

Commissioner Haagenson moved, seconded by **Commissioner Givens**, to adopt L36. **Commissioner Haagenson** stated that he could support either plan, but slightly favored this one. Taking the two precincts out of Ada County is justified because this is a fast-growing area. It seems a mistake to make the deviation in the Ada districts above the average. **Commissioner Givens** also indicated that he could support either but this is better because L36 does not over population all of Ada County by 2%. **Commissioner Stuart** added that he too endorses this proposal. Ada County just shouldn't be over populated. The motion failed, **Commissioner Givens**, **Commissioner Haagenson** and **Commissioner Stuart** voting yes, **Commissioner Hepworth**, **Commissioner Sellers** and **Commissioner Shurtliff** voting no.

Commissioner Givens moved, seconded by **Commissioner Hepworth**, to adopt L37. **Commissioner Stuart** acknowledged that he understands the reluctance to split off a portion of Ada County; failing to do so leaves the Ada districts high. And the Star precincts do have a community of interest in Canyon where they are joined in the other proposal. **Commissioner Givens** noted that he made this motion, and supports this plan with some reservations. The deviation issue in Ada County is bothersome. It is a modification that might be considered later. After further discussion, **Commissioner Haagenson** moved, seconded by **Commissioner Shurtliff**, to amend L37 to include northwest Owyhee precincts in the Canyon district. The amendment was approved unanimously, and the motion to approve L37 as amended carried unanimously.

Co-chairman Stuart asked the members where next to work. **Commissioner Hepworth** suggested that in view of the problems in the Magic Valley, it might work to move to eastern Idaho and see if any consensus can be reached there. **Commissioner Stuart** acknowledged this was an approach, but suggested that how the commission decides on Blaine County is the lynch pin for everything else. He urged that if creative solutions are found here, the rest would fall out quite naturally. The commission recessed briefly to develop alternative proposals to place before the membership.

Following the recess, **Commissioner Shurtliff** was recognized to discuss L35, a proposal which deals only with the northern portion of eastern Idaho. In many ways, he said, this proposal follows the general outline of the existing districts.

Commissioner Sellers suggested that the commission might address the most eastern portion of the remaining counties, and she described the content of districts 28 through 35 in L12. **Commissioner Shurtliff** suggested that some of the combinations in this proposal are not the traditional lines of interest in the area. **Commissioner Sellers** agreed, but also pointed out that the geographic area is quite small so that although it is not insignificant, it is not unworkable. The commission recessed until

1:15 p.m.

Following the recess, **Commissioner Sellers** suggested that the membership look at a very small piece of the southeast section. She moved, seconded by **Commissioner Haagenson**, that the commission adopt districts 33, 34 and 35 as proposed in L12. After extensive discussion concerning the ways in which even this small area then controls some of the alternatives available in the remaining counties, **Commissioner Sellers**, with the permission of her second, revised the motion to address only district 35. **Commissioner Stuart** stated that he was still concerned that this might limit flexibility. While this may be the end result eventually, it seems premature to adopt it now. The motion failed, **Commissioner Haagenson**, **Commissioner Hepworth** and **Commissioner Sellers** voting yes, and **Commissioner Givens**, **Commissioner Shurtliff** and **Commissioner Stuart** voting no.

Commissioner Haagenson suggested that the balance of the time remaining be used to discuss the possible alternatives relating to congressional districts.

Commissioner Hepworth reported that based on the hearings and discussions he has heard to date, one of the concept plans presented seems to have no support and can be eliminated. The other two may have generated some interest. Some Boise testimony actually favored the split of Ada County. **Commissioner Haagenson** said that he had reviewed the testimony and suspected it was at least five to one in favor of a split of Ada County.

Commissioner Shurtliff observed that while he hadn't thought about this much until the testimony, he felt that his vote in congressional elections really hadn't counted for much. If you listened to the testimony, most said that they didn't want their county split. Of course, they were talking about legislative districts. But he wondered why the same doesn't apply to splitting Ada County for purposes of congressional districts. **Commissioner Shurtliff** said that he had visited with **Perry Swisher** who reported that as recently as 1932, one congressman did represent the state from Hope to Grace because Idaho had only one congressman. Furthermore, the two Idaho Senators do that all the time. They are able to represent all of Idaho.

Commissioner Haagenson said that from Grace to Hope or Port Hill to Fish Haven, the areas simply are not similar. It may actually be in the best interest of all to continue the status quo. Putting Ada County all in one district would create a district where Ada will dominate. The remaining population would not feel represented. **Commissioner Shurtliff** observed that this is the meaning of one man, one vote.

Commissioner Stuart noted that he too is feeling that Boise should not be split. He recounted his personal history, saying that he has lived in Boise 35 years and has never moved more than a mile. Yet he has moved congressional districts four

times. He thinks the average voter would be confused by such a situation.

Commissioner Givens indicated that he is concerned with all of the concept plans currently before the commission. He does not believe that Ada and Canyon counties should be separated. Be he feels even more strongly that the interests of Hope and Grace are not similar. When discussing Ada in district 1 and Canyon in district 2, you can find some similarities in the area of agriculture. The farmers of Canyon and Bonneville do tie the two areas together.

Commissioner Sellers stated that she finds the Hope to Grace alternative totally unacceptable. She said that she actually tallied the comments at the hearings, and those who expressed an opinion are 7 to one in favor of the status quo.

Commissioner Hepworth said that he agrees with maintaining the status quo. He has visited with his Boise acquaintances and finds that many do not know which district they are in. To him that tells a story that they may be well off as they are. On the contrary, **Commissioner Shurtliff** suggested that the very confusion **Commissioner Hepworth** identifies might be reason that the situation should be fixed. Boisians should know they have a congressman, and who that person is. He also pointed out that the status quo wouldn't actually be the status quo because there is a significant population disparity between the two districts now. As many as 100,000 people are going to have to be moved.

Commissioner Hepworth asked if it would be worthwhile to ask for input from members of the congressional delegation. **Commissioner Givens** pointed out that they have been notified of the meetings and could have addressed the Commission. **Commissioner Stuart** suggested that in public news releases, both of the current congressmen have spoken in favor of the current arrangement.

Commissioner Haagenson, moved, seconded by **Commissioner Sellers**, that the commission develop alternatives, which continue to divide Ada County, limiting the divisions to a single legislative districts. The motion failed, **Commissioner Haagenson**, **Commissioner Hepworth** and **Commissioner Sellers** voting yes, and **Commissioner Givens**, **Commissioner Shurtliff** and **Commissioner Stuart** voting no.

At 2:20 p.m. the commission adjourned. The next meeting was set for 9:00 a.m. August 6, 2001.



Idaho Commission on Redistricting
Public Hearing
August 06-07, 2001
Gold Room, State Capitol Building
Boise, Idaho

August 6

The meeting of the Commission on Redistricting convened at 9:55 a.m., Co-chairman **Commissioner Sellers** presiding. Present were **Commissioners Givens, Commissioner Haagenson, Commissioner Hepworth, Commissioner Shurtliff** and **Commissioner Stuart**. Staff present was **Ms. Bennion, Mr. Borden** and **Ms. Wilkins**.

The commission began with discussion of alternatives for the remaining southeast counties of the state. **Commissioner Shurtliff** presented, and then discussed at length, L43. He explained that he moved the Castleford school district from Twin Falls County and that he did so with some reservation given the fact that it splits a county. The Blaine County district moves somewhat further into Gooding County. This proposal protects the city of Twin Falls in a single district and combines rural Twin Falls County with Cassia County and part of Minidoka. The small town of Paul is split. Northern Minidoka County, the tail of Blaine County, and part of Bingham County, to create contiguity, are in a district. The balance of the southeast corner is very similar to existing districts. The balance is as he presented at the last meeting. In this plan, seven counties are divided, four of which must be split because of their size. **Commissioner Hepworth** asked how many times Twin Falls is divided. **Ms. Samis** responded that it is divided four times with the move of the Castleford school district. **Commissioner Stuart** observed that this could be returned to Twin Falls County.

Commissioner Sellers observed that this plan has more county splits (8) than in the plan presented by the republicans which splits only four counties in this area and only 10 in the whole state. **Commissioner Hepworth** stated that the commission is mandated by the statute and the constitution to only split counties where absolutely necessary. It is not necessary to split this many counties. **Commissioner Sellers** also noted that in this plan, the Ft. Hall Reservation is in three districts. That is an unnecessary division of a community of interest.

Commissioner Givens said that this was the first time he had seen this proposal. He didn't like the idea of moving Castleford, and he hoped that it would be

possible to find a way to keep Power County whole. But this is a treatment of Idaho Falls that is better than anything he had seen. The commission recessed.

Following recess, the commission convened at 2:00 p.m. **Commissioner Haagenson** was recognized to describe a revision based upon the presentation of this morning by **Commissioner Shurtliff**. This is plan L44. **Commissioner Haagenson** said that it has an overall deviation of plus or minus 4%. It moved the outlying area around Homedale and Marsing back into Owyhee County, so is an adjustment to the portions already tentatively approved, but this brings enough population to return the Twin Falls precincts to that county.

Commissioner Givens described L46 which is also based upon the **Commissioner Shurtliff's** plan. He indicated that he actually preferred the L45 treatment of Marsing and Homedale.

Commissioners discussed the various alternatives before the commission. **Commissioner Haagenson** cautioned that while there is nearly consensus on the best version based on L43, there was no agreement that this was as ideal starting point. The preferred starting point is still L39. The commission recessed and reconvened at 4:00 p.m.

While waiting for maps to be presented, Co-chairman **Commissioner Sellers** asked of the commissioners would like to address the issue of transcription by the court reporter. She indicated that if there is to be a transcription, then having staff produce minutes is a duplication of effort. After discussion, it was the consensus of the commission that there would be no transcription at this time.

Commissioner Haagenson presented a slight revision of the draft, which had been presented earlier, and discussion followed. **Commissioner Hepworth** said that he continued to be baffled by the unwillingness to consider the republican draft for the Magic Valley. It crosses fewer county lines, the deviations are lower, and in represents communities of interest better. It can be argued that there is nothing contiguous to Blaine County that has a real community of interest with that county. However, if you look beyond Sun Valley, you have a lumber, mining and ranching county very similar to Custer and Lemhi. He acknowledged that the speakers from Custer and Lemhi expressed a desire not to be joined with Blaine, but there are other instances where people have expressed their desires, and the commission has recognized that it would not be possible to fully satisfy every expressed desire. He referred to letters received by the commissioners today that Valley County and Payette County should not be split. Of course, they should not be split, but there are other factors to be considered.

In response, **Commissioner Stuart** agreed that the issues of incumbency should be very low on the agenda for consideration by the commission and that was not the prevailing consideration in relation to Blaine County. He asserted that there are

some connections, which simply do not make sense, and the Custer/Lemhi and Blaine combination is among those. Galena Summit is a significant boundary. He also responded that he personally believed all of the democratic commissioners have looked seriously at L12 revised as L39. He has looked for ways to modify that blueprint to make it work, but the essence of L39 is that Blaine County is moved out of the Magic Valley. That is at the root of L39, and any adjustment that makes sense changes the whole plan.

Commissioner Givens expressed his opinion that the federal constitution, whence the one man one vote principle is derived, allows the states some leeway concerning deviations if there is a consistently applied legitimate reason. Case law supports a range of 15-16% range where there is such a reason. There is an extreme Wyoming case with a 40% deviation. The bottom line is that the people want districts that make sense. There are better alternatives at 30 or 33 districts, but the commission is dealing with 35 because it is a rigid republican position that nothing else will be considered. Now the commission is faced with the issue of Blaine County. It also must recognize that when the regional population is totaled, there is one-third of a district, which must be moved.

Commissioner Givens then shared his experience attending a pow-wow over the last weekend. His wife, Jeanne, was honored to be selected the head woman dancer. He saw some dream catchers that made him think of the problems faced by the commission. A dream catcher has many polygons in it, contained within the circle, and would be very easy to divide into districts. But the state of Idaho is not a circle. It has a strange shape with bazaar population distribution. He also saw in the dream catchers an opportunity to make a gift to the members of the commission. He was worried that there were bad thoughts in the air, and the dream catchers should work to filter out bad dreams. He presented a dream catcher to each member of the commission and wished them well in their further deliberations.

Commissioner Hepworth said that he appreciated the gift of the dream catcher. He added that in response to the observations of **Commissioner Givens**, it is well known that what makes sense to one person may not make sense to another. This is a universal truth and it applies to "reasonable" as well. There are many issues, which have come before the commission, that yet to be resolved, and he too hopes that the commissioners will have positive thoughts. The commission adjourned at 4:30 p.m.

August 7

The meeting of the commission convened at 9:50 a.m., Co-chairman **Commissioner Stuart** presiding. All members of the commission were present.

Commissioner Givens was recognized to present a new proposal. He

indicated that over the night he had given a lot of thought to **Commissioner Hepworth's** remarks. They sounded very familiar and he realized that he was hearing himself from twenty years ago when he led the challenge to the legislative districting. He also considered the device of taking a logical premise to the extreme such as had been done by **Commissioner Stuart** with the congressional plan which split every city along the boundary line. He set out to do the same thing, splitting no county and not worrying about whether it made sense. If Idaho County ended up with Custer and Lemhi, so be it. He would look for numbers. He would be governed by the real requirement that counties not be split. He also reviewed the issue of deviation. He repeated the direction of the *Mehan* decision that the plan be governed by a rational state policy, which would probably justify a deviation of 15%. He reviewed the situation. He said that two counties have precisely the right population for a district: Latah and Nez Perce. Kootenai County has the population for three districts. Ada County has population for eight districts. Bannock has population for two districts. Four other counties have one or more district, with some left over so they must be split and combined with other counties: Canyon with three plus; Twin Falls with one plus; Bingham County with one plus; Bonneville County with two plus. Bonner County has to be divided because of geography so there are in total five counties, which have to be divided.

Commissioner Givens presented L48 and discussed the combinations. The total deviation is 14.2%, which is lower than the *Mehan* criteria, and there is certainly a rational state policy. He indicated that he had some mixed feelings about the plan. It certainly presents a road map for anyone to challenge any other plan. He suggested there are some who think this is a republican court and providing fodder for a court challenge isn't in his interest. However, it has been his experience that courts are not easily pigeonholed. Court appointees bring a philosophy and apply it. There would undoubtedly be a careful consideration of any court challenge, and it might not fall easily into political categories. He said of L48 that it has mostly combinations, which make sense. It doesn't do some things that can be done, such as preserve reservation boundaries.

In discussion that followed, commissioners agreed that this raises issues in a different way. **Commissioner Haagenson** noted that some of the combinations are hard to justify because they so clearly are made at the expense of community of interest. He conceded that community of interest may not always be placed above preservation of county boundaries but it makes sense to try to respect both. The commission recessed briefly.

Following the recess, **Commissioner Stuart** presented L49 that made adjustments to the plan originally presented by **Commissioner Shurtliff** most recently modified in the form of L46. Following the recess, **Commissioner Stuart** pointed out a precinct that was inadvertently placed in the wrong district in L49, and it will be L49

as corrected.

Commissioner Shurtliff presented additional revisions in the form of L50. This is the bridge to Blackfoot plan. His goal was to reduce the number of times Bannock County is divided. **Commissioner Shurtliff** moved, seconded by **Commissioner Stuart**, to adopt L46 as modified by L50. **Commissioner Shurtliff** said this is a compromise that gets the commission along the way. It is a reasonably decent plan. **Commissioner Shurtliff** indicated that he did not think a perfect plan will emerge and this one may be close enough. The point is to reach an agreement on a plan that has a sense of what is important.

Commissioner Haagenson said that this was an intriguing idea, and it does succeed in keeping Bannock County together. He asked for a break to review the plan in greater detail.

Commissioner Hepworth moved, seconded by **Commissioner Haagenson** that the commission adopt L44. **Commissioner Shurtliff**, indicating that he wished to defer to **Commissioner Hepworth**, withdrew his motion, with the permission of his second.

Commissioner Shurtliff expressed his opposition to the motion. He said that the work, which has been invested in the proposals before the commission, is a substantial effort and he appreciates it. However, it pales compared to the work of going over Galena summit in winter to represent the people of this district in L44. This district is very large and it doesn't have to be. The commission has heard it voiced and re-voiced that Blaine County is part of the Magic Valley. L44 also has a district which runs from Elmore to Pocatello. Another district which is large and doesn't have to be done. The combination of Jefferson and Teton makes no sense; one must actually leave the district to travel from one part to another. Clearly it is possible to accomplish one man/one vote without accomplishing equal representation and this plan does it. This kind of districting is geared to the wealthy and the retired because the geography makes it impossible for anyone else to successfully run for office. **Commissioner Shurtliff** continues to be confused as what justifies pushing Blaine over the Galena Summit.

Commissioner Haagenson responded that no one wants to move Blaine County, but there are population factors to be considered too. This plan represents half as many county splits largely because Blaine County is moved. A district 23 is indeed large and unwieldily, but there are areas of Idaho that are large and sparsely populated.

The commission recessed and reconvened at 1:30 p.m. The discussion of the motion on the table resumed. **Commissioner Givens** reviewed L44. He pointed out that Twin Falls County is combined and divided twice in addition to the district within

the county. That is one more division than is required. Bannock County, which is entitled to two entire districts, in L44 is divided into three districts, with only one entirely within the county. Bonneville County, which is entitled to two districts plus, in L44 is divided into four districts. There are other examples of such unnecessary divisions and combinations, but Commissioner Givens concluded that because of these and others, he would not support this motion.

Commissioner Sellers reviewed the contents of L44. She pointed out that while district 25 does include some area outside Twin Falls, it is primarily an urban district. Additionally, she indicated that district 35, which includes Oneida, Franklin, Bear Lake and Caribou, takes in the Marsh Valley area of Bannock County. She asserted that the only possible reason to keep Marsh Valley in Bannock County is incumbent protection. This part of the county has actually considered alternatives for legally separating from Bannock County.

On the motion to adopt L44, the vote was **Commissioners Haagenson, Hepworth and Sellers** in favor, **Commissioners Givens, Shurtliff and Stuart** opposed. The motion failed.

Commissioner Shurtliff moved, seconded by **Commissioner Stuart** to adopt L46 as revised by L50. The plan was reviewed. **Commissioner Stuart** commended the by-partisan approach made to the development of L46. The revision to Bannock County is a good one. Idaho Falls is treated well, and the northeast corner districts are clean and compact. **Commissioner Givens** agreed that the process was a good one, but what this does to Ft. Hall isn't very favorable to protecting that community of interest. He indicated that he would vote against this motion because L48 is better. **Commissioner Haagenson** said that he would vote no because he is convinced that the commission can do better than this. The motion failed, **Commissioners Shurtliff and Stuart** voting yes, and **Commissioners Givens, Haagenson, Hepworth and Sellers** voting no.

The commission recessed briefly. When the commission reconvened, **Commissioner Haagenson** was recognized to present L51 to the members. He described L51 as a kinder, gentler version of the proposal submitted by **Commissioner Shurtliff**. The most significant difference is in district 23, which adds Custer County to Blaine, Camas and Gooding, and carries only Lemhi into the eastern counties. **Commissioner Shurtliff** asked if **Commissioner Haagenson** might describe the virtue of this new proposal. **Commissioner Haagenson** responded that, in truth, the most virtuous plan before the commission is L44. But, to be downright honest, this is a stretch and an attempt to reach a compromise. He suggested that, while incumbency is supposed to be the last priority, it is the only possible explanation for the ways Bannock County is being drawn by the democratic commissioners. Responding, **Commissioner Shurtliff** countered that to split Bannock county three ways can only be explained as a way for the republican commissioners to "get" **Bert Marley**. **Commissioner**

Haagenson offered the testimony of nearly everyone from Bannock County that the rural, Marsh Valley portion of the county identifies with the rural counties of district 32.

Commissioner Hepworth suggested that hope is diminishing that the commission will reach a successful conclusion. Perhaps it is time to seek more public input. The commission might submit two plans for public comment and work from there.

Commissioner Shurtliff allowed that he certainly does not disrespect public input. But much of the input so far has fallen on deaf ears. Not one person outside of the commission believed that Blaine County ought to be joined to Custer and Lemhi, yet look at the proposals. Marsh Valley may be considering secession, but for now it is a part of Bannock County, and Bannock County is entitled to two legislative districts. **Commissioner Shurtliff** observed that the voters, by a very great margin, voted to adopt this process to avoid the self-preservationist instincts of legislators. Voters put their trust in the commission. It will be unfortunate if the six commissioners cannot reach a decision, because that will be a failure. Putting plans out to the public and asking them to make a decision is not what we were appointed to do. We are supposed to exercise our judgment. Making a decision is our job. Furthermore, to be real about the thing, asking for a tally on two plans from the public has a fairly predictable outcome. The deck is stacked on that tally. We're not going to solve the problem by avoiding it, **Commissioner Shurtliff** said, and he indicated that he would oppose any such plan at this time.

Commissioner Hepworth said that he didn't disagree with much that **Commissioner Shurtliff** had said. Yet he is faced with the reality that there seem to be bridges that neither side seems able to cross. Public input is one possible way to continue the process, perhaps productively. **Commissioner Shurtliff** pointed out that all of the plans are public and are on the Internet for people to review. The commission is already receiving considerable response to the proposals that are before the public.

The commissioners discussed other means of reaching compromise. It was suggested that small work groups continue to develop alternatives and they will be further explored at the next meeting. The next meeting of the commission was set for Saturday, August 18 at 9:00 a.m., with the possibility of meeting on Sunday as well. The meeting adjourned.



Idaho Commission on Redistricting
Public Hearing
August 18, 2001
Gold Room, State Capitol Building
Boise, Idaho

August 18

Co-chairman Commissioner Sellers, Saturday, August 18, called the meeting of the Commission on Redistricting, to order at 9:20 a.m. Additional members of the Commission present included **Commissioners Givens, Haagenson, Hepworth, Shurtliff** and **Stuart**. Staff present was **Mrs. Bennion, Mr. Borden** and **Ms. Wilkins**.

Following brief opening discussion, **Commissioner Givens** was introduced to present information concerning his justification of the deviations in L48. He explained that **Commissioner Haagenson** suggested that he put his rationale on paper for the benefit of all members. He referred to the decision in Mahan (Mahan v. Howell, 410 U.S. 314), which permitted a deviation of 16.4% because of the consistent attempt to implement a rational state policy through slightly higher deviations. In the plan presented at the last meeting, L48, the rational state policy is the preservation of county boundaries. Only those counties that must be divided were divided in that plan. He also referred to the second Heller decision where the court said that if it is possible to comply with the constitutional requirement regarding county boundaries and still achieve equal representation, and then it must be done. At that time, the constitution prohibited the division of a county. That absolute prohibition has been amended, but county boundaries are still the factor given primacy by the constitution. A copy of the complete paper is on file in the office of the Commission.

Commissioner Givens continued with a presentation of L54, which he indicated had evolved from L48. It was a closer look taken in consultation with **Commissioner Haagenson** in an attempt to lower the deviations to the absolute lowest that could be achieved. The first change was made in the District 1. He suggested that there are several ways of adjusting the boundary between Districts 1 and 2, and none is ideal. There are communities of interest and connections between these communities and not all can be preserved. The next adjustment was in the areas in Districts 8, 9, 10 and 11. These changes allowed a better representation of the Hispanic population and do not

split a county. And the final significant change is to retain Oneida County in District 31, which then also takes in the Swan Lake area of Bonneville County and all of Teton county. This is not an ideal district, but there are some similarities in the area, including the rural nature of all of the counties. This proposal contains no division of a county that is not absolutely necessary and contains no divisions of counties that are prohibited by the Idaho Constitution.

Commissioner Sellers asked if there were questions or further discussion. **Commissioner Haagenson** said that he felt there was much to recommend this plan, although deviation continues to be a concern. To reduce the deviation any further will require division of more counties. **Commissioner Stuart** asked was is the total deviation of the plan.

Following a brief recess, the Commission briefly discussed a modification of an earlier Shurtliff "theme". This plan, identified as L55, makes a revision by attaching most of Blaine County to the Magic Valley but using a bridge of two precincts to connect to Bingham County.

The Commission recessed and reconvened at 4:30 p.m.

Co-chairman Commissioner Sellers called the meeting to order and asked the pleasure of the members. In order to move the deliberations along, it was suggested that L54 and L55 be described and compared by their respective sponsors. **Commissioner Givens** responded that L54 does not divide any county unless that county must be divided which achieves compliance with the state constitution and the deviation is 14.2%, which is under the Mahan limit. **Commissioner Givens** moved, seconded by **Commissioner Stuart**, that the Commission adopt L54 as the legislative districting plan. **Commissioner Stuart**, speaking in favor of the motion, stated that it is simple, it respects county boundaries so that it makes sense, and clearly there has been no temptation to gerrymander. **Commissioner Haagenson** indicated that there are many aspects he likes, although he continues to be concerned by the deviation above the 10%. Except for deviation, the plan is excellent. The motion failed, **Commissioners Givens, Haagenson and Stuart** voting in favor and **Commissioners Hepworth, Sellers and Shurtliff** voting against.

Commissioner Sellers next described L56. This plan has a total deviation of 8%, well within the 10% goal. She described districts 23 through 35 in detail. **Commissioner Hepworth** moved, seconded by **Commissioner Haagenson**, that the Commission adopt L56 for redistricting the legislature. **Commissioner Givens** pointed out that in just the area described, this plan splits seven counties that are in violation of the state constitution. He also objected to the combination in District 26 of Hazelton with Stanley. He said that he understands that the geography of Idaho mandates that some districts must be large, but this is not one of them. **Commissioner Stuart** added that he is also troubled by the treatment of Bonneville County, which is divided among four

districts. This proposal does not respect the urban area of Idaho Falls. **Commissioner Haagenson** stated that he could understand the criticism. In all candor, he said, the divisions are mandated because the democratic members of the Commission are not willing to consider any alternatives regarding Custer and Lemhi counties. He stated that he felt this plan is a good faith effort to achieve a compromise given the limitations. **Commissioner Stuart** responded that he does acknowledge the effort represented by L56 and appreciates the on-going efforts on both sides to work toward agreement. The motion failed, **Commissioners Haagenson, Hepworth and Sellers** voting yes, and **Commissioners Givens, Shurtliff and Stuart** voting no.

The chairman recognized **Commissioner Shurtliff** and he introduced L57 to the Commission. This is the latest version of L43, which was the original **Shurtliff** "theme" proposal. This differs most markedly from the most recent versions by adding Butte County with Lemhi, Custer, Clark and Jefferson; Teton County is connected with a part of Bonneville and a precinct from Madison; and changes are made in Bannock and Bonneville counties. The total deviation is 9%. **Commissioner Shurtliff** moved, seconded by **Commissioner Stuart** to adopt L57 as the legislative redistricting plan.

Commissioner Stuart said that there is a lot to like about this plan. It is a different approach. The Givens plan keeps counties whole, while this plan favors a lower deviation and consequently splits more counties. District 26 in this plan is very large, but it is precisely what the legislators from the area, Senator Burtenshaw and Representative Wood, requested. **Commissioner Givens** noted that Jerome County is not divided, nor is Gooding County. But Blaine is split in this plan, Minidoka is split, Bannock is split, as well as several others. **Commissioner Haagenson** stated that he would very reluctantly be voting no on this plan. He would like to look at something that is closer to the Givens plan with a lower deviation. If that isn't possible, perhaps tomorrow he will vote for something like this plan. **Commissioner Givens** said that he would like to attempt to respond to **Commissioner Haagenson's** request by exploring ways to reduce the deviations. **Commissioner Stuart** suggested that the Commission could delay the vote on this motion until tomorrow and see if something develops overnight so that both options can be considered together. **Commissioner Sellers** indicated that as now configured, she would vote no on this proposal and would like to see **Commissioner Givens'** alternative tomorrow. The vote on the motion failed, **Commissioners Hepworth, Shurtliff and Stuart** voting yes, and **Commissioners Givens, Haagenson and Sellers** voting no.

The Commission adjourned until 9:00 a.m. Sunday, August 19.



Idaho Commission on Redistricting
Public Hearing
August 19, 2001
Gold Room, State Capitol Building
Boise, Idaho

August 19

The meeting of the Commission on Redistricting, Sunday, August 19, was called to order by **Co-chairman Commissioner Tom Stuart** at 10:25 a.m. Additional members of the Commission present included **Commissioner Givens, Commissioner Haagenson, Commissioner Hepworth, Commissioner Sellers and Commissioner Shurtliff**. Staff present was **Mrs. Bennion, Mr. Borden and Ms. Wilkins**.

Commissioner Sellers was recognized and began discussion of L58, a slightly revised version of L56 with the changes made in the Pocatello area and the merge with the tentative adoption of the western and northern portions of the state. **Commissioner Haagenson** moved, seconded by **Commissioner Sellers** to adopt L58 east of the firewall as the redistricting plan for the Idaho Legislature. **Commissioner Haagenson** pointed out that District 22 would be high because the district had not been directly addressed. There may be some changes to the tentative portions in order to balance the deviation. The motion failed, **Commissioners Haagenson, Hepworth and Sellers** voting yes and **Commissioners Givens, Shurtliff and Stuart** voting no.

Commissioner Stuart asked the pleasure of the Commission concerning new proposals that are apparently ready for further discussion. With the permission of the members, **Commissioner Givens** introduced L59. He indicated that the deviation would be 12.16% reduced from 14.2% with the division on only one county. **Commissioner Haagenson** described a slight change between Districts 1 and 2 which balances the deviation in those districts. One precinct from Gem county, which was not previously split, added to the district containing Payette, Washington and Adams, using the river as a boundary, brings that deviation closer. There are also small Nampa and Pocatello changes to square up the district lines slightly. **Commissioner Hepworth** asked if this proposal still joins Twin Falls County with Owyhee. **Commissioner Givens** responded that it does. **Commissioner Givens** added that while it creates a very large district, which isn't exactly popular, it is a rural district with a lot of similarity in the interests of the area. **Commissioner Sellers** interjected that the combination of Teton County with the corner counties is also a significant problem district.

Commissioner Givens concurred that this isn't a great district, but the pressure to keep counties whole, to make no splits in violation of the constitutional mandate, drives this district.

Commissioner Givens moved, seconded by **Commissioner Stuart**, to adopt L59 as the redistricting plan for Idaho. **Commissioner Haagenson** stated that he does not believe this is a perfect plan. He doesn't like what was necessary in District 2 to balance deviations. He doesn't like combining Twin Falls with Owyhee or Teton with Oneida, Franklin, Bear Lake and Caribou. Also, he said, he would prefer a deviation under 10%. But this creates clearly understandable districts. It divides only one county, which is not required by population or geography. He said that he would vote for the plan. **Commissioner Stuart** observed that this plan does have imperfections. He asserted that there probably is no perfect plan. The Commission recessed briefly. Upon reconvening, **Commissioner Sellers** asked if the vote on this motion was still on a tentative approval. **Commissioner Stuart** responded that the motion was to adopt as the final plan. **Commissioner Hepworth** said that previous portions were adopted tentatively and he opposed changing the rules of the game at this point. **Commissioner Stuart** concurred and agreed that this would be a tentative adoption in conformity with the previous motions. **Commissioner Shurtliff** said that he would be holding his nose and voting for this plan. He agreed with previous speakers and he dislikes all the things already mentioned. He added that he dislikes the split of Gem County. He also thinks that the deviations in Ada County are too high but he acquiesced in this because he expected to make some accommodations later. Of the plan in general, he said that he appreciated that counties are maintained intact, but he doesn't share the belief that county boundaries should trump one man one vote principles. He asserted that representation suffers to a degree, which is not necessary, but for the mandate of county lines. County lines should be but one of a number of factors, and community of interest is done significant violence in this plan. Saying all of this, however, he said that any plan adopted by the Commission promises to be five times better than any plan adopted by a court or the Legislature. The motion carried, **Commissioners Givens, Haagenson, Shurtliff** and **Stuart** voting yes, and **Commissioners Hepworth** and **Sellers** voting no.

The Commission recessed briefly. Upon reconvening at 11:30 a.m., **Co-chairman Commissioner Stuart** suggested that the next matter of business would be the approval of congressional districts. He pointed out to the Commissioners that C3, which connects Ada County in tact to the North is outside the federal guidelines for deviation. A slight modification, which **Commissioner Stuart** introduced as C7, would move a small portion in northeast Canyon County, using readily identifiable roads, to achieve the deviation of less than 1%. **Commissioner Givens** moved, seconded by **Commissioner Stuart**, to approve C7 as the Congressional plan for Idaho. **Commissioner Shurtliff** addressed the motion, saying that he is firmly in favor of maintaining Ada County whole in a district. He has sympathy for Canyon County as well, and does not wish to vote to split Canyon County. **Commissioner Haagenson**

expressed his opinion that splitting Ada County is vastly preferable to this plan. The people of the state are used to splitting Ada County and they need not be made to adjust to such an extensive change as this. **Commissioner Stuart** said that he is a proponent of keeping Ada and Boise whole in a single district. This will assure that people will know who their Congressman is and what district they live in. Keeping the county whole removes the ambiguity.

The motion to adopt C7 failed, **Commissioners Givens, Shurtliff** and **Stuart** voting yes and **Commissioners Haagenson, Hepworth** and **Sellers** voting no.

Commissioner Stuart then introduced C8, which used I84 as the boundary and split Elmore, Canyon and Ada Counties. It does also divide some cities, but the boundary line is very distinct and well recognized which would work to remove confusion among voters. The deviation is 0.4%, within the range allowable. After brief discussion, the Commission recessed.

The Commission reconvened at 1:05 p.m. **Commissioner Sellers** indicated that she had some congressional proposals which were not yet ready for presentation and would like a brief time to prepare them. **Commissioner Stuart** suggested that in the mean time, **Commissioner Givens** had some small adjustments to suggest to the tentatively approved legislative plan. **Commissioner Givens** described L60. It includes small adjustments to further reduce the deviations to less than 10%. He could not personally recommend that the Commission move to this extreme, but he was willing to make the presentation in the interests of those who want to see what is required to make this reduction. One change would be to take one precinct from southwest Fremont County to be added to District 34. This is an additional county split. A further adjustment would be in Bonneville County adjusting boundaries to reduce deviation in district 28. Also, moving population slightly within districts 31, 32 and 33 brings all of those districts to plus or minimum 5%. **Commissioner Haagenson** asked for clarification of the additional work in Bonneville County. Does this involve an additional county split? **Commissioner Givens** said that it did not. **Commissioner Stuart** asked if there was further discussion, and when there was none, he noted that this plan was presented to be a matter of record as a suggestion of changes if it is determined that the 10% deviation is more important than the additional county split.

Returning to the matter of congressional districts, **Commissioner Sellers** introduced C9, which was available at that time in paper format only. **Commissioner Stuart** observed that compared to C8, the dividing line in C9 does not recognize a balance between high growth areas. The Commission recessed briefly to await arrival of the next proposal.

When the Commission reconvened, **Commissioner Sellers** asked that **Mr. Paterson** be allowed to describe C10. This is a north-south split of Ada County using existing precinct boundaries. **Commissioner Givens** asked if this doesn't split both Boise and

Garden City? **Commissioner Sellers** responded that it does. **Commissioner Givens** asked if the streets could be identified. After this was done, **Commissioner Haagenson** moved, seconded by **Commissioner Hepworth** that C10 be adopted as the congressional plan. **Commissioner Givens** stated that he has always opposed the division of Ada County and still does. But even if Ada County must be split, he was certain the Commission could do better than this. The streets are so variable that it would be extremely difficult to understand the distinctions. **Commissioner Stuart** added that his goal was that all counties be whole, or that if not, then that the boundary be clear and logical. As provided in this plan, while he could understand the rationale for using precinct lines, he felt that precinct boundaries mean little to voters. Confusion would reign. The jogs and corners required by this plan would make a clear boundary impossible. **Commissioner Haagenson** stated that he was personally frustrated and dismayed. He contended it was time to acknowledge that Ada County will be split. Just like there had been a line drawn in the legislative arena concerning Blaine County, he was now saying that such a line also exists with regard to congressional lines. Ada County will be split or there will not be a plan. The motion to adopt C10 failed, **Commissioners Haagenson, Hepworth** and **Sellers** voting yes, and **Commissioners Givens, Shurtliff** and **Stuart** voting no.

Commissioner Haagenson suggested that as a guideline for consideration, the Commission should recognize that while Ada County will be split, it is not necessary to split another county. Only one county will be split and any plan that splits two counties is probably dead on arrival. **Commissioner Hepworth** agreed with this observation and suggested that if part of the Commission membership is going to insist on Ada County whole, they are at impasse. **Commissioner Stuart** stated that he is not, in fact, drawing a line in the sand and insisting that Ada be kept whole, but he would ask that a split be a clear and logical one.

The Commission recessed for lunch and reconvened at 3:40 p.m. **Commissioner Sellers** introduced C12 and described it. This divides Ada County using major streets approximating the line in the last plan. **Commissioner Stuart** introduced C13. **Commissioner Shurtliff** observed that he started out opposed to a division of Ada County. Now the plans being introduced not only split Ada County, but also split or move other counties as well. The last plans seem to be getting worse not better. **Commissioner Haagenson** responded that he felt he had been clear concerning Ada County. He agreed with **Commissioner Shurtliff** that this should be done in the best way possible. On the matter of Owyhee County it seems to make little difference but moving Canyon County to the First District is not going to be acceptable. **Commissioner Stuart** interjected that he had missed the instruction concerning Canyon and he had not intended to bring a plan that moved backward. He was simply trying alternatives to create the least damage to the city of Boise and Ada County.

Commissioner Stuart presented C14. It is another alternative dividing Ada County. **Commissioner Givens** agreed that it was a clean line dividing Ada County, but it puts

Boise County and Owyhee County in different districts. Its value is understandability, but the price is that two additional counties are disturbed. The Commission recessed.

The Commission reconvened at 4:35 p.m. **Commissioner Stuart** presented C15. It is similar to C11 but uses more distinct lines as a boundary. **Commissioner Haagenson** observed that between C15 and C11, the Commission is close to an answer. **Commissioner Haagenson** moved, seconded by **Commissioner Sellers** to adopt C11 as the congressional plan. **Commissioner Haagenson** noted that these plans are close, but C11 avoids the appendage in C15, which compromises the appearance of the plan. **Commissioner Stuart** stated that from the outset he was in favor of keeping Ada County whole in one district. Barring that he would want to keep Boise City whole in one district. Failing that, there must at least be a clean boundary. The goal of voter clarity is very important. He agreed that there is a strange appendage appearance in C15, which may be characterized as ugly, but in his opinion, any plan, which splits Boise, is ugly. Given this, **Commissioner Stuart** said that he would oppose the motion and recommend another look at C15. The motion to approve C11 failed, **Commissioners Haagenson, Hepworth** and **Sellers** voting yes, and **Commissioners Givens, Shurtliff** and **Stuart** voting no.

Commissioner Givens moved, seconded by **Commissioner Hepworth**, that the **Commission** adopt C15. **Commissioner Givens** expressed his personal objection to this plan and stated that he would not vote for the motion, but felt that it should be before the Commission and should be voted on. He personally advocated the plan voted down earlier, which split a small portion from Canyon county. **Commissioner Hepworth** said that he thought **Commissioner Haagenson** had made it clear that Ada County will be split, and he spoke for the three members of the Republican side. If **Commissioner Givens** is now saying that the Democratic side will not support any plan that splits Ada County, then perhaps there is impasse. **Commissioner Hepworth** moved to adjourn, seconded by **Commissioner Shurtliff**. **Co-chairman Commissioner Stuart** observed that there was a motion on the table for the adoption of C15. **Commissioner Haagenson** interjected a parliamentary note that the motion to adjourn takes precedence and is non-debatable. **Commissioner Stuart** said that he did not fully understand the comment and position of **Commissioner Hepworth** that there could be no conclusion. He felt that a vote on C15 was warranted. **Co-chairman Commissioner Stuart** called for the vote on the motion. **Commissioner Haagenson** asked which motion the **Co-chairman** was referring to and **Commissioner Stuart** acknowledged some parliamentary confusion and concluded that the motion to adjourn was on the table. The motion failed, **Commissioner Hepworth** voting yes, **Commissioners Givens, Haagenson, Sellers, Shurtliff** and **Stuart** voting no. The motion to adopt C15 as the tentative congressional plan was again called, and was adopted. **Commissioners Haagenson, Hepworth, Sellers** and **Stuart** voting yes and **Commissioners Givens** and **Shurtliff** voting no.

Commissioner Hepworth said that inasmuch as the Commission has now adopted tentative legislative and congressional plans, he moved for adjournment. **Commissioner Shurtliff** seconded the motion. **Co-chairman Commissioner Stuart** noted that the Commission could conclude its work if they not adopted final plans, or they could reconvene on Wednesday as had been scheduled to do the final adoption. **Commissioner Haagenson** noted that prudence suggests that reconvening on Wednesday might be advisable to allow a couple of days to allow unforeseen things to surface with the careful scrutiny of others. **Commissioner Stuart** mentioned that staff would be directed to "scrub" L59 as well as the congressional plan to assure that all blocks are appropriately attributed. There could be small technical errors. **Commissioner Haagenson** suggested that if the two co-chairmen could agree that an error was indeed technical and involved no substantive issue, there would be no problem delegating to the co-chairmen the authority to make corrections. When we meet on Wednesday, it would be good to have a report of any such corrections.

Commissioner Sellers said that she would recommend some minor changes now to clean up some of the district lines. She asked that the Commission recess briefly and allow time to make such changes tonight. The Commission recessed.

When the Commission reconvened at 6:10 p.m., **Commissioner Sellers** introduced and described L61. She indicated that this involves two small changes in the Boise area, largely to use blocks boundaries in Meridian, changes two precincts in district 18, uses a highway line between districts 27 and 28, and cleans up some portions of Pocatello in the line between districts 29 and 30. **Commissioner Haagenson** noted that, with the assurance that these changes involve no incumbency, they could be tentatively approved. **Commissioner Sellers** noted that there is a minor discrepancy in the numbers between the plan on her computer and on **Commissioner Givens**; but that it will be a matter for clean up.

Commissioner Haagenson moved, seconded by **Commissioner Givens** to approve L61. **Commissioner Sellers** noted that, while a quorum of the membership was present, **Commissioners Hepworth** and **Shurtliff** had left due to the late hour. The constitution and statutes require that four Commissioners vote in the affirmative to approve a plan, and for that purpose only, she would vote in favor of this motion. The purpose is to make minor corrections and present this plan for comment from the public. The motion passed, **Commissioners Givens, Haagenson, Sellers** and **Stuart** voting yes, **Commissioners Hepworth** and **Shurtliff** recorded absent.

The meeting of the Commission adjourned at 6:20 p.m.



Idaho Commission on Redistricting
Public Hearing
August 22, 2001
Gold Room, State Capitol Building
Boise, Idaho

The meeting of the Commission on Redistricting convened on Wednesday, August 22, at 10:15 a.m., **Commissioner Sellers** presiding. Commissioners also present were **Commissioner Givens**, **Commissioner Haagenson**, **Commissioner Hepworth**, **Commissioner Shurtliff** and **Commissioner Stuart**. Staff present was **Mrs. Bennion**, **Mr. Borden** and **Ms. Wilkins**.

Commissioner Stuart was recognized to make an explanation. He noted that the Commission at the last meeting, with all Commissioners present, had tentatively approved L59. **Commissioner Hepworth** and **Commissioner Shurtliff** left early, and the remaining Commissioners proceeded with the tentative adoption of L61. **Commissioners Sellers** noted that a quorum was always present. **Commissioner Shurtliff** pointed out that a quorum was indeed present, but he also noted that the Commission had consistently followed a policy that votes would not be taken in the absence of any member. These were the original rules agreed to by all members and so far as he was concerned, it seemed wrong to change the rules without the concurrence of all members. He indicated that he was among the four votes originally in favor of L59, but he was not prepared now to vote for L61. **Commissioner Haagenson** noted that there are likely to be a number of changes to be discussed today, and he suggested that they might start from L59 if that is the best starting place. **Commissioners Stuart** added that he wanted to personally apologize to **Commissioner Shurtliff** and **Commissioner Hepworth** that the Commission had preceded in their absence.

Mr. Borden was called upon to discuss the format of the final report. He placed before the Commission a notebook containing the congressional and legislative plans, each with a population and deviation report, a summary report of the geography, a complete county, VTD and block listing and map. The Commission recessed.

When the Commission reconvened, **Commissioner Sellers** suggested that the Commission begin with the base of L59 and amend as a majority finds it appropriate. With that suggestion, **Commissioner Stuart** moved, seconded by **Commissioner Givens**, that the Commission adopt L59 as the final legislative redistricting plan. The motion failed, **Commissioner Givens**, **Commissioner Shurtliff** and **Commissioner**

Stuart voting yes and **Commissioner Haagenson, Commissioner Hepworth** and **Commissioner Sellers** voting no.

The Commission discussed how to proceed to make amendments to the plan which had been tentatively approved, and which plan was now before the commission. **Commissioner Stuart** suggested that starting with L59 and reviewing the changes for all members might be most productive. **Commissioner Sellers** began with an explanation of the change recommended between Districts 27 and 28. While L59 uses precinct boundaries here, the recommendation is to move to the highway to create an understandable boundary line. **Commissioner Shurtliff** asked that the residence of incumbents be shown, and noted that, to be perfectly candid, there is an incumbent impact in this change. The change otherwise affects very few people, but it clearly changes which district **Senator Williams** runs in. Whereas, in the original L59 **Senator Darrington** and **Senator Wheeler** are in a contest with **Senator Williams**, with L61, only **Senator Williams** runs in that district. **Commissioner Sellers** agreed that the recommendation does affect **Senator Williams**, but it does so in a manner to retain his residence in an area he has long represented. She asked if there is any reason this is a bad thing. **Commissioner Shurtliff** responded that making this change does offend him. He mentioned the constitutional mandate being given great weight that requires that counties not be unnecessarily divided. There is also statutory language which dictates that incumbency not be considered. He noted that this is a violation of statute that he isn't willing to undertake. **Commissioner Haagenson** noted that the actual wording of the statute is that no county is to be divided to protect and incumbent. The county boundary in Bingham County is divided in both drafts, as it must be because Bingham County has more population than one district will allow.

Commissioner Hepworth moved that the Commission discuss each change separately and vote on them one at a time. **Commissioner Haagenson** observed that it might be important to see all of the changes before voting on any. **Commissioner Stuart** added that it would be possible to have individual votes on each part and then find that there is no majority for the total package. **Commissioner Hepworth** withdrew his motion.

Commissioner Sellers described small changes made in the Pocatello area. There is a precinct west of the city boundary that was initially considered a rural district and attached to the more rural district in Bannock County. However, this is actually an area that for all practical purposes is a city district, so it is moved into the city district and an equal number of persons are moved out of the city district at the south end of the city. **Commissioner Givens** noted that this change might be used to improve further the balance the populations between the districts. A few more people might be moved from the south end of the city and he indicated that he would work toward that goal.

Commissioner Sellers next described changes in District 18 and the

surrounding districts to balance the first change. It was designed primarily to keep precincts within the city limits in the city districts, and then to square off the boundaries around Meridian rather than follow the erratic city boundaries. These are not substantive changes. **Commissioner Stuart** noted that the changes in the Ada County districts create some concern for him. The end result is to move population into the Meridian district that has a very rapid projected growth rate. With a ten-year view in mind, it would be better to keep this district as light in population as possible. **Commissioner Sellers** noted that projecting high growth is always hypothetical. There was brief discussion of the population impact of the changes in districts 14, 20 and 21.

Commissioner Sellers asked if others had changes they would also like to discuss. **Commissioner Givens** was recognized and introduced a proposal to further reduce the deviation. He noted that at the last meeting, he recommended and the Commission approved a split of Gem County, one precinct moved into District 9, to achieve a reduction in deviation. Now, he said, he has realized that a similar reduction can be achieved by using a precinct containing Parma in Canyon County, a county which is already divided, and keep Gem County whole.

Commissioner Stuart moved, seconded by **Commissioner Givens**, that the Commission approve L61. **Commissioner Stuart** said that this was a means of getting L61 on the table for a vote. The issues raised by **Commissioner Shurtliff** are valid issues, and the Commission did vote when **Commissioner Shurtliff** and **Commissioner Hepworth** were not present. **Commissioner Shurtliff** interjected that he wanted to be clear that he was not offended that the Commission made changes when he was not present. That was an election he made to be gone. What offended him were the changes that were made.

Commissioner Haagenson said that he felt L61 was a better product than 59, but he felt that the Commission could do better than L61. Having already invested considerable time in the effort, he suggested that it would be worthwhile to invest just a little more time and see if we can't improve on the work. He said that he was willing to step back and start with L59, or to begin with L61. But in either case, he could not support L61 for final adoption today. To expedite the process, since all of the changes are before the commission, they could be voted individually and that would bring the work to a starting place essentially the same as that in L61.

The vote on the motion to adopt L61 as the final product failed, all Commissioners voting no.

Commissioner Haagenson moved, seconded by **Commissioner Hepworth**, that the Commission take up the changes as discussed, one at a time, to create a clean start on the work product. **Commissioner Stuart** restated his concern that a different mix of commissioners could vote for specific changes but end with a final product on

which there is not a consensus. The motion carried unanimously.

Commissioner Sellers suggested beginning with the changes in Meridian. **Commissioner Hepworth** moved, seconded by **Commissioner Haagenson**, to adopt the Meridian changes. **Commissioner Hepworth** said that he identifies this largely as a housekeeping measure. **Commissioner Givens** said that he has a concern in that while this looks better and is consistent with the principle of respecting cities, but it increases the deviation from 1.1% to 3.7%. This area is already growing fast and to make it that heavy is not a good change. He admitted that he had not known when he voted in favor of this change at the last meeting that the deviation was effected so profoundly. **Commissioner Stuart** added that he concurs and suggested that this area will continue at the fast pace it has in the past and in 10 years, it will look like district 14 looks today. For this reason he would favor L59. **Commissioner Haagenson** asked if all of the areas in this proposal are contiguous and a close review of the map indicated that they are. The motion failed, **Commissioner Haagenson**, **Commissioner Hepworth** and **Commissioner Sellers** voting yes and **Commissioner Givens**, **Commissioner Shurtliff** and **Commissioner Stuart** voting no.

Commissioner Sellers identified the changes made in District 18 in Boise. **Commissioner Haagenson** moved, seconded by **Commissioner Sellers** that the Commission adopt district 18 changes to L59. **Commissioner Stuart** stated opposition to the motion. He recognized that the intent was to include areas within the city in the city district, but the area did not seem to be residential. It is primarily industrial and light industrial. And even after making the proposed change, parts of the city will be in both districts. The motion fails, **Commissioner Haagenson**, **Commissioner Hepworth** and **Commissioner Sellers** voting yes, and **Commissioner Givens**, **Commissioner Shurtliff** and **Commissioner Stuart** voting no.

Commissioner Sellers moved next to the area in Districts 29 and 30 on the boundary of Pocatello. This would make a small adjustment to move an area on the west of the city which is not actually within the city limits, but which is directly connected to the city, into the city district and make a compensating change on the south end of the city. **Commissioner Givens** also suggested a small adjustment on the south end of the city that would better balance the populations of the two districts. He indicated that he would support this motion. **Commissioner Stuart** stated that this change would make the district in the city 5% high and he felt that was excessive. The motion passed, **Commissioner Givens**, **Commissioner Haagenson**, **Commissioner Hepworth** and **Commissioner Sellers** voting yes and **Commissioner Shurtliff** and **Commissioner Stuart** voting no.

Commissioner Sellers next identified the changes made to the precincts in Bingham County. She stated that this change would in fact put **Senator Williams**

back into his own district. The boundary line is the highway and would not affect many people. **Commissioner Haagenson** concurred that this does affect an incumbent. He stated that there are three good senators here and this slight adjustment will address one of those senators. He suggested that to a very real extent, an existing legislative district has a community of interest. In addition, the change cleans up the boundaries. He urged support of this change. **Commissioner Shurtliff**, referring to earlier discussion, said that he stands corrected and **Commissioner Haagenson** is correct that dividing a county is prohibited to protect an incumbent. He concluded, therefore, that the suggestion is that a little gerrymandering is an OK thing. **Commissioner Shurtliff** continued that he has never met **Senator Williams** and this debate is not about **Senator Williams**. He fundamentally disagrees with the terminology that he is to be put back in his district. The legislative district does not belong to **Senator Williams**; it belongs to the people of Bingham County. The district that was created serendipitously impacted **Senator Williams**. He supported the concept in the original proposal by **Commissioner Givens** to create districts based upon county boundaries. He opposes the effort to now go back precinct-by-precinct and block-by-block to protect anyone. He said that it was not his responsibility to protect incumbents.

Commissioner Sellers responded that the effort is to return **Senator Williams** to the district where he has resided and the district where the people elected him. She did not consider that a gerrymander. **Commissioner Haagenson** stated that he was personally disappointed in the discussion. This is a fair change, as have been others that were rejected earlier. But this one is a specific issue with a specific solution. He hoped for fair consideration and cooperation. He stated his perception that the disposition of this change will affect the remainder of the day. **Commissioner Stuart** stated that he is sensitive to the issues presented by both **Commissioner Shurtliff** and by **Commissioner Sellers** and **Commissioner Haagenson**. He said that his best sense of this situation is that he will keep an open mind and may in the end hold his nose and vote for it. The motion carried, **Commissioner Givens, Commissioner Haagenson, Commissioner Hepworth** and **Commissioner Sellers** voting yes, and **Commissioner Shurtliff** and **Commissioner Stuart** voting no.

The Commission recessed and reconvened at 1:30 p.m. **Commissioner Sellers** brought to the table L62 with proposed additional changes. She described the changes in District 10 where the area around Marsing and Homedale was blocked and moved from Owyhee County into District 10 in Canyon County. This increases the Hispanic percentage in the district, but does not increase the total deviation of the plan. In

District 12, there is block work along the south and east edges of the district to assist the county clerk in drawing revised precinct lines. Moving to Ada County, two precincts are swapped between Districts 20, 19 and 14. This evens out the boundary along the Boise River and the interstate. In addition, the addressed in the morning is again made in district 18. In Twin Falls County, the two districts there are redrawn to split the city of Twin Falls. **Commissioner Sellers** called upon **Commissioner Hepworth** to describe the justification for this change. **Commissioner Hepworth** said the main reason for the change is that everyone in Twin Falls County seems to want it. In the interim since the last meeting, he has been contacted by representatives of the Board of County Commissioners, the Chamber of Commerce, and individuals too numerous to recount, asking that this be done. It is the way that Twin Falls has been in the last and it is the overwhelming sentiment that it be continued into the future. The change has no impact on incumbents. **Commissioner Hepworth** said that he could see no substantial reason not to accommodate the expressed preferences of the citizens of Twin Falls County. He added that it would also be desirable to remove Owyhee County from the district, but he recognized that this would not be possible short of doing massive changes to other parts of the map.

Commissioner Sellers resumed with a description of changes in District 29 that restore Fort Hall population to the district. This will take some population from the districts in Bannock County, but does not draw in the population from Power County. In districts 29,30 and 32, there are several changes to remove Teton County from the corner district, and restore the parts of Bonneville County to districts in that county.

Commissioner Stuart inquired why the changes in the Homedale and Marsing area. **Commissioner Sellers** responded that this was clearly the request of the Hispanic Caucus; and the change does not affect deviations. **Commissioner Haagenson** added that the community of interests between Twin Falls and Owyhee counties is problematic, and most significantly so with the communities of Marsing and Homedale. **Commissioner Stuart** stated that several of the recommendations do violence to the whole theme of maintaining county boundaries. The first is that Owyhee County is divided and it is not required. Further on Bannock, Bonneville and others are also split. It is more than a matter of semantics. It does make a difference if a county is split unnecessarily or if it is split more times than required. **Commissioner Sellers** agreed that this is a significant departure. **Commissioner Stuart** indicated that he was somewhat surprised to see the extent of these recommendations. It had been his hope that today was merely a review and clean up of the proposals, and that the membership was past this scale of proposed change. This returns to the split of Twin Falls City and a three way split of Bannock, which are issues, addressed many times before.

Commissioner Haagenson pointed out that in regard to Twin Falls, it might be that the local citizens were making a slightly different presentation of the community of interest. It is true that a city is a community of interest, but apparently, to the people

of the area, the county of Twin Falls is the greater community. This is a unique but not unprecedented definition of the community of interest.

Commissioner Givens brought L64 for discussion by the Commission. He pointed out changes between Districts 9 and 11. They take the rural area of Parma into district 9, while restoring Gem County to a whole county. There is a balancing of deviations. In Bannock County, based on L62, this proposal puts precincts into 29 from the south end of Pocatello plus a small area on the west. In district #45 he moved one precinct from Jefferson County and two precincts from Bonneville. He pointed out a straightening of the line between Districts 32 and 33. In the north, the lightest district is 1. There were a lot of comments from people in southern Sandpoint wanting to be in District 1. But doing that makes District 2 light. To balance this swing, he suggested going to southern Kootenai to preserve the reservation line. This is all that is required to balance the deviations throughout the districts. These proposals result in two additional county divisions, in Kootenai and Madison Counties. **Commissioner Shurtliff** voiced concern about this proposal. He said that voters in Shoup and Fish Haven seemed to have little commonality. This, in comparison to people who were complaining because they voted in different districts on two sides of a single street like Crescent Rim. The Commission recessed.

At 3:35 the meeting reconvened. At the suggestion of **Commissioner Givens**, the Commission began reviewing each proposed change and voting individually. **Commissioner Givens** moved, seconded by **Commissioner Haagenson**, that the changes shown in Districts one, two and the reservation boundary in Kootenai County be approved. This leaves the lowest deviation in the Post Falls area where there is the most rapid growth. The motion carried, **Commissioner Givens**, **Commissioner Haagenson**, **Commissioner Hepworth**, **Commissioner Sellers** and **Commissioner Stuart** voting yes, **Commissioner Shurtliff** passing.

Commissioner Sellers next presented the Homedale and Marsing changes. **Commissioner Hepworth** moved, seconded by **Commissioner Haagenson** to make the recommended changes adding Homedale and Marsing to the Canyon County district and splitting the city of Twin Falls. **Commissioner Shurtliff** asked if the city of Twin Falls was being divided to accommodate the Marsing Homedale move or vice versa. **Commissioner Hepworth** said that the city of Twin Falls asked to be divided which allows keeping Homedale and Marsing in the Canyon district. **Commissioner Haagenson** added that in fact, they were not doing either because of the other. Twin Falls city has asked for the changes whether or not there is a change in Marsing and Homedale.

Commissioner Stuart noted that the changes in Canyon County to accommodate the addition of Marsing and Homedale affect other parts of the county. It is true that this is an expansion of the district in recognition of the Hispanic community of interest, but it makes a very small change in the percentage of the

population, and one must question whether it is worth the change. The package also splits Twin Falls city. Notwithstanding the reports from the local folks, it may not be in their best interests to split the city. Inertia or comfort with the status quo doesn't necessarily mean that it is right or wrong. Moving Murtaugh and Hansen into an otherwise urban districts silences a section of urban voters. He strongly opposed this change.

Commissioner Hepworth maintained that he was not particularly persuaded by **Commissioner Stuart's** remarks. He felt that it was not appropriate to substitute the wisdom of the Commission for the will of the people of Twin Falls County. He reminded the Commissioners that he lives in Twin Falls County and suggested that he has a feel for the sentiment of the people there. **Commissioner Shurtliff** asked if the questions are divisible. **Commissioner Sellers** responded that they had been tried earlier, separate, and it failed. **Commissioner Shurtliff** rephrased his question to ask if one change requires the other. **Commissioner Haagenson** responded that they two are connected. However, he added, another division of Twin Falls city could be created which did not depend on the changes in Owyhee County. **Commissioner Shurtliff** indicated that he was less concerned about the issue in Twin Falls than in Caldwell. He is not greatly in favor of splitting any city, but agreed that was his judgement and he could look past it to see the interests represented in Twin Falls. Kimberly and Murtaugh don't have to travel to Homedale to split the city of Twin Falls. **Commissioner Haagenson** stated that the Marsing and Homedale change violates the county split rule, but he asked if the Commission should draw a bad district just to comply with the rule. The districts from Marsing and Homedale to Twin Falls are a great expanse. The motion failed, **Commissioner Haagenson, Commissioner Hepworth** and **Commissioner Sellers** voting yes and **Commissioner Givens, Commissioner Shurtliff** and **Commissioner Stuart** voting no.

Commissioner Sellers asked where next the Commissioners wished to consider. **Commissioner Givens** observed that the whole remaining area is a single area. **Commissioner Haagenson** suggested that the solutions proposed in the remaining area are mutually exclusive. The Commission recessed.

When the Commission reconvened at 4:40 p.m., **Commissioner Givens** presented a revision to Twin Falls County. In District 23 it would include all of Owyhee County and the areas in the west and south of Twin Falls County. In District 24 it would include some of rural Twin Falls County and much of the city of Twin Falls. **Commissioner Hepworth** moved, seconded by **Commissioner Givens** that this proposal be adopted. The motion carried, unanimously.

Commissioner Sellers moved that the remaining recommendations in the northeast corner be adopted. **Commissioner Hepworth** seconded the motion. **Commissioner Shurtliff** asked for clarification of the treatment of Idaho Falls. Where are the city limits in these districts? The city limits were identified in the relevant

districts. **Commissioner Haagenson** said that he favors adoption of this motion. He voted for the plan on Sunday and noted that he has only about two pints of blood left. He suggested that all of the Commissioner have known all along that Teton and Bonneville Counties did not belong with Oneida, Bear Lake, Caribou and Franklin. You cannot even travel from one end of the district to the other without going to Wyoming.

Commissioner Shurtliff voiced concern about this proposal. It is a difficult proposition. He said it did not require splitting Bannock three ways to solve the proposal. But there certainly is a problem. The solution ought to make sense to people looking at it. **Commissioner Sellers** noted that the Commission heard from the county commissioners and many others in Bannock County that splitting off the southern portion of the county does make sense, that it is the will of the people. L61 is not the will of the people. **Commissioner Stuart** concurred that District 31 in L65 is not particularly elegant. He said that he has struggled to find an option that works better. It is important that Bannock, a county that by population is entitled to two districts, be kept whole. He said that he also heard from Bingham County people who are delighted that their county is essentially in tact with Blackfoot in the center. Bonneville in three districts is not particularly pretty, but Idaho Falls is treated better than in the past. Overall, even with District 31, it is a better plan than the proposed motion. The motion failed, **Commissioner Haagenson, Commissioner Hepworth** and **Commissioner Sellers** voting yes, and **Commissioner Givens, Commissioner Shurtliff** and **Commissioner Stuart** voting no.

Commissioner Givens moved, seconded by **Commissioner Stuart**, that the Commission adopt L65 as the legislative districting plan. **Commissioner Givens** stated that the plan contains all of the approved changes. The lightest districts are 3 and 6 at -5.5% and the heaviest Districts are 33 and 35 which are +4.5. This gives the plan an overall deviation of 10%. The divisions of Madison and Kootenai county bring the plan within the presumption of validity at 10% deviation. He admitted that he did not like district 31, but he felt it was impossible to satisfy the constitution any other way. Even the bad districts get quality representation in this plan. He personally never thought the result would be this good. **Commissioner Stuart** reiterated the value of the whole district in Bingham County. The Commission recessed briefly.

Upon reconvening, **Commissioner Stuart** noted that he had voted for L59 because he supported the concept upon which it is based. This proposal, L65 is better than L59 because it addressed the Twin Falls requests, it keeps Gem County whole, and the deviation is under 10%. He acknowledged that his is not a perfect plan, but asserted that it is a good plan and a solid plan and should be approved.

Commissioner Haagenson noted that he had voted for L59 on Sunday and that indeed this is a better plan in many ways. The deviation is better and the issues in Kootenai are addressed in a better fashion. However, he said, District 31 is so painful that he feels he must insist that something better be done in that corner.

Commissioner Shurtliff said that Sunday he voted for L59 only reluctantly. Some of the changes today are improvements and some are negatives. He has heard the argument about the integrity of counties, but he thinks this plan is just a little bit pure. A couple of county boundaries have been broken to reduce the deviation. He maintained that county integrity might have been exaggerated. He said that **Governor Smylie** has pointed out that until the 1920's there were only about 17 counties and more were added then largely to create jobs as county commissioners for friends. He suggested that the Commission ought to recommend a serious look at counties. Are there too many, too few or what. A county of 1,000 or less is driving how the state is redistricted. The motion failed, **Commissioner Givens, Commissioner Shurtliff** and **Commissioner Stuart** voting yes, and **Commissioner Haagenson, Commissioner Hepworth** and **Commissioner Sellers** voting no.

Commissioner Sellers recessed the meeting.

At 7:50 p.m. the Commission reconvened. **Commissioner Givens** introduced L66. **Commissioner Givens** said that it is time to throw the cat over the fence so he is calling this plan the 'cat over the fence' plan. The numbering of districts has been pretty flexible, so it is important to look at this plan for the area contained in each district. Bingham County is the principle loser in this proposal. Part of Bingham is added to Oneida, Franklin, Bear Lake and Caribou to make a district. The Fort hall, Blackfoot, Butte and western Bonneville are used to create a district. Eastern Bannock, Ammon and eastern Idaho Falls are another district. Teton, Fremont and eastern Madison County are combined in a district, and finally Lemhi, Custer, Clark, Jefferson and the remaining part of Madison County are combined. The deviation is up slightly to 10.2%

Commissioner Givens moved, seconded by **Commissioner Haagenson**, that L66 be adopted as the legislative redistricting plan for the state of Idaho. **Commissioner Sellers** noted several additional county splits in this proposal. **Commissioner Haagenson** said that it had been his pleasure to work in good faith with other members of the Commission to address some very hard issues. He appreciated particularly this proposal to address the Teton and Bear Lake disconnect. He feels that the districts that are created in L66 are compact and understandable, and while there are still some problematic areas, this is a plan the Commission can be proud of.

Commissioner Shurtliff asked for clarification if this is a final approval. **Commissioner Givens** said that is the motion. The motion carried, **Commissioner Givens, Commissioner Haagenson, Commissioner Shurtliff** and **Commissioner Stuart** voting yes, and **Commissioner Sellers** and **Commissioner Hepworth** voting no.

Commissioner Sellers said that the next matter under consideration would be the congressional boundary line. **Commissioner Stuart** moved, seconded by **Commissioner Givens**, that C15 be adopted as the congressional plan for the state of

Idaho. The motion failed, **Commissioner Givens, Commissioner Haagenson and Commissioner Stuart** voting yes, and **Commissioner Hepworth, Commissioner Sellers and Commissioner Shurtliff** voting no.

Commissioner Sellers indicated that she would favor a congressional line drawn along legislative district lines. However, because of the time invested in the legislative work, she has not yet developed this plan. **Commissioners Stuart** noted that this is not entirely possible inasmuch as you must split at least one legislative district.

Commissioner Givens described C16, which divides Ada County along the freeway and couple and then the river. It creates a clear, understandable line. The Commission recessed.

The Commission reconvened at 8:25 p.m. **Commissioner Haagenson** moved that the committee adopt C15 as the plan for congressional districts of the state of Idaho. **Commissioner Hepworth** seconded the motion. **Commissioner Haagenson** noted that this is not a perfect plan, but it is a decent plan and will work well. The motion passed, **Commissioner Givens, Commissioner Haagenson, Commissioner Hepworth and Commissioner Stuart** voting yes, and **Commissioner Sellers and Commissioner Shurtliff** voting no.

Commissioner Haagenson moved, seconded by **Commissioner Givens**, that the Commission approve renumbering the three districts in the north so that the flow from north to south is 3, 4 and 5 in that order. The motion carried unanimously.

Commissioner Givens moved, seconded by **Commissioner Sellers** that the co-chairmen be authorized to search and clean-up inadvertent errors which might appear in the legislative or congressional plans. The motion carried unanimously.

The Commission adjourned sine die at 8:35 p.m.

1 BOISE, IDAHO
2 Wednesday, December 12, 2001, 10:06 a.m.

3
4 (Commissioner Taylor sworn in.)

5
6 MR. STUART: Hello. I will call the meeting
7 to order. I am Tom Stuart co-chair with
8 Christy Sellers here beside me. I will be kind of
9 directing traffic at today's meeting. I want to
10 add my personal welcome and thank you to Mr. Taylor
11 from Burley. And as part of that, my thanks and
12 compliments to the Speaker of the House for filling
13 the vacancy as quickly as he did. We are all very
14 aware of the time sensitivity that this issue
15 carries with it.

16 We have county clerks everywhere who
17 have January 15th deadlines to react to what we do.
18 We have a looming legislation session. I am of the
19 firm belief that one of the best favors we can do
20 to everyone in our state is to move through this as
21 quickly as possible. I commend the Speaker and
22 really thank Derlin for his service to volunteer to
23 help us out. It is great to have you here.

24 A couple of questions I thought I would
25 bring up to the commissioners. They relate to the

1 Supreme Court ruling. Has everybody had a chance
2 to get a copy of that? I expect we all have.
3 There was one issue that I thought I would raise,
4 and I'll pass a draft to deal with it around here
5 shortly. This is not something we have to deal
6 with right now, but it is something I would like
7 you all to think about.

8 There is an appearance or possible
9 clerical error where in the Supreme Court's ruling
10 where a couple of lines in the Idaho Constitution
11 are simply misquoted. And it came to our attention
12 maybe something that we could just send a letter to
13 the clerk of the Supreme Court to call it to their
14 attention and to deal with it as they see fit. So
15 we drafted a possible letter. I would like to seek
16 individual input of commissioners here. We can act
17 on this later today. I will just pass this around.
18 Feel free to mark this up. Whatever you would like
19 to.

20 Another suggestion I might have is I
21 think we need to be especially sensitive to
22 building the record of this commission for
23 subsequent events, wherever they are. As part of
24 that, I want to welcome our court reporter. And a
25 follow on is I would like to raise the topic of

1 authorizing our court reporter to transcribe the
2 tapes of today's meeting and any subsequent
3 meetings to hard copy, so we have a hard transcript
4 of all that was transpired. I think that requires
5 commission action as a small expenditure, but I, we
6 don't think we don't have any budgetary constraints
7 in that regard. So I will raise that issue and
8 solicit comments.

9 MR. GIVENS: Mr. Chairman.

10 MR. STUART: Commissioner Givens.

11 MR. GIVENS: I think that it is a good idea.
12 I will so move.

13 MR. STUART: We have a motion. Is there a
14 second?

15 MR. HAAGENSON: Mr. Chairman, I am sorry, I
16 wasn't hearing.

17 MR. STUART: I'll paraphrase what I think
18 Commissioner Givens moved that we authorized our
19 court reporter to transcribe her records of this
20 meeting to hard copy, so that it will be
21 immediately available to supplement the record of
22 this commission.

23 MR. HAAGENSON: Second.

24 MR. STUART: We have the motion to second.

25 All in favor, say Aye.

1 MR. GIVENS: Aye.

2 MR. TAYLOR: Aye.

3 MS. SELLERS: Aye.

4 MR. HAAGENSON: Aye.

5 MR. SHURTLIFF: Aye.

6 MR. STUART: All opposed. Okay. Motion is
7 carried. You can go ahead with that.

8 Kristi, here is this draft. Co-chair
9 Sellers and I chatted about the best flow of events
10 for today's meeting. And I think we both agree
11 that we would take the time that is available this
12 morning to get all the public comments that have
13 arrived for the Commission to review on the table,
14 and to get any modified plans that have arrived and
15 that we would like to introduce on the table. I
16 think that's probably going to take, oh, an hour
17 and a half or so. However long that takes, I think
18 we are going to take that.

19 And then our thought was to take a lunch
20 break at that point or a break to allow lunch and
21 some study time to evaluate and digest the various
22 plans and then come back together and discuss them
23 and deliberate after the lunch. Does that make
24 sense, Mrs. Sellers?

25 MS. SELLERS: Yes.

1 MR. STUART: So if it meets the Commission's
2 pleasure, we can do that now.

3 MR. HAAGENSON: Mr. Chairman.

4 MR. STUART: Mr. Haagenson, go ahead.

5 MR. HAAGENSON: Before we get into that, if I
6 can offer comments, Mr. Commissioner. Given the
7 Supreme Court didn't approve of our work, I hope we
8 are back here to hopefully not start over
9 completely, but to amend the plan as more to their
10 liking. But as the Republican commissioner who
11 "voted with the Democrats" and subsequently taken a
12 good deal of heel for that, I just would like to
13 offer the thought that we are all commissioners
14 here appointed by Democratic and Republican
15 officials and we got a partisan responsibility.

16 But we got first the responsibility to
17 the citizens of Idaho, which outweighs any partisan
18 responsibility. I must prefer it be characterized
19 as four commissioners voted for a plan and one of
20 them happened to be Republican as opposed to a
21 Republican who voted with the Democrats. Because
22 you don't have to think about it very long to
23 realize that if we vote on party lines, by
24 definition we don't have a plan. So if we are
25 going to vote on party lines, then we might as well

1 go home now.

2 I would hope that we would put our
3 responsibility as commissioners first, partisan
4 second, and see if we can't adopt a plan that
5 addresses some of the objections raised by the plan
6 in the lawsuit and prove what we did. I think we
7 have an opportunity to prove what we did. I think
8 one of the more important things in the earlier go
9 around was that out our plan was not available for
10 public comment. That was because we were late in
11 our appointed term and we had one or two
12 commissioners that were not going to be in the
13 state for the remainder of the time we had, so we
14 elected to adopt the plan. This time around, I
15 hope that we can make some amendments to this plan
16 and approve it quickly and get it out for a public
17 comment before it is finally adopted. That is all,
18 Mr. Chairman.

19 MR. STUART: Commissioner Haagenson, I share
20 your view. If it is any consolation in terms of
21 the body parts that we're chewed off of you, I can
22 assure you I had a few chewed off of me for the split
23 of Ada County that I voted for in the congressional
24 district.

25 MR. HAAGENSON: Mr. Chairman, I forgot to

1 mention, I am gratified about our sitting
2 arrangement here as it is today with a little mixed
3 up a little bit rather than all Republicans on one
4 side and Democrats on the other side. It seems
5 like a small thing. I remember we spent months
6 arguing over the negotiating. Maybe it was the
7 shape of the table and sitting arrangement maybe
8 had something to do with it. So hopefully we can
9 get about our business.

10 MR. STUART: I agree. I agree. To that end,
11 do all the Commissioners have copies of all the
12 inputs that have arrived to us in the last couple
13 of days. I attempted to go through these things
14 last night, as I think some of the rest of you did
15 as well. Just to summarize, it looks to me like we
16 have about a dozen comments, a dozen or so comments
17 that support, either support the L66 Plan
18 specifically, or encourage us to minimize the
19 changes, or speak to the advantages of keeping
20 counties whole as it relates to the individual
21 commentator. So there is about a dozen of those.
22 There is about a half dozen that refer to Clark
23 Fork area, Clark Fork precincts, and whether they
24 should be assigned to District One or Two up north.
25 And I think the dealings with Commissioner

1 Haagenson are probably well aware of that. We will
2 have a chance to have that in our consideration.

3 There are a couple from Canyon that
4 occurred, just to take a look at some changes over
5 there. And there are a couple from Owyhee or
6 Elmore. We will need to take a look at that
7 dividing line between Elmore and Owyhee County that
8 currently exists. And then a larger submission, I
9 think it is from Mr. Moore, our petitioners, that
10 explain the three modifications to the L66 plan
11 that I believe they have already submitted for
12 review. So I think that's all we have received to
13 date. But I will leave you to study all those and
14 digest those individually, if you haven't already
15 done so.

16 We solicited input pretty broadly, as
17 widely as we could on this, for this meeting today.
18 I shared Commissioner Haagenson's view that we
19 really want to honor and be sensitive to public
20 input to the maximum extent that we can. I think
21 we all realize that ultimately the decision and the
22 vote as to how to district the state ultimately
23 falls on each of our shoulders. We are, of course,
24 obligated to weigh and consider all the public
25 input that is possible in that decision. Of

1 course, I know we all intend to do that.

2 We hope to, as Commissioner Haagenson
3 said, we hope to have a plan ready to put out
4 before the public in one form or another as quickly
5 as possible. And I think we will chat more this
6 afternoon about some possible additional vehicles,
7 if the commission thinks that is appropriate.

8 Commissioner Sellers, how do you want to
9 handle the plan issue? I know we have three plans
10 that I believe have been submitted, Ross and Susan,
11 from the petitioners. I have seen this hard copy.
12 I believe we have -- I believe the Commission has
13 received this in digital format. Have you seen all
14 of these two?

15 MS. SELLERS: I have seen those. We were
16 just getting ready to print out a hard copy when we
17 came in here.

18 MR. STUART: Okay. All I have seen is the
19 hard copy. I understand that the digital version
20 is available for both staff to see as they see fit,
21 but they are all right there.

22 I think the top agenda item, then, of
23 this morning will be to entertain any plans that
24 the Commissioners would like to present.

25 MR. TAYLOR: I thought we were going to open

1 it up for public comment?

2 MR. STUART: I didn't plan to do that.
3 Hopefully, after we arrive at a plan. I am sorry,
4 that wasn't clear.

5 To summarize for the audience here,
6 there are three modifications to the L66 Plan. I
7 think they have been listed on the cross-reference
8 sheet that each of the Commissioners have as L67,
9 L68, and L69, which are referenced in this little
10 red booklet as 66A, B, and C for our consideration.

11 I think we'd rather not go through those
12 in detail at this point. I think it is probably
13 best to digest those with our staffs and get back
14 to it.

15 Are there other plans that you folks
16 want to bring forward at this time, or how do you
17 want to handle that? Other modifications?

18 MS. SELLERS: We are hopeful that maybe we
19 can decide on what we felt like the divided areas
20 are and then maybe come together even during break.

21 MR. STUART: Of course. Of course.

22 MR. SHURTLIFF: Do you have a plan that you
23 want to propose?

24 (Discussion inaudible.)

25 MR. STUART: That's right. The L70 that I

1 think you have all received some written comments.
2 I also received written comments. Call that to
3 everybody's attention for the record.

4 MS. SELLERS: Is that a full state plan?

5 DR. WATKINS: No, it just deals with
6 Canyon County.

7 MR. STUART: Canyon only. I think some of
8 the -- your letter is here, Dr. Watkins, along with
9 a couple other similar inputs from Canyon County
10 that we have received.

11 DR. WATKINS: Thank you.

12 MR. STUART: I understand from Ada County
13 there is a gentlemen here who had some ideas to at
14 least present to us also. If you have those in
15 writing, get those to one of us or to Ross or
16 Susan. We will try to fold those into the process,
17 too. Thank you for your effort on that.

18 Co-chair Sellers and Commissioners,
19 several of us have put together a couple of
20 different modifications of L66 essentially that
21 focused in a limited way on the concerns of the
22 court. We can get into those plans now. We
23 probably need a five-or-ten-minute break to set up
24 the computers to actually present them. But I can
25 preface it with some context.

1 Our thought was that I agree 100 percent
2 with Commissioner Haagenson that we don't want to
3 go back and reinvent the wheel. We are trying to
4 focus our attention in small changes, small changes
5 that address the concerns of the court and make the
6 plan a better plan. So we think there are ways to
7 do that. And we have several different ways and
8 several different plans that we present for the
9 Commission's consideration that provide possible
10 ways to address those concerns. So we can do that
11 at the Commission's pleasure or convenience.

12 Let's take a five- or ten-minute break
13 and set up our computers.

14 MR. SHURTLIFF: I appreciate where -- I am
15 interested in moving expeditiously and economically
16 as possible and a little interested in what we view
17 as the scope of what we are about here today. All
18 I know is what I read in the paper, depending on
19 which paper I am reading and on the quality of what
20 I am reading, I appreciate that. But I keep
21 reading comments that we are going to be here
22 90 days or that we are going to redo the whole
23 thing from top to bottom. And I appreciate that
24 admonition I received earlier this summer about
25 clearing my calendar. I can guarantee I haven't

1 cleared my calendar for the next 90 days, nor do I
2 intend to.

3 So I think it would be profitable if we
4 had some sense at what we think we are about in
5 that regard. What I think we are about is
6 addressing the problems that were focused on by the
7 Supreme Court, brought to the Supreme Court's
8 attention by the petitioners in the case in Madison
9 and Bingham counties. In addition, I take no great
10 umbrage of the notion of addressing these three
11 problems that might have arisen in Clark Fork by
12 the lucky placement of a few people on one side of
13 the river or the outside. I have no objection to
14 discussing the matter brought to our attention by
15 people in Ada County. There is some little, what
16 might otherwise be characterized as, typographical
17 errors that need to be addressed. It would be of
18 help to the election officials, and I am not
19 entirely adverse, although somewhat adverse.
20 Because relooking at the issues in Canyon County,
21 if those are of concern. Otherwise I have heard
22 moaning and groaning from some other areas of the
23 State.

24 And I while I appreciate moaning and
25 groaning, the fact of the matter is that the letter

1 from the County Commissioners in Elmore County
2 clearly indicate, albeit they do have significant
3 ties to Owyhee County, they are not terribly
4 interested in the notion that they are tied now to
5 Boise County.

6 And I think that's -- I appreciate very
7 much that their notion that the implicit suggestion
8 there again that there is not a perfect plan.
9 Because if anybody is sitting around waiting for
10 the six of us to come with a perfect plan, I am
11 sure they are going to be sadly disappointed,
12 because there isn't such a thing.

13 And so that's what I think we are about.
14 I think we are about that fairly narrowly. And I
15 think one of the concerns that was addressed by
16 Justice Kidwell, was not addressed in the majority
17 opinion, was the notion that was raised by the
18 public input.

19 And I am willing to address that, too,
20 by public inputs and public meetings and maybe some
21 delay before we finally adopt a plan, if it is
22 necessary to go back out to Rexburg or Driggs or
23 Bingham County, or wherever we want to go and seek
24 and solicit that public input. That is my notion
25 of what the scope is. And to that degree, I think

1 we will be done by five o'clock this afternoon.

2 MR. STUART: Mr. Shurtliff, thank you.

3 That's a great idea. If it makes sense to the
4 Commissioners, I would kind of like to hear each of
5 your views on what you think the scope of this
6 thing is. Mr. Givens, can you offer any thoughts?

7 MR. GIVENS: I heard nothing what
8 Commissioner Shurtliff said that I disagree with.
9 I think everything he said I agree with.

10 We tentatively adopted a plan in our
11 earlier sessions, put it out for comment, and
12 received a lot of comment. And as a result of that
13 comment, modified the plan considerably in L66.
14 And I am not sure if that point was brought to the
15 attention of the Supreme Court and Justice Kidwell.
16 I understood how we had tentatively adopted a plan,
17 sought public input, and then modified the plan
18 based on that input.

19 But there the difficulty with the
20 process which we adopted was that folks didn't have
21 any idea what we were going to consider if we did
22 not adopt a plan that we had tentatively adopted.
23 So if we -- I think we ought to be able to
24 tentatively adopt a plan by the end of the day
25 today.

1 I realize that one of the Commissioners
2 has commitments tomorrow that make it impossible to
3 attend tomorrow. What I guess I would hope that we
4 would do, would be to tentatively adopt the plan,
5 if we come to agreement. But if there are other
6 plans, other approaches, that we may well consider
7 in the event that the tentatively adopted plan is
8 not finally adopted, I think we ought to put those
9 out for public comment as well. There might be
10 three or four different plans. So that the people
11 know what our thinking is in the alternative to the
12 one that we did tentatively adopt.

13 As to actually having a public hearing
14 and to take more testimony, I guess, obviously, it
15 is up to the majority of the Commission. I am not
16 sure that we really gain anything that is truly
17 helpful in determining what we do that we can't
18 gain in writing. We specifically solicited
19 comments in the notice of this meeting and we got a
20 lot of comments. And I have read through every one
21 of those, and I think they are good. I guess if
22 people aren't chastising us in some degree, we
23 probably aren't doing our job. And they certainly
24 did that, and I take those things to heart.

25 I wholly agree with what Commissioner

1 Shurtliff said about the scope of this proceeding.
2 I think the need to adopt findings and make those
3 findings part of the actual plan that we finally
4 approve. I am glad that the transcript will be
5 printed and available to the public, because a lot
6 of that is in the transcript. It certainly was
7 last time. The reasons we did what we did were in
8 the transcript. It is unfortunate that the
9 Supreme Court did not have that available, the
10 record, because I think it showed why we did what
11 we did.

12 But in looking at the plans that I have
13 seen so far, that different people have come up
14 with, I am glad the Supreme Court kicked the case
15 back. Because I think the plans that folks are
16 coming up with now are better than L66 was. So I
17 think the people of Idaho will be better served as
18 a result of this process. Let's see. Is there
19 anything else?

20 There certainly is a -- I think
21 criticism has been uniform regarding the division
22 between District One and District Two, and I would
23 like to revisit that. With that exception, my
24 inclination is to confine ourselves to the
25 population deviation issues that the Supreme Court

1 raised to get it under 10 percent and submit it to
2 you as soon as possible. Thank you.

3 MR. STUART: Thanks, Commissioner Givens.
4 Commissioner Taylor, I realize you are awfully new
5 in the process, but I will sure welcome your
6 comments on where you think we need to go from
7 here.

8 MR. TAYLOR: Well, Mr. Chairman, as one who
9 still has all his body parts intact, I will
10 probably take this at a little different approach.
11 But, it seems to me as an observer and having
12 studied this for a grand total of six days, that
13 there is really only about a handful of contentious
14 areas, areas that need to be discussed. I think
15 the Commission did a really good job as a whole,
16 but there are obviously some fine tuning that needs
17 to be done.

18 Seems to me the best way to do that is
19 to identify those areas and agree upon those areas
20 and then discuss them individually and see if we
21 can come up with a concensus on what we need to do
22 to fix them and make them better, and then move on
23 from there.

24 To me, it doesn't seem to be a difficult
25 task at least to identify the areas that need

1 attention. So my observation is, let's do that and
2 let's identify and perhaps prioritize and see what
3 it is going to take to fix them.

4 MR. STUART: Commissioner Taylor, just a
5 follow-up with you. Indulge me a little bit. I
6 appreciate the fresh perspective, a new mind and
7 face here. I don't know if you are ready to
8 elaborate at this point where you think we should
9 focus?

10 MR. TAYLOR: Well, yeah, in reading my file
11 last night, I wish Marilyn Farland was here. What
12 a wonderful letter. I don't know if you read it or
13 not. It was refreshing to me, to tell it like it
14 is. So, obviously, I think Clark Fork needs to be
15 addressed. There is no question about that. There
16 is some concern in Canyon County and Owyhee County,
17 take a look at that. And then there is the Eastern
18 Idaho lot, Madison County.

19 Let me just say as a new person, I guess
20 I would ask the indulgence of the Commission, to
21 some degree, not that we have to rehash the entire
22 process, but I would be very interested in hearing
23 from the Madison County people, so that I -- I
24 haven't read the Supreme Court information. But, I
25 would like to know precisely what their problem is.

1 Because I guess I don't know exactly. I would be
2 anxious to hear from them, so that they could spell
3 it out more clearly for me.

4 So we got the Rexburg issue, the Madison
5 County issue. I think you got the Firth/Shelley
6 issue to deal with, and then you have got the
7 District 28 to talk about. So, in my mind, oh,
8 Fort Hall is also, so I think that's where we go,
9 in my opinion. At least what I have been able to
10 read. If there is more than that, I guess I would
11 be anxious to hear about that. At least to me that
12 seems to be where the issues are.

13 MR. STUART: Commissioner Sellers, any
14 comments?

15 MS. SELLERS: I agree fully with Karl and
16 with what has been said. And, although, I am sure
17 you all find every word fascinating. I think I
18 will leave it at that. I just fully agree.

19 MR. STUART: I will be very brief also. I
20 really agree with the limited scope of the task we
21 now face. A couple of additions, I am going to
22 resist and urge the Commission to resist changes
23 that ripple through the State. That is a process
24 that I don't think any of us have the time to
25 address.

1 In addition, I think the basic
2 philosophy of our L66 Plan, which is what
3 Commissioner Givens mentioned, was the explanation
4 that never reached the Supreme Court. That
5 rational state policy, which is keeping counties
6 whole, which is compelled by the Constitution and
7 statute, was the overriding rationale under which
8 the L66 Plan was constructed and devised, with
9 minimum splits of counties, only to address the
10 population equalization issues that we are all
11 aware of under Federal law. So I think that policy
12 should remain intact. I think it is important that
13 we keep counties whole to the maximum extent that
14 is possible.

15 Other than that, I couldn't agree more
16 with the directions that Commissioner Shurtliff and
17 others have proposed about making and correcting
18 minor errors and addressing the Court's concerns
19 and getting on with business.

20 MR. HAAGENSON: Mr. Chairman, I agree with
21 what has been said, so I won't repeat it. The only
22 thing I would add is I think we all are in
23 agreement on scope, which I appreciate. On timing,
24 I would certainly hope that we can finish today. I
25 don't think it needs to take longer than that.

1 My understanding is a number of
2 legislators are coming to town tomorrow, so we sure
3 don't want to be here then. If we got to meet,
4 meet somewhere else. I hope we can finish it
5 today.

6 (Laughter.)

7 MR. STUART: I share that hope. I would like
8 to suggest we take about five minutes or so to set
9 up our computers. We seem to have concurrence on
10 the scope of the project here, and we can maybe
11 discern specific plans that I think go along with
12 the scope folks have described. So we will take
13 about ten minutes and try to reconvene about 10:50.
14 Thanks.

15 (Recess.)

16 MR. STUART: Okay. We will reconvene since
17 we are all here. At the request of a couple
18 different Commissioners, I have asked Mr. Greg
19 Moeller from Madison County to give us five minutes
20 or so, a brief summary of his testimony. I call
21 your attention to the written version, which many
22 of you have already read. So I would invite
23 Mr. Moeller to summarize, and be brief, if you can,
24 since I know we have read this in the past. It is
25 a pleasure to have you here.

1 MR. MOELLER: Thank you. It is an honor to
2 be invited to address this Commission. I greatly
3 appreciate this opportunity. And I am not here
4 today to reargue the case, I am here just to make
5 sure that you understand our views on the issue. I
6 do feel somewhat responsible for all of you being
7 here today.

8 MR. STUART: Well, you should.

9 (Laughter.)

10 MR. MOELLER: So I figured I might as well
11 come, too. So it is an added bonus that I get a
12 chance to address you. I know that it is far
13 easier to throw rocks at the plan than it is to
14 build a new one. And that is one of the reasons
15 why we are here from Madison County today, to help
16 you build this plan. It is easy to criticize, but
17 it is hard to construct. We want to help you with
18 the construction.

19 The overriding concern that the citizens
20 of Madison County had was obviously the division of
21 Madison County. What we saw was the major weakness
22 of Plan L66 was it affected my clients, was it
23 placed approximately 6,500 residents in the areas
24 of Madison County known as Archer, Lymon, Burton,
25 and Hebert in a different legislative district.

1 Many of those people, if not most of
2 those people, live within only a few miles or a few
3 minutes of the city of Rexburg where most of them
4 are employed. And they were placed in a district
5 with Lemhi and Custer counties. The county seats
6 in those areas are over 180 miles away from the
7 city of Rexburg. There is no common interest at
8 all. There is no economic, political, or social
9 connection really between those areas, and frankly
10 they just felt very disenfranchised by that
11 component of Plan L66.

12 Another thing that we didn't raise
13 before the Court that was of a significant issue
14 was even the city of Sugar City, which is just a
15 very small city in Madison County. Its city limits
16 were divided by the line drawn by L66, which
17 created a very unusual situation for them as well.

18 Now, in order to address our overriding
19 concern about the division of Madison County, we
20 obviously raised a number of causes of action for
21 the Supreme Court. Equal protection happened to be
22 the one that was perhaps the most glaring weakness
23 within Plan L66. That was obviously our strongest
24 argument, although emotionally that may not have
25 been the one that brought us to the court in the

1 first place.

2 The fact that the plan was over
3 10 percent in deviation put it in a category where
4 it would be presumed unconstitutional absent a
5 rational basis for that plan. We were prepared to
6 argue that there wasn't a rational basis, but there
7 really wasn't any rationale basis even attempted to
8 be provided by the State on the plan, which I think
9 is why we prevailed with the court. So that's an
10 important issue.

11 And I think that the Attorney General's
12 opinion, back in 1991 which for some reason they
13 didn't mention in their own briefings in the case,
14 made it pretty clear that plans should be below
15 10 percent. If they are over 10 percent, then
16 there needs to be extraordinary effort by the body,
17 whether it is the Legislature or this Commission,
18 to provide a justification for why it was necessary
19 to do so.

20 Having said that, that was the issue the
21 Supreme Court focused on. There was numerous other
22 issues that were raised in our petition that were
23 not ruled upon by the Court. In fact, of all the
24 issues we raised, only one we were denied on. All
25 the other issues were not ruled upon. And those of

1 you that are lawyers know why.

2 Just for all of us, obviously, the Idaho
3 Supreme Court is going to focus on the simplest
4 issue to make a ruling. And the simplest issue was
5 the Equal Protection issue. They didn't want to
6 get into the communities of interest and some of
7 the other things that we raised. But they did not
8 deny our petition on those grounds. They just
9 didn't have to rule on things. We think those are
10 still valid pending issues which if not resolved
11 will continue to be a problem to Plan L66.

12 Let me discuss what those other issues
13 are briefly, because we believe they need to be
14 addressed to whatever plans are proposed by this
15 Commission. First, is our major concern, which I
16 alluded to, and that's the communities of interest.
17 If you look at the statute, the statute uses the
18 word community of interest, traditional
19 neighborhoods shall be preserved. It doesn't say
20 they should or we ought to consider preserving
21 them. It says that they shall be preserved. And
22 that was probably the thing that probably got
23 Madison County residents most up-in-arms is we feel
24 that they were divided asunder and placed in a
25 situation where there was no tradition.

1 The community of interest requirement,
2 communities of interest can't be created by this
3 Commission. They can only be preserved by this
4 Commission, and it is not the business of this
5 Commission to be creating new communities of
6 interest, politically or in other ways. And so
7 that was the thing that we think is very important.
8 If you look at the history of how legislative
9 districts have been done in Idaho, it was
10 unprecedented what happened in Madison County in
11 this case.

12 Obviously, we are concerned about the
13 division of counties. I will candidly admit that
14 one of the strengths, frankly, of this Commission's
15 effort was their dedication to try to reduce the
16 number of counties divided. That obviously was a
17 great improvement over the Legislature's efforts in
18 the past.

19 Nevertheless we felt like if you were
20 going to have to divide nine counties, the ninth
21 one shouldn't have been Madison County, that there
22 were more obvious and less dramatic changes that
23 could have been made in other counties that
24 wouldn't have affected communities of interest the
25 way the division of Madison County did.

1 The issue of precincts was obviously a
2 concern to our local officials, as well. The plan
3 divided quite a few precincts. Some of those may
4 have been required for geographic reasons, others
5 weren't required. And we would sure, in the
6 interest of all the county clerks throughout the
7 area, encourage you to do things that are least
8 disturbing to those precincts as possible.

9 The other thing that really got under
10 the skin of my clients, Commissioners, is the fact
11 that they felt like they didn't have a full
12 opportunity to participate. Now, certainly there
13 were hearings. But, when the hearings took place,
14 there was no plan presented. There really wasn't
15 any opportunity for substantive comments other than
16 people saying, well, we think ought to be like
17 this. But, there wasn't anything to comment about.

18 They felt, and a review of the records
19 of your public hearings would bear this out, that
20 there were comments made by several of you that
21 indicated that a plan would be proposed, there
22 would be a chance for public comment, before it was
23 ultimately passed.

24 The plan that was adopted, L66, divided
25 Madison County, and that was something that we were

1 not aware of was even being considered. The prior
2 plan that we thought had been tentatively approved
3 did not divide Madison County. The alternative,
4 which came about in the last half hour of your
5 meeting did something that Madison County didn't
6 expect or anticipate and frankly had no reason to
7 expect or anticipate, because it just hadn't been
8 discussed seriously by the Commission.

9 And I am very heartened by the comments
10 that several of the Commissioners made about the
11 importance of having opportunity for public comment
12 this next time around.

13 Now, we have provided three plans to
14 you. And I have described somewhat in my writing,
15 and I am not going to repeat what I wrote there.
16 Let me just indicate the reason we designated them
17 A, B, and C is those were alternative plans to
18 modify L66 that we presented to the Supreme Court.
19 Not because we truly expected the Supreme Court to
20 adopt one of those plans. Frankly, I didn't think
21 they had the authority to do that.

22 But, we did that to bolster our equal
23 protection argument by showing that the State could
24 be redistricted without going over 10 percent.
25 Then it increased the burden on the State to show

1 why the Commission went over 10 percent. And
2 that's why we proposed those three plans.

3 Those three plans, each took a slightly
4 different approach. Plan A is the one that we,
5 frankly, feel is the most intellectually honest
6 approach to the situation. Our Plan A, which is
7 now designated L67, makes some improvement, we
8 think, in some districts that are very oddly shaped
9 in Northern Idaho and a couple of other places in
10 the State. And it fixes the Madison County
11 division and addresses the issues that affect
12 Bingham County and Fort Hall Indian Reservation.

13 Our plan B was a plan that we felt may
14 be more politically viable and that it made less
15 severe changes in Northern Idaho. It just made a
16 very minor change here and there, and then fixed
17 the split in Madison County.

18 Our Plan C was also a plan that we
19 thought may be more politically viable, and it may
20 be a better option for this Commission to consider
21 for political reasons, and that it is a plan that
22 once again doesn't do many changes in Northern
23 Idaho, but makes some significant changes in
24 Southeastern Idaho. Rather than dividing Madison
25 County, what our Plan C proposes is that the Island

1 Park precinct from Fremont County, which has about
2 800 people in it, that that be included in
3 District 35, instead of Madison County's western
4 half.

5 The reason we feel comfortable with that
6 is two-fold. One, that proposal would put Fremont
7 County in a better position than they are right now
8 under the 1990s plan. They have really been
9 chopped up under that plan, so they would stay much
10 more together. Two, those 800-or-so residents in
11 Island Park, most of them don't reside there
12 year-round. Most of them don't vote there. Most
13 of them are just people that have second homes in
14 that area. So therefore, it is not really a common
15 community of interest with the rest of Fremont
16 County. Plus, the economy and the type of work
17 that is done in that area is very much kind of
18 wilderness, logging, tourist-related type
19 businesses, which frankly share more in common with
20 the intermountain area of the state of Idaho, such
21 as in Lemhi County or Custer County. So we felt
22 like that was probably a less disruptive way to
23 preserve communities of interest than what L66 did.

24 That's all I have, ladies and gentlemen,
25 I appreciate this opportunity to address you. And

1 once again I am very encouraged by the comments
2 that occurred here today. And the reason I am here
3 is if any of you have any questions or if I can be
4 of any help to you on anything, I will sure be glad
5 to. I will be sticking around through the
6 duration. Thank you.

7 MR. STUART: Mr. Moeller, thank you.
8 Any questions from any of the Commissioners for
9 Mr. Moeller?

10 Okay. Ready to move ahead with some
11 plans, then? Any preference on the order of the
12 presentation? What we thought we would do here
13 administratively is to make it easier for
14 Commissioners to view the kinds of changes that are
15 proposed, modifications to the L66 Plan, that will
16 be to depict both the L66 Plan and the proposed
17 modification that each plan addresses side-by-side.
18 So we will invite explanation and questions here as
19 we go through.

20 I guess, Miss Shauneen Grange is going
21 to be driving the L66. She will be driving one and
22 Charlotte Samis will be driving the other.

23 Which one is up first there, Charlotte?

24 MS. SAMIS: This will be L66 on this side.

25 MR. STUART: Okay. So this is the baseline

1 will be on the right, the L66 plan. Now, just a
2 side note, all of these proposed modifications can
3 incorporate changes in the Clark Fork area that
4 have not yet been included. So I don't think there
5 is any incompatibility here with these proposed
6 modifications and Clark Fork changes that are yet
7 to be modified.

8 Commissioner Shurtliff, do you want to
9 go first with yours?

10 MR. SHURTLIFF: Whatever pops up there.

11 MR. STUART: That is fine with me, whatever
12 pops up first. A request from staff, please use
13 your microphones to the maximum extent you can. I
14 guess it doesn't feed into the system very well.
15 Let's do Commissioner Shurtliff's first, Charlotte,
16 if that comes up.

17 MR. HAAGENSON: Mr. Chairman.

18 MR. STUART: Mr. Haagenson, go ahead.

19 MR. HAAGENSON: Do we have the plans
20 provided?

21 MR. STUART: I only have the one copy I have
22 seen, Mr. Haagenson, here in the red binder.

23 MS. SELLERS: We just got them loaded onto
24 our computers this morning, so they will be
25 available on the computer or in hard copy.

1 MR. HAAGENSON: If we can look at those
2 before and see how it fits with that, but if they
3 are not available.

4 MR. STUART: All we have is this hard copy.
5 I know Mr. Taylor was looking through it, and
6 Commissioner Givens was. We can sure pass that
7 around to the extent we can. That is probably the
8 best we can do at this moment anyway.

9 Commission Shurtliff, if you want to
10 introduce this one formally this will be L71, which
11 is a modification to L66.

12 MS. BENNION: This is L72.

13 MR. STUART: I'm sorry, Susan. L72.

14 (Discussion off the record.)

15 MR. STUART: Susan, just for clarity this is
16 L72. Commissioner Shurtliff, you can resume.

17 MR. SHURTLIFF: Thank you. On the right,
18 L66, the differences are Butte County. There is
19 Utah residents who are trying to live in Idaho for
20 fishing license purposes. So we come over here,
21 join this district. Jefferson remains intact.
22 Clark, Lemhi, Custer, Butte.

23 Now, I might point out, I don't -- I
24 have never met a representative from Butte County,
25 but she -- I don't think she served a day yet, but

1 she has been moved three or four times. So she was
2 down here in the current plan, but then we took the
3 Fremont, Teton, Madison portion. What we have here
4 is Fremont, Madison, with the exception of this
5 portion of Fremont. Teton comes down and joins up
6 with where either Bonneville comes in almost out
7 of there. That is not a lot from the way it has
8 traditionally been, and I think it has been about
9 20 years. I think they have had that for a great
10 many years. I know that a representative of the
11 highways used to live up here. I don't know who
12 lives there now.

13 This portion of Bonneville that was
14 connected to Bingham, making a little change than
15 what was over here. And Bingham is intact. Move
16 that portion there. Now, this -- now, wait a
17 minute. This portion of this is Bingham. So it is
18 not intact. Split there.

19 Now, I think these numbers could be
20 changed. I think this area here could be moved
21 over to here. And I apologize, I am not familiar
22 with it on the ground as I might otherwise be. It
23 probably makes sense that these people move east
24 rather than down here. But, I don't think the
25 numbers are off. So I think that could be done.

1 And this district, Speaker's district here, is not
2 greatly changed from what it was in L66.

3 The district in Idaho Falls remains
4 virtually the same. Then, the ugly district, 28,
5 29 is Bannock and 30 or whatever. I can't read the
6 number there. That remains the same way it was in
7 L66. 28 changes. It comes up and comes almost out
8 of Idaho Falls, which is unfortunate, for I don't
9 know who, but it is a big district. But that's the
10 Caribou/Bonneville County line. I mean, they do
11 share a lot of commonality there. You come into
12 the town and pick up the population. As you will
13 recall, we picked up several thousand people there.

14 So those are, and we had this district
15 over here, not terribly similar. But that's where
16 we got into the problem of Firth and Shelley, and
17 those people didn't know whether they were coming
18 or going. Quite frankly, with all due respect, I
19 am not sure they will anyway. But anyway, I can
20 say that. I am from Menan. (Laughter).

21 So that's the basic differences, and I
22 think the deviation comes out 9.7. And if we
23 change those people in Bingham County, it would not
24 change that deviation. Neither one of them are the
25 up or down. And the 9.7 is a 552 up north. If we

1 made any changes there, it might affect that a bit.
2 But, I have not looked to see what is contemplated
3 up north with the changes at 552, but there should
4 be plenty of room to move.

5 So the advantages of, keeps Madison
6 split or keeps Madison whole, keeps Bingham whole.
7 And Mr. Moeller can go up to Fremont and find some
8 more clients up there. (Laughter). But other than
9 that, it is not split any more than we did or any
10 less.

11 As I say, the one that I don't like is
12 28. I don't know what you can do about it because
13 you start splitting the southern half of Bannock,
14 and you move in there, then you take it right on
15 up. So somebody has to. And the other, you take a
16 look at that, and it is a long ways to Fish Haven
17 and almost as far from Fremont, part of the Fremont
18 that was slipping over there to Dubois and then
19 they are a third of the way across the district.
20 So probably shouldn't complain, because these are
21 all relative terms. They are both big districts,
22 but manageable. There is not an all purpose road
23 from Hampton to, down here, except through this.
24 Pack up for a week and see the other part of your
25 district. Questions?

1 MR. GIVENS: Mr. Chairman.

2 MR. STUART: Commissioner Givens.

3 MR. GIVENS: Mr. Chairman, Commissioner
4 Shurtliff, I guess, I am just asking, to confirm
5 what I think I understand here. 66 splits Bingham
6 County into three different districts. As I
7 understand it, 72 divides Bingham only into two
8 districts, which it has to be divided into anyway
9 because it has more than -- too much population and
10 it is just too big for one. Is that correct?
11 Bingham is in only two districts?

12 MR. SHURTLIFF: That's correct.

13 MR. GIVENS: And Bonneville has enough
14 population that it has to be in at least three
15 districts, and if I look at this -- if I understand
16 this correctly, Bonneville was actually divided
17 into four districts in this plan. Is that right?
18 One in the city of Idaho Falls?

19 MR. SHURTLIFF: Idaho Falls, and we got the
20 southern portion here.

21 MR. GIVENS: Two in the east and that area to
22 the west of Idaho Falls and the freeways. And then
23 in a county that does not have to be divided, just
24 purely because of population of that county, would
25 be Fremont. But this does divide that.

1 So it divides one county one more time
2 than it absolutely has to be. And it divides one
3 county that, just because of its own population,
4 would not have to be divided, which is really the
5 same population or the same county division issue
6 we had in L66, isn't it?

7 L66 we divided Bingham one more time
8 than it absolutely had to be, and Madison. Okay.
9 Thank you.

10 MR. TAYLOR: Mr. Chairman.

11 MR. STUART: Commissioner Taylor, go ahead.

12 MR. TAYLOR: Mr. Shurtliff, to make sure I
13 understand this correctly. Instead of dividing
14 Madison County, you decided to divide Fremont
15 County.

16 MR. SHURTLIFF: Exactly.

17 MR. TAYLOR: Okay.

18 MR. SHURTLIFF: But there is one other thing,
19 we got to make sure, we also move these good folks
20 from Butte County.

21 MR. TAYLOR: Right.

22 MR. SHURTLIFF: Because with the Madison
23 County split over here, there is a significant
24 population increase. It picks up a lot of people.
25 And to make the numbers work there, six or more or

1 less from Butte, 800 up here. So to make the
2 numbers work. But, sitting on the horizon driving
3 into Boise, don't make much difference to me. I
4 would guess the people in Butte County wouldn't
5 know the difference if they are going this way or
6 this way. But that is a change for there.

7 MR. STUART: Commissioner Shurtliff, just an
8 observation. I know the division of Ada County is
9 not our first choice, if we can avoid that. 800
10 people in that Island Park District doesn't sound
11 like a big number, but I want to point out that the
12 mathematician in me has noticed that that's how we
13 got under the 10 percent threshold established by
14 the Court. So it is purely a population
15 equalization measure with that Island Park precinct
16 in Fremont County.

17 MR. SHURTLIFF: I will defer to my driver,
18 but we needed those numbers. We put them this way,
19 if we didn't put them, we are in trouble. I don't
20 think it is any legal debate of rationale, but the
21 practical aspect is the area, that is pointed out,
22 is this area, communities of interest. Once you
23 get north of Ashton, it is a totally different kind
24 of interest, economic base, the people, and so
25 forth, and they really do tie more up in terms of

1 tourism and lumbering and so forth to the people
2 out there. So I think from the community's point
3 of view, it makes good sense and I also share the
4 view that 800 people up there, when they took the
5 census, that we could go up there today in the
6 middle of winter and try to find three dozen.

7 MR. TAYLOR: Mr. Shurtliff, in the area of
8 western Bingham County that is now District 27,
9 yes, right there, is it absolutely necessary for
10 that northern portion to be Boise District?

11 MR. SHURTLIFF: We were just looking at that
12 during the break, and I think Charlotte tells me
13 and Commissioner Sellers tells me that that can
14 probably be moved back over and not do damage to
15 the numbers and could very well make a great deal
16 more sense on the ground.

17 MR. STUART: Commissioner Taylor, I notice
18 that just the numbers here on 27, that's a very
19 sparcely populated patch of ground out there, north
20 of the highway. So numbers-wise, I don't think
21 there is any constraint. An observation, that is
22 one precinct, however, it is a split precinct,
23 which had made sense to us in the L66 Plan. I
24 don't think there would be significant objection to
25 that.

1 MR. GIVENS: Mr. Chairman.

2 MR. STUART: Commissioner Givens.

3 MR. GIVENS: When I was speaking before, I
4 forgot to say something I should have. I think
5 this plan makes a lot more sense than L66 for two
6 reasons. One is that first the county splits are
7 no different. Two, I think it does a better job
8 with community interest. Maybe most importantly,
9 third, its get the population deviation under
10 10 percent.

11 MR. HAAGENSON: Mr. Chairman.

12 MR. STUART: Dean, go ahead.

13 MR. HAAGENSON: Mr. Chairman and Commissioner
14 Shurtliff, are the number of counties listed in
15 this plan the same as L66?

16 MR. SHURTLIFF: I think the number of
17 counties split are the same. The number of splits
18 are different.

19 MR. HAAGENSON: Okay.

20 MR. STUART: Commissioner Haagenson, I think
21 the observation is made that where Madison County
22 is split in L66, it remains whole in 72. However,
23 Fremont County is split. And the difference is
24 Bingham County being divided into three legislative
25 districts in L66 versus two in L72. The trade-off

1 is the additional cut in Bonneville. So it is
2 different slices of the pie falling in different
3 counties. Any other questions for Commissioner
4 Shurtliff on the L72?

5 Charlotte, can you blow up the Blackfoot
6 to Shelley area there. It is all in the blue.
7 District 31, Commissioner Taylor, to the best of my
8 knowledge. That is too far, Charlotte. We will
9 see a farm house there. So that Old Highway 15
10 corridor is intact in District 31 at this point.

11 MR. TAYLOR: Thank you.

12 MR. HAAGENSON: Mr. Chairman, can we put the
13 city limits on there?

14 MR. STUART: Say again, Chairman Haagenson.

15 MR. HAAGENSON: City limits, Mr. Chairman.

16 MR. STUART: There we go.

17 MR. HAAGENSON: That's it. Mr. Chairman,
18 that's Firth right below the highway sign. Right?

19 MR. STUART: Correct.

20 MR. HAAGENSON: And Shelley right above,
21 okay.

22 MR. TAYLOR: Correct. Can you blow up
23 Idaho Falls and show me how that breaks down?

24 MR. STUART: Charlotte, can you blow up
25 both presentations of Idaho Falls there. Delete

1 the city limits on both there, so we only have
2 Menan and Idaho Falls running together. There we
3 go. They are, I think, substantiatively the same.
4 It is just like that one little tail there below
5 I15.

6 MR. TAYLOR: There is a little jog on the
7 West. What is that right there?

8 MR. STUART: That is out near the airport
9 where the block work on L66 is slightly different
10 than the new block work on L72. Just equalized
11 populations more precisely between District 33 or
12 urban Idaho Falls and District 31. I don't think
13 there is any -- there is no income, no other
14 impact.

15 MR. TAYLOR: Okay.

16 MR. STUART: Is that correct, Mr. Shurtliff?

17 MR. SHURTLIFF: I'm sorry.

18 MR. STUART: Isn't that the sewer plant down
19 there or something? Nope. There is none there.

20 MR. TAYLOR: Okay. Thank you. Any other
21 questions at this point for L72?

22 MR. SHURTLIFF: Go a little north there a
23 little bit, Charlotte, of Idaho Falls. Utah is
24 over here to the river. This kind of a boundary
25 makes some sense.

1 MR. STUART: It is a precinct as well as a
2 geographic boundary.

3 MR. TAYLOR: Is that the river?

4 MR. STUART: Yes, that's the river.

5 MR. TAYLOR: Can you follow the same lines on
6 the north?

7 MR. STUART: Yes. Yes, low lines or precinct
8 lines.

9 MR. SHURTLIFF: And as I say, I am not that
10 familiar with the current plan, but I think it is
11 fairly similar to this. I don't think it comes
12 down here.

13 MR. STUART: We have plenty of time to digest
14 this. Okay. This is L72. Thanks, Commissioner
15 Shurtliff. L72, this isn't the only way to the
16 skin the cat. There is a couple other ways to
17 address the court's concerns. I can -- I'll
18 present these briefly. And, Charlotte, if you
19 would like to continue driving with Shauneen,
20 that's great.

21 You can back out to show the eastern
22 section, the same starting point that we started
23 from. This one will work just fine. This is mod
24 one, Charlotte, which can be L73. This is focused
25 only in the eastern end of the state again.

1 Just a big overview. I made no changes
2 south of the Bannock/Caribou County line or to
3 District 27. So I left that boundary on the main
4 highway running up toward I80, as it was in L66 as
5 you can see.

6 Changes here. This is purely a
7 mathematical modification that does not make
8 significant political changes to the L66 Plan. As
9 you can see, it still splits Madison County. It,
10 however, leaves Fremont and Jefferson intact. The
11 equalization effort here to address the Court's
12 concern in this plan, rather than dealing with the
13 Idaho Park precinct, I dealt with three Mackay area
14 precincts in Custer County, which attach to
15 District 31. Accomplished the same end for a total
16 plan deviation of about 9.7 percent.

17 I will say right up front that there is
18 things I like about each of these plans. I am
19 going to present to you those. So there are pluses
20 and minuses about them. There are different
21 aspects of dealing with the issue. Other than
22 adding the Mackay precinct. By the way, for what
23 it is worth, this is the Mackay School District.
24 You might tap the school district button there,
25 Charlotte.

1 This is the Mackay School District. It
2 is attached with the Arco area. Anyway, which
3 seems to be a rationale place to make that
4 division, if such a division needed to be made.
5 Otherwise this is a largely unchanged. Oh, I made
6 a small change down here in the Firth and Shelley
7 area to re-unite those communities, which we know
8 was a problem from the testimony of the input of
9 petitioners in the challenge. But those are
10 reunited at this point. This is one way to skin
11 the cat. Questions about this one? I will move on
12 to a second one.

13 MR. GIVENS: Mr. Chairman.

14 MR. STUART: Commissioner Givens.

15 MR. GIVENS: What I would like to try to do
16 here is basically ask the same questions about all
17 these plans, so we can keep it in context in terms
18 of division of counties. This plan, L73, still
19 divides Bingham County in three separate districts.
20 Is that right?

21 MR. STUART: That is correct, Commissioner
22 Givens.

23 MR. GIVENS: So with that respect, it is like
24 L66 and it divides Bonneville County also into
25 three districts, so in that respect, it is like

1 L66. Is that correct?

2 MR. STUART: Correct. There is no change in
3 Bonneville.

4 MR. GIVENS: This though divides two counties
5 rather than one because of their are own population
6 don't otherwise have to be divided. Is that right?

7 MR. STUART: That is correct. With the
8 addition --

9 MR. GIVENS: The counties are Custer and
10 Madison?

11 MR. STUART: That is correct.

12 MR. GIVENS: And the population deviation of
13 this plan is what?

14 MR. STUART: 9.705.

15 MR. GIVENS: I guess, in my mind, simply
16 because of that one additional county division,
17 that makes it somewhat less favorable than L72.

18 MR. STUART: I intended --

19 MR. GIVEN: But it does solve a number of
20 problems. We certainly appreciate the effort.

21 MR. STUART: Any questions on this one, L73?
22 Let's go to the mod two, 2.1, Charlotte, whatever
23 it is. This is going to be L74. Okay. This one
24 takes a little different approach. This one leaves
25 Madison County whole with a trade-off. The only

1 significant difference in this one and the L66 Plan
2 and the previous L73 Plan that I just reviewed with
3 you is in Fremont County and Madison County.

4 In this case, Madison County is whole,
5 joined with the precinct leading up and including
6 the city limits of Saint Anthony for population
7 equalization. And the Mackay 3 precinct split is
8 required, once again, for population equalization.
9 Deviation here is once again 9.7 percent.

10 To review the county splits where L66
11 split only Madison County. This L73 splits Fremont
12 instead. And additionally the three precincts in
13 Custer County that are part of the Mackay School
14 District. And just as a side, I made the same
15 small changes in Bingham County to reunite Shelley
16 and Firth. Questions on this one? Slightly
17 different ways to skin the cat.

18 MR. GIVENS: Mr. Chairman.

19 MR. STUART: Commissioner Givens.

20 MR. GIVENS: As I understand this, in
21 comparing it back, not to 66, but to 72, it puts
22 more Fremont County in with 75 than 72 does. Is
23 that right? 72 just puts the Island Park area in
24 and this puts most of Fremont.

25 MR. STUART: That is correct, Commissioner

1 Givens. 72 Plan had only the Island Park precincts
2 farthest north. This puts all except the Saint
3 Anthony area. So this divides Fremont County and
4 also divides Custer County. Two counties, which
5 because of their own population, don't need to
6 otherwise be divided.

7 MR. STUART: That's correct.

8 MR. GIVENS: Okay. This plan divides
9 Bonneville County into three districts and also
10 divides Bingham County into three districts. Is
11 that right?

12 MR. STUART: That is correct. With no change
13 from the L66 Plan originally.

14 MR. GIVENS: Thank you.

15 MR. HAAGENSON: Mr. Chairman.

16 MR. STUART: Commissioner Haagenson, go
17 ahead.

18 MR. HAAGENSON: You said the overall
19 deviation on this. I missed it.

20 MR. STUART: 9.7.

21 MR. HAAGENSON: 9.7.

22 MR. STUART: Yes. No change from the
23 previous plan. Other questions on this one? Okay.
24 I have one more. This can be L75. This is my mod
25 three.

1 Tiny bit higher deviation, 9.8 with a
2 more significant, similar significant changes.
3 Okay. Once again, L66 on the right and the L75 on
4 the left. Butte County, once again, is reassigned
5 with all of Fremont County and all of Teton County
6 to District 35 under this plan. Madison County is
7 whole. Bingham County, Bonneville County, all the
8 areas to the south are unchanged, except for the
9 minor changes, once again, in Bingham County to
10 reunite Shelley and Firth.

11 Okay. The county split here is
12 Jefferson. And notice in this plan, Jefferson is
13 divided into -- portions of Jefferson fall into
14 three districts, with the Rigby area joined with
15 District 34 there in the pink, and Rexburg. Okay.
16 Mr. Shurtliff's hometown, Menan and other areas
17 joined with District 31 in western Bonneville and
18 Bingham. That's the -- by the way, that boundary
19 between, the blue and the green there, District 31
20 and 35, is the Jefferson and West Jefferson School
21 District.

22 With the Jefferson School District
23 joined with Western Bonneville and Bingham in
24 District 31. And the west Jefferson joined with
25 District 35, which once again is a big district.

1 In Commissioner Shurtliff's plan, you observed the
2 distance from Island Park to Dubois or Stanley is
3 significant. It is a touch farther to Driggs.

4 But nevertheless, I had several folks
5 come to me at our Idaho Falls hearing. A couple of
6 folks actually suggested a district like this that
7 looked like this and they called it the High
8 Country District, so there is apparently a
9 community interest that relates to tourism and
10 ranching. It is somewhat consistent, although it
11 is large. Deviation on this, once again, plan
12 deviation is 9.8 percent. Slightly different way
13 to address the Court's concern.

14 Compared to the L66 Plan, there are no
15 additional counties split. Instead of the Madison
16 County split in L66 on the right, Jefferson County
17 is split in the L75 on the left. Otherwise the
18 plans are substantively identical.

19 MR. GIVENS: Mr. Chairman.

20 MR. STUART: Commissioner Givens.

21 MR. GIVENS: If I understand this right,
22 Jefferson County is the only county that is split
23 that doesn't otherwise have to be split because of
24 its own population?

25 MR. STUART: That is correct.

1 MR. GIVENS: But it is split not into two
2 districts, but into three?

3 MR. STUART: That is correct.

4 MR. GIVENS: And then this one takes care of
5 the Shelley/Firth issue, as well?

6 MR. STUART: I think so.

7 MR. GIVENS: Now, Bingham County under this
8 plan is put into three different districts. Is
9 that right?

10 MR. STUART: That is correct.

11 MR. GIVENS: And Bonneville County is split
12 into three different districts?

13 MR. STUART: Correct.

14 MR. GIVENS: And the other change is that
15 Teton is added into 35?

16 MR. STUART: That is correct. Teton and
17 Butte and all of Fremont.

18 MR. GIVENS: And this one also is under 9.7?

19 MR. STUART: Yes, this is a 9.8 percent
20 deviation. All four of the plans that we have
21 presented here are in the 9.7 to 9.8 range.

22 MR. GIVENS: I have very little feel for
23 Jefferson County. Commissioner Shurtliff, I would
24 be interested in your feelings about those
25 divisions of Jefferson County.

1 MR. SHURTLIFF: Well, I think you could take
2 a meat ax and cut it up. Focus in there on Menan,
3 Charlotte.

4 MR. STUART: Put the cities on there,
5 Charlotte, if you would. City limits. There is
6 Menan. There we go. There it is.

7 MR. SHURTLIFF: Now, it doesn't make any
8 great difference, but the cemetery for Menan is
9 right over here.

10 MR. GIVENS: They can't vote, can they?

11 MR. SHURTLIFF: Yes, they do.

12 MR. HAAGENSON: Democratic primaries can.

13 MR. SHURTLIFF: The only people that vote up
14 in there is Island Park. (Laughter). You know,
15 kids from Menan go to school in Rigby. Kids go to
16 school, from Roberts, go to school in Rigby. This
17 is East Jefferson School District, if they don't
18 like going to Rigby. But anyway, it is a long ways
19 down. But, anyway, I'll vote for that real soon.
20 I would like to go back to Menan some time. I am
21 going to be buried right over there, and I would
22 like to be buried with the folks in Menan, not the
23 folks in Rigby. We don't like those folks much.

24 MR. STUART: Commissioner Shurtliff, we will
25 move that line. (Laughter).

1 MR. HAAGENSON: Mr. Chairman.

2 MR. STUART: Commissioner Haagenson, please.

3 MR. HAAGENSON: Mr. Chairman, I know it is
4 getting close to the noontime hour, but are we
5 going to get a chance to look at the Plaintiff's
6 plan perhaps before the break? Are they available
7 now?

8 MR. STUART: Do we have those electronically
9 available? All right. If we have them, let's do
10 it. I think we have them. Let's do it. Any
11 questions on this L75? We can close that out.

12 These are the L67, 68, and 69,
13 Charlotte, if you can find them. Is anyone
14 prepared to brief these or discuss them?

15 MS. SELLERS: I am not.

16 MR. HAAGENSON: Mr. Chairman.

17 MR. STUART: Commissioner Haagenson, go
18 ahead.

19 MR. HAAGENSON: I wonder if it is expeditious
20 to have Mr. Moeller go through those, since they
21 developed them. Maybe he could get through them
22 quicker than we could.

23 MR. STUART: Makes sense. Commissioner
24 Sellers?

25 MS. SELLERS: That's fine. Mr. Moeller.

1 MR. MOELLER: If I may, I would defer to
2 Scott Kidd who actually is more involved with the
3 intricacies of the data on the plan and the
4 relevant populations. He put these together, so I
5 think he ought to be the one to drive that.

6 MR. STUART: There is the pointer. I will
7 pass down, Shauneen. Mr. Kidd, please, brevity is
8 beautiful.

9 MR. KIDD: Okay. Our assumption, let me just
10 talk about our assumptions really quickly. Our
11 assumption was that when we begin dealing with the
12 community interest, we have to deal with history,
13 by definition. So if you look here on Teton County
14 and Bonneville County, they have a 40-year history
15 there. Ever since 1966 that has been a community
16 of interest. This is defined by the legislature.

17 The dig difference, if you want to go
18 down to Bannock County, really between 72 and any
19 of the other plans that have been offered. If you
20 look here in Bannock County there, sorry my hand is
21 shaking, I wasn't ready for this.

22 MR. GIVENS: Mr. Chairman.

23 MR. STUART: Commissioner Givens.

24 MR. GIVENS: What is the plan number we are
25 looking at here?

1 MR. STUART: This is L67. It was submitted.

2 This is Petitioner's Plan A.

3 MR. KIDD: Could you go to North Idaho on
4 that one really quickly? I just want to make sure
5 we are dealing with the right plan here because we
6 prepared A, B and C. A and B deal with Northern
7 Idaho.

8 MR. HAAGENSON: Mr. Kidd, you mean Northern
9 Idaho in addition to this. Is what you are saying?

10 MR. KIDD: Yes, in A and B. And so what we
11 want to make sure is that we are dealing with C
12 only. And I believe that would be plan L69, then.

13 MR. STUART: So we haven't found the right
14 version yet. No, we have. I am sorry. The one on
15 the right is your Petitioner's District A.

16 MS. SAMIS: Mr. Chairman, this must be
17 correct, because the deviation is less than 5.5.

18 MR. STUART: Okay.

19 MR. TAYLOR: Is this L67 or L69?

20 MR. SAMIS: I just copied them as A, B and C.

21 MR. KIDD: Okay. Let's go to C, then, the C
22 Plan. We won't put you through the rigors of
23 A and B.

24 MR. HAAGENSON: Mr. Chairman.

25 MR. STUART: Commissioner Haagenson.

1 MR. HAAGENSON: Mr. Chairman and Mr. Kidd,
2 what is the overall plan deviation for what I guess
3 is C or 69?

4 MR. KIDD: I believe 9.92.

5 MR. HAAGENSON: 9.92?

6 MR. KIDD: Yes. You can focus in on
7 Southeastern Idaho there. It is consistent with
8 Mr. Shurtliff, Commissioner Shurtliff's, plan in
9 that it takes Fremont County over into District 35.
10 The big difference that I really see is down in
11 Southeastern Idaho in Bannock County there.

12 Again, keeping with the community of
13 interest idea, the tradition has been in every
14 legislative district plan Southern Bannock County
15 has gone south with Oneida County. In fact, until
16 the 1992 Plan, everything south of Pocatello went
17 down with Oneida County. That is the basis for
18 this. Is recognizing that traditional community of
19 interest for 36 years or 35 years, excuse me. That
20 allows you to have more of a compact district down
21 here.

22 It also -- the benefit of the plan --
23 the problem you have with Bannock County in, one
24 way or the other, if you try to get the reservation
25 back together, that would be the Fort Hall precinct

1 and then these other precincts here. If you take
2 these and take them north, the problem is you have
3 got to split the Bannock County some way, if you
4 want to get that reservation back together.

5 So the question is whether you keep with
6 the traditional community of interest as defined by
7 the legislature for the past 35 years and move that
8 south, or whether you do the split up here to unify
9 the reservation. The plans that we have discussed,
10 that would be the one problem that I would see. Of
11 course, if it is Madison County, it doesn't affect
12 us. It is just an observation.

13 What that does by unifying the
14 reservation, all except for those 200 American
15 Indians that live in this area, it does compact.
16 It makes sure that it is compact down that southern
17 corridor. If you want to move up. You can see
18 that it does keep Madison County whole with all of
19 Fremont County, except for the Island Park
20 precinct. It preserves a community of interest
21 with Teton and Eastern Bonneville County.

22 Also if you see in this area right
23 there, if you hit the school district button, these
24 areas of Bonneville County are also in the Shelley
25 School District. So it does restore Shelley and

1 Firth to that traditional community of interest.

2 It does have three splits in Bingham
3 County; however, that is not without precedent.
4 In every legislative district plan, except for
5 1992, Bingham County was actually split four times
6 into four different districts. So three splits. I
7 mean, it is a huge county. You had to deal with
8 the reservation. And the concerns of the
9 reservation, I would think, trump whether or not we
10 have an extra split.

11 But in past plans, Shelley has been with
12 Bonneville County. This area has been with Butte
13 County and this area has been down with Power
14 County. And for 30 years that was the case. There
15 were four different districts in Bingham County,
16 and that was changed in 1992.

17 So if there are any questions?

18 MR. HAAGENSON: Mr. Chairman.

19 MR. STUART: Commissioner Haagenson, go
20 ahead.

21 MR. HAAGENSON: Mr. Chairman, I think all the
22 plans we are seeing here, District 27, the northern
23 boundary goes along the freeway. And I think there
24 is a school district issue there. Drop down below
25 there to the southern.

1 MS. SELLERS: Top of 27.

2 MR. HAAGENSON: Yeah, the northern. 27
3 there. Where the east boundary goes along the
4 freeway. Apparently that splits the school
5 district. If there are not many people living out
6 there? Do we know if we can change the plan and
7 accommodate that without making a significant
8 difference?

9 MR. KIDD: Certainly wouldn't affect all the
10 issues of the state. I think the numbers of the
11 people are so few.

12 MS. SAMIS: Mr. Chairman, I would think there
13 is significant population there. This precinct
14 here has 2,600 people. This one here. So I think
15 it would need some other adjustments to get the --
16 to maintain the deviation.

17 MR. KIDD: Most of the population in that
18 precinct is near the Blackfoot city limits. It is
19 quite a desert area out there.

20 MR. HAAGENSON: Mr. Chairman, could we look
21 at the school districts on there for a minute. I
22 am confused because I was told it was a different
23 line than that.

24 MS. SAMIS: Yeah, the red line indicates the
25 school district here, and there it is colored.

1 MR. KIDD: Just an observation, Mr. Chairman,
2 is that the Marshall Valley School District is
3 there in Southern Bannock County. And this area
4 would be consolidated so it validates the community
5 of interest argument, as well.

6 MR. GIVENS: Mr. Chairman.

7 MR. STUART: Commissioner Givens.

8 MR. GIVENS: Mr. Kidd, were changes made up
9 north also that affected the population deviation?

10 MR. KIDD: None that really -- there are
11 some. I believe we played a little bit in Kootenai
12 County, but you can ignore for purposes of this
13 because you do have that fire wall there. That
14 really isn't necessary to even consider it. This
15 could be adopted completely into Eastern Idaho.

16 MR. GIVENS: Could you take L69 up into the
17 Latah/Nez Perce County area. Now, some of your
18 plans divided Nez Perce, some didn't.

19 MR. KIDD: That's right. In fact, that would
20 be L67 and 68. They were the only ones that
21 considered the Nez Perce and Latah County. The
22 rationale, of course, this is L69. But the
23 rationale is that in research, again going back to
24 the traditional communities of interest, went back
25 and looked at how the legislature has defined those

1 communities of interest since 1966, which is the
2 first time that we have counties divided in a
3 portion of the plan. And since -- on 1966, Nez
4 Perce County has never been united. They have
5 always been divided in one way or the other. So
6 that helps define your community of interest.

7 If you look at the Rimrock precinct,
8 that would be this northwestern precinct and this
9 northeastern precinct of Leland. Hit your school
10 district button there. You will notice that the
11 Leland precinct goes to school up in Juliaetta.
12 The children go to Juliaetta and the high school
13 kids go to Kendrick and then Rimrock goes up in the
14 Genesee School District. That was the rationale on
15 67 and 68. There is a legitimate community of
16 interest there. And where that county has been
17 divided in every legislative district plan, except
18 for L66, then it meets the community of interest
19 arguments.

20 There was, I believe, there were 80
21 people here just north of the Clearwater River that
22 would also need to go up there. And that would
23 change -- the problem that I am sure you realize is
24 because of the geography and leaving Latah County
25 at 5.52 percent negative deviation. 5.5 negative

1 deviation. The problem was it was more of extreme
2 lower deviation, and it kind of bound us in what
3 could happen in Eastern Idaho, and that was the
4 reason for even going to Nez Perce and Latah
5 County.

6 MR. GIVENS: Mr. Chairman.

7 MR. STUART: Commissioner Givens.

8 MR. GIVENS: My question was a very simple
9 one. L69 did not divide Nez Perce County?

10 MR. KIDD: No. No, it has no -- there is
11 really no change. I am sorry. I misunderstood
12 your question.

13 MR. GIVENS: That's all right. Could you
14 take the plan, then, back to -- let me ask it this
15 way. Did it divide any other county that was not
16 divided in L66?

17 MR. KIDD: No, it did not.

18 MR. GIVENS: Charlotte, could you then go
19 back to the southeastern.

20 MR. KIDD: You did have the divisions, I
21 believe, in Bonneville County, but it was a county
22 that had to be divided anyway because of the
23 population.

24 MR. SAMIS: Mr. Chairman, the only thing I
25 note is that change in population. District 5 may

1 have changed slightly from minus 5.52 to 5.32. But
2 I am not cognizant of what changes.

3 MR. STUART: All right. Commissioner Givens,
4 there may have been some minor changes that may not
5 have been totally explained here.

6 MR. GIVENS: That's all right. I understand
7 those. I just wanted to run through and make sure
8 I understood. Could you take the school districts
9 off, please. The Bannock County is divided into
10 three districts under L69. Is that right?

11 MR. KIDD: Correct.

12 MR. GIVENS: Bingham County is divided into
13 three districts under L69?

14 MR. KIDD: Correct.

15 MR. GIVENS: And Bonneville County is divided
16 into four districts under L69. Is that right?

17 MR. KIDD: That's right.

18 MR. GIVENS: And Fremont County is divided
19 into two districts?

20 MR. KIDD: Right.

21 MR. GIVENS: Other than that, there are,
22 except for a little adjustment made, in Bonner
23 County as to where the division line is, the
24 remainder of L69 is identical to L66. Is that
25 correct?

1 MR. KIDD: In fact, I don't believe we even
2 considered the northern portion. We have been
3 working on this plan, so many changes. I wouldn't
4 even -- I would just if I were you, adopt,
5 incorporate, if you choose to use the Eastern Idaho
6 plan, incorporate it into L66 and adopt it that
7 way.

8 MR. GIVENS: Thank you. Mr. Chairman, I
9 guess I'd only note that although the community of
10 interest is a statutory requirement, the division
11 of counties is a constitutional requirement. And
12 dividing a county more often than is necessary,
13 absolutely necessary, is in my view violative of
14 the Idaho Constitution. We have to do that, but we
15 have to divide some counties somewhere in order to
16 satisfy the U.S. Constitution requirements. Thank
17 you for letting me get these things categorized in
18 my mind, and I appreciate the opportunity to
19 question.

20 MR. STUART: Any other questions? Thank you,
21 Mr. Kidd.

22 MR. KIDD: Thank you.

23 MR. STUART: Are there other plans that any
24 of the Commissioners would like to have this
25 morning? If it meets everyone's approval, I would

1 like to suggest we break at this point to get some
2 lunch as required and digest some of these plans
3 and see where we are. What times make sense to
4 reconvene? Take about an hour lunch? 1:30. Let's
5 start at 1:30. 1:30 it is. We will recess until
6 then.

7 (Noon recess.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 AFTERNOON SESSION

2 Wednesday, December 12, 2001, 1:45 p.m.

3

4 MR. STUART: Okay. I will call the meeting
5 back to order here. Okay. We have got a number of
6 plans on the table for modification or deliberation
7 or further comment. I will kind of open the topic
8 from there. During the break, we got a couple of
9 minor modifications to the L72 Plan that were
10 incorporated.

11 MS. SELLERS: Are we able to show those?

12 MR. STUART: Yeah, I think we are. I think
13 it might be useful to show the Commission the Clark
14 Fork modifications that Commissioner Givens and
15 Commissioner Haagenson have proposed, and we can go
16 from there. I can drive that.

17 Okay. This is the Clark Fork, Priest
18 River town area. If I might impose on
19 Commissioners Givens and Haagenson to walk us
20 through this in whatever order you gentlemen would
21 like. These are changes to the L66.

22 MR. GIVENS: Thank you, Mr. Chairman. The
23 first, if you could enlarge east of Lake Pend
24 Orielle. What the change here from L66 is that
25 these two precincts at Bend District 1 in L66, and

1 the comments were pretty uniform that it was of
2 greater concern to have -- well, excuse me. These
3 would have been in one and this Clark Fork area had
4 been in two, and there was greater concern that the
5 Clark Fork area ought to stay in one. And I think
6 that makes some sense.

7 Charlotte, could you zoom out of there a
8 little bit. The difficulty was as people come up
9 Highway 95, then they would have to go clear over
10 here, that is an awful lot more travel than to
11 just come up 95 to those folks. So the areas
12 north of the Clark Fork River have been moved into
13 District 1. These two precincts have been moved
14 into District 2. And if you could now move it off
15 to the West on the Pend Orielle River.

16 Right here, just south of the river is
17 the town, Old Town. One of these things that
18 happens. Places on the western side of the State.
19 The town of Newport is right over in Washington and
20 Old Town is right there. Down here, the town of
21 Priest River, actually the city limits is on both
22 sides of the river. This area was in District 2
23 before it was combined in District 1 for much of
24 the same reason.

25 MS. SELLERS: You just took the entire

1 precinct?

2 MR. GIVENS: We just took the entire
3 precinct. First we did some block works along the
4 river and then at Commissioner Stuart's suggestion,
5 what happens if you take the whole precinct? What
6 I ended up doing, let me drop this, you can't see
7 them, but it actually equalized the population
8 level down a little bit more. That doesn't
9 accommodate all of the concerns of everybody, but
10 rather than having one right around minus five and
11 the other right around minus three. But, that
12 seems to be the best we could do.

13 MR. HAAGENSON: Mr. Chairman.

14 MR. STUART: Commissioner Haagenson.

15 MR. HAAGENSON: Mr. Chairman, I would move
16 that the boundary between Districts 1 and 2 as
17 described by Mr. Givens be adopted and incorporated
18 into any other plans we will be looking at later
19 today.

20 MR. GIVENS: I second that motion.

21 MR. STUART: Okay. We have a motion and
22 second to adopt this modification to all plans
23 considered. Any discussion?

24 MS. SELLERS: I just have a question.

25 MR. STUART: Commissioner Sellers.

1 MS. SELLERS: So does that solve all the
2 complaints, essentially?

3 MR. GIVENS: Not all of them. There are
4 people that would like to have this area here be in
5 District 1 and just couldn't do that still to make
6 it work. So that's the one concern that it doesn't
7 solve. But it solves the vast majority of the
8 complaints here.

9 MR. HAAGENSON: Mr. Chairman.

10 MR. STUART: Commissioner Haagenson, go
11 ahead.

12 MR. HAAGENSON: Mr. Chairman and
13 Commissioner Sellers, I think it is fair to say
14 that those precincts that they described just
15 across the bridge from Sandpoint and whatever the
16 other one is called, they are not going to like it.
17 They would like to be with Sandpoint.

18 But, as Commissioner Givens suggested, I
19 think that is less a problematic than the way it
20 was before. When people have to drive clear around
21 the lake to get to Clark Fork. This is less worse,
22 maybe. So they are not going to be entirely happy,
23 but I submit that probably many places in the State
24 we won't make everyone entirely happy.

25 MR. GIVENS: Yes, the entire city of

1 Clark Fork is a District 1. It is not divided.
2 Actually, why don't you, Charlotte, if you could
3 zoom in on Clark Fork and click on city limits
4 thing and just to double check. The entire city
5 limits is north of the river. It is a big river.

6 MR. STUART: Just an observation. I really
7 agree with Commissioner Haagenson's observation
8 that this won't please 100 percent of the people up
9 there, but it will please a vast majority. The
10 river there is such an obvious dividing line. It
11 certainly makes the boundaries clear. Further
12 discussion.

13 As is our custom with these things, I
14 would like to do a roll call. We have a motion and
15 a second to adopt the modifications to subsequent
16 plans as described. Do a roll call vote.
17 Commissioner Givens?

18 MR. GIVENS: Yes.

19 MR. STUART: Commissioner Taylor?

20 MR. TAYLOR: Aye.

21 MR. STUART: Commissioner Sellers?

22 MS. SELLERS: Aye.

23 MR. STUART: The chair votes aye.

24 Commissioner Haagenson.

25 MR. HAAGENSON: Aye.

1 MR. STUART: Commissioner Shurtliff?

2 MR. STUART: Okay. We are unanimous. We are
3 passed. Charlotte, while I have you here, can you
4 drive back down to Bingham County, please. And I
5 want to let you know here, Mr. Taylor, that area
6 northwest of Blackfoot, I did modify this plan with
7 the changes that you indicated there.

8 MR. TAYLOR: So we are looking at L72?

9 MR. STUART: Yes, this is based on L72
10 structure. That's what I happened to have in the
11 computer at the time when I did this.

12 MR. GIVENS: Mr. Chairman.

13 MR. STUART: Commissioner Givens.

14 MR. GIVENS: Can we get some modification
15 from the original on L72 here?

16 MR. TAYLOR: This area right here was here
17 before and now it is over here.

18 MR. GIVENS: Okay. Thank you.

19 MR. STUART: I don't think it is probably an
20 appropriate motion at this point. That's -- I
21 wanted to point out, that is not a problematic
22 change at all.

23 MS. SELLERS: Can you zip the that,
24 Charlotte, up to District 34?

25 MR. STUART: I can explain here. The plan we

1 are looking at here is, I took the L72 Plan and
2 incorporated the northern modifications on that
3 minor Bingham mod that we discussed. There are
4 other conceptual mods that would be useful at
5 discussion points on this plan. Charlotte, let's
6 set that one aside for now then.

7 Susan, a question came from Commissioner
8 Shurtliff, we had a submission from Ada County this
9 morning on some minor changes. I don't think I
10 have seen that. I wonder if I can impose on you to
11 get a hard copy of that.

12 MS. SELLERS: Is that what we have, Graham?

13 A SPEAKER: They brought over three changes.
14 They are in the process of putting those on the
15 redistricting software. It is not completed. If
16 you want to see in general the maps they brought
17 over, we can do that very quickly.

18 MR. STUART: I would like to see a hard copy
19 of that. I have not seen that yet.

20 A SPEAKER: Would you like me to go get a map
21 from Ada County?

22 MR. STUART: Would you please, Graham? That
23 would be great.

24 (Discussion inaudible.)

25 MR. STUART: One item I might mention while

1 we are waiting for Graham to come back. There were
2 a couple of other inputs that I neglected to
3 discuss this morning, and I apologize for that. We
4 had two suggestions about a significant realignment
5 of counties in the north. We talked about
6 Shoshone, the other one Clearwater, specifically.
7 I wanted to call that to everybody's attention. I
8 am, obviously, concerned about the ripple effect of
9 a proposal like that. But, I don't want to ignore
10 that proposal. I wanted to bring that to your
11 attention.

12 (Discussion inaudible.)

13 (Commission looking at maps.)

14 MR. STUART: Okay. I apologize to the
15 audience. A couple of minor administrative issues,
16 in Boise City, Ada County, where we have lines
17 going through parking lots and other unfortunate
18 places. But they are not substantiative issues, so
19 we will do deal with those, co-chair and myself.
20 Where would you like to go next?

21 MS. SELLERS: We have discussed, and would
22 like to indicate our support for, the Petitioner's
23 Plan C as it stands.

24 MR. STUART: Commissioner Sellers, just for
25 clarification, does that have an L?

1 MS. SELLERS: That would be Plan L69.

2 MR. STUART: Okay.

3 MS. SELLERS: And there are a number of
4 issues dealing with it that we feel are --

5 MR. TAYLOR: Can we put it up there?

6 MR. STUART: Charlotte, can you put up
7 Petitioner's Plan L69 C.

8 MS. SELLERS: Aside from the fact that it
9 deals with the complaints that were taken to the
10 Supreme Court, and we find that significant. But
11 it also deals with some problem areas that have
12 been treated as insignificant that we feel are
13 major, like Fort Hall Reservation. And it puts the
14 majority of the Fort Hall Reservation back intact
15 with the exception of Power County and that would
16 need a necessitating -- that we didn't feel it was
17 necessary with the population in Power County. I
18 think we all have issues, but we will wait until
19 she gets set up.

20 MR. STUART: I think it is useful to discuss
21 it. Commissioner Sellers, when you are ready, I
22 will just invite you to lead this discussion, if
23 you will, and we will go from there.

24 MS. SELLERS: I am going to let the new guy
25 do it.

1 MR. STUART: Commissioner Taylor, please.

2 MR. TAYLOR: Maybe because I have very little
3 history with this. But when we look this over let
4 me just tell what you my observations are and
5 perhaps you can tell me where I am off base here.

6 When I look at this map and the reason
7 it makes some sense to me is 48, it becomes a
8 single block and that's a very clean district.
9 We got a natural divider line right here. And
10 Caribou -- is that Caribou County line and Bingham
11 County line? All right. Can you do the same thing
12 over here with this 72? Blow that up, so we can
13 compare that. Okay. Thank you.

14 I like the clean line right here versus
15 28 going all the way into Bonneville County. It
16 just seems to be a very clean cut to me and keeping
17 these guys here in the same section in with Bingham
18 County people. It just has some nice clean lines
19 to it. It also puts Fort Hall Indian Reservation
20 into 29 almost intact, as Commissioner Sellers
21 indicated. For the most part, it is only split
22 once. So 29 becomes more viable with Fort Hall.
23 So for those reasons this is a very clean map to me
24 versus where we have had the county down here in
25 this area.

1 MS. SELLERS: In addition to that, I would
2 like to add, and we have already discussed it, but
3 we have had testimony from the Bannock County
4 Commissioners and Bannock residents, you know,
5 indicated that is the way they would like that to
6 be. Marsh Valley School District has requested
7 remaining to the south which is, like I said, the
8 way they go. Their road system, their commerce,
9 all of those things go to the south, and as well
10 with the fact that it makes a concise, you know,
11 other than the fact that it is a nice clean line,
12 it is additionally an historical community since,
13 well, for 40 years essentially Bannock County has
14 been divided.

15 So the only time -- oh, sorry. This new
16 plan that we have done, our L66, is the first
17 nondivision of Bannock County. So historically it
18 has been divided. From, historically, from
19 Pocatello south, from the south border of
20 Pocatello, has gone south. And so, like I said,
21 this is a something we feel is defensible over
22 dividing the county.

23 Do you have anything, Dean, you want to
24 add to that?

25 MR. STUART: Commissioner Haagenson, go

1 ahead.

2 MR. HAAGENSON: Mr. Chairman, I don't know if
3 there is anything to add to what has been said.
4 Burley, the district is much more compact. As
5 Commissioner Sellers points out, the southern part
6 has been put off before and it does help us with
7 the issues that the -- with the Shobans and perhaps
8 either Mr. Shurtliff or Givens can give us some
9 feelings for how long we might be in federal court
10 with the Shobans if we split them up in three or
11 four ways.

12 MS. SELLERS: If I can address that?

13 MR. STUART: Commissioner Sellers, go ahead.

14 MS. SELLERS: The Shobans have made it very
15 clear that they will be taking us to federal court.
16 They had just been sitting back waiting to see what
17 we are going to do. We did have a representative
18 here from the tribe all morning. She had to fly
19 out at 1:30. She couldn't be here this afternoon,
20 but we would love to have had them comment
21 publically on that. But as I said, that is the way
22 they would like it to be. At least the bulk of
23 their voting members to be together. And if we
24 draw the county line through the city of Fort Hall,
25 that is not going to happen.

1 MR. STUART: Commissioner Shurtliff or
2 Commissioner Givens, I would sure like to hear your
3 legal question, legal issue.

4 MR. HAAGENSON: Mr. Chairman.

5 MR. STUART: Commissioner Haagenson.

6 MR. HAAGENSON: Mr. Chairman and Commissioner
7 Shurtliff, I think you -- when I make the request
8 of either you or Commissioner Givens, the attorneys
9 here, tell us candidly how much of a chance there
10 is, or how much trouble we are asking for if we
11 split the Fort Hall Indian Reservation up into
12 three or four districts rather than consolidating
13 mostly all in one as this plan does? Is that
14 something we need to worry about, I guess?

15 MR. SHURTLIFF: It is not something that I
16 worry about. I am not going to worry anything
17 about that. That is for a judge. We have court.
18 Pay the filing fee. Go to court. I don't know. I
19 haven't thought much about it. I don't know that
20 the issue of a voting right is one man one vote and
21 county non-splitting issues or not. I suppose they
22 can clear that up better than I can. It doesn't
23 bother me.

24 MR. STUART: Commissioner Givens.

25 MR. GIVENS: Mr. Chairman and Commissioner

1 Haagenson, I think no matter what we do we are
2 going to end up in court. I have been told that
3 the Shoshone-Bannock tribes will sue if the
4 reservation is not kept whole. I have been told
5 that Bannock Commissioners or Bannock County or
6 people from Bannock County will sue if Bannock is
7 divided into more than two districts than it
8 otherwise would be divided into.

9 I know how I, in my mind, have
10 established the pecking order of what the law
11 requires. I am not offering this as legal advice
12 to the Commission, but it is governing my action.
13 And really somewhat contrary to what I would like
14 to do is -- I think everyone on the Commission
15 knows and it is pretty public, I represent Indian
16 tribes. I have done that for a long time. There
17 is a huge community of interest within an Indian
18 reservation. I think it is important to keep those
19 together. And I try to do that throughout this
20 entire process. The -- what is the plan?

21 MR. STUART: This is L69.

22 MR. GIVENS: L69 actually divides the
23 Fort Hall Indian Reservation into three different
24 districts. The CARIBOU County, that is really
25 just -- Kristi, can I see the pointer.

1 This area right there in Caribou County
2 is part of the reservation, but I don't believe
3 there is anyone living there. Looked at that the
4 other day. That is what my computer told me,
5 anyway. The portion in Power County, there are
6 just under 1,000 people living there. About 200 of
7 them are Native American. That is one of the
8 portions of the Fort Hall Reservation that is
9 checkerboard.

10 The way that -- and I last week spent a
11 lot of time trying to at least put the Fort Hall
12 precinct into the rest of Bannock County without
13 dividing Bannock County. And it adds so much
14 population to Bannock County that no matter how you
15 split up the county you are still going to exceed
16 10 percent, so I couldn't find away to do it.

17 As I read the cases, if we can draw a
18 district that has more than 50 percent Native
19 American in it or any racial minority of one group,
20 the Voting Rights Act, as I read it, requires us to
21 do so. No matter -- even if we draw a district
22 that was just Fort Hall Reservation, there was no
23 way we would ever get over 50 percent, get enough
24 people in it, 50 percent Native American.

25 So unless there is a provision of the

1 Voting Rights Act that governs here that I am
2 unaware of, the Federal Voting Rights Act does not
3 require Fort Hall to be kept whole. The Federal
4 Constitutional requirement that one person, one
5 vote is still predominant.

6 So the next legal requirement would be
7 the Idaho constitutional prohibition against the
8 division of counties. And in my view, there are
9 two ways that a reapportionment plan can offend
10 that Constitution and be unconstitutional.

11 One is, if it divides a county that does
12 not otherwise have to be divided. That's violative
13 of the Constitution, unless that is absolutely
14 required to satisfy some federal requirement. In
15 this case, one person, one vote or the Voting
16 Rights Act.

17 The other way the Idaho Constitution can
18 be offended is if the county is divided more often
19 than it absolutely has to be. And that is a
20 concern I have with this plan. I like what it does
21 to Fort Hall, but it divides Bannock County into
22 three districts -- or excuse me, over here. This
23 other part of Bannock is in 28. Most of the city
24 of Pocatello is in 30, and the northern part of the
25 county is in 29.

1 It also divides Bingham County into
2 three districts. It is 9, 31, 27, which is one
3 more than Bingham has to be divided into. And it
4 also divides Bonneville into four districts, which
5 is also one more than it absolutely has to be
6 divided in. Bonneville has enough population for
7 two full districts, plus more. This plan divides
8 Bonneville into 31, 32, 35 and whatever the city of
9 Idaho Falls is.

10 So, I guess, my concern with this plan
11 is that it is -- whatever we do, we are going to
12 get sued. And I think the pecking order, as I
13 understand them, you know, it would have been nice
14 for us if the Idaho Supreme Court would have
15 addressed this issue of the Fort Hall Reservation.
16 I had hoped that they would, but they don't or they
17 didn't.

18 So I -- since we have plans that have a
19 deviation of less than 10 percent and that divide
20 fewer counties more times than they have to be
21 divided. I am fearful that if we adopt this plan,
22 it would be struck down because it violates the
23 Idaho Constitution more than some of these other
24 plans that we have.

25 MR. HAAGENSON: Mr. Chairman.

1 MR. STUART: Commissioner Sellers, first,
2 please, and then Commissioner Haagenson.

3 MS. SELLERS: Ray, has the law changed from
4 ten years ago to now as far as the division of
5 counties? Are we under different constraints than
6 we were --

7 MR. STUART: Commissioner Sellers, I might
8 jump in while Commissioner Givens is thinking about
9 that. Following the initiative, the constitutional
10 amendment that was passed in '94 I believe, the
11 legislature did pass some supporting statutes that
12 detail the criteria governing plans that this party
13 was to observe. I would like to throw that in.
14 That's a new circumstance. I don't recall the date
15 of that passage. I believe it was '95 or '96
16 following the constitutional amendment.

17 MR. GIVENS: Chairman, Commissioner Sellers,
18 I think what you are really getting at is a
19 constitutional change, and as to the division of
20 counties, yes, the Constitution has changed in
21 reach of this division. As to the division of
22 counties, no. Although there was a reapportionment
23 challenge to that prior plan. It did not go off on
24 a division of county issues. But the law has not
25 changed.

1 MS. SELLERS: Well, it seems if we have 15
2 county divisions now and we are working to stay
3 significantly under that. That we are doing our
4 job, you know.

5 MR. GIVENS: Well, I don't know what all
6 there alternatives were available ten years ago and
7 the courts didn't look at. But, we do know that
8 other alternatives are available now. And I guess
9 it is knowing those that form the basis of what I
10 just said, in my opinion.

11 MR. STUART: Commissioner Haagenson.

12 MR. HAAGENSON: Mr. Chairman and Commissioner
13 Givens, I certainly appreciate the fact that we are
14 likely to be in court. I think you warned us of
15 that, that whatever we did we would be in court,
16 and there are certain facts that have borne that
17 out so far. But it seems to me the argument of
18 splitting more counties than necessary or splitting
19 a county more than necessary, we are already going
20 over the line because we have that in a number of
21 places. And if we split the reservation up, it
22 seems to me we are just asking for one more
23 potential challenge. Am I missing something?

24 MR. GIVENS: Mr. Chairman, Commissioner
25 Haagenson, no, I think it is a close call. And I

1 think it is one that we probably all have to just
2 look at and vote from our hearts. And from what we
3 individually may feel, we are required to do with
4 our oath that said we would uphold the Idaho
5 Constitution. And to me it is a very close call
6 because I would very much like to keep the entire
7 Fort Hall Reservation intact. I believe the Idaho
8 Constitution prohibition against splitting counties
9 in this instance requires us to do otherwise.

10 MR. STUART: An observation, I raise this
11 issue with only a point of discussion. I do share
12 Commissioner Givens' view that it is a judgment
13 call about which of these legal constraints is
14 controlling. My sense of it is that we have an
15 obligation that speaks to the consistency as we
16 apply the rational state policy in any plan that we
17 would adopt.

18 And I point to how we dealt with the Nez
19 Perce Tribal Reservation up north, which has some
20 parallels to the Shoshone-Bannock Reservation. The
21 Nez Perce Reservation is also spread across four
22 counties, if I recall correctly. We, at least up
23 to this time point, seem to have made the judgment
24 that keeping counties whole was a larger pressure
25 in that case.

1 MS. SELLERS: Commissioner Stuart.

2 MR. STUART: Commissioner Sellers.

3 MS. SELLERS: The difference being, however,
4 the city of Fort Hall, the town of Fort Hall, is
5 intersected by the county line. That is
6 significantly different than the Nez Perce
7 situation. We have got a town site with the bulk
8 of the population with the county line running
9 directly through it.

10 MR. STUART: Charlotte, can you show us that,
11 the Fort Hall area on Bannock/Bingham border.

12 MS. SELLERS: And so --

13 MR. STUART: I see. So it looks like the
14 southern boundary, Commissioner Sellers, if I hear
15 you correctly, the southern boundary of the city of
16 Fort Hall is in fact the Bannock County line. Is
17 that what you are saying?

18 MS. SELLERS: No.

19 MR. TAYLOR: That is 69.

20 MS. SELLERS: No, there is the county line.
21 It runs right through the middle of Fort Hall.

22 MR. STUART: Charlotte, can you click off the
23 reservation and show me only the city limits only
24 there. Okay.

25 MS. SELLERS: And so in order to give them

1 any, any, voting block, in order to give them a
2 vote in any way, they need to be reconnected, and
3 the only way to do that is cross the county line.
4 Click the city limits, Charlotte. It literally
5 cuts it in half.

6 MR. STUART: Further discussion?
7 Commissioner Taylor.

8 MR. TAYLOR: Just an observation, I am trying
9 to get this all straight in my mind. Did you say,
10 Commissioner Givens, that equal voting rights act?
11 Is that -- you have you got the U.S. Constitution
12 and then you got the Equal Voting Rights Act and
13 then you got the Idaho Constitution. Is that what
14 you are saying as far as jurisdiction?

15 MR. GIVENS: That's my understanding.
16 Mr. Chairman, that is my understanding of the law.
17 The U.S. Constitution, the Federal Voting Rights
18 Act and then the Idaho Constitution and the Idaho
19 statutes in order.

20 MR. TAYLOR: So in my mind, let me just
21 verbalize what I am thinking, and someone can set
22 me straight. We have got 30, 40 years history of
23 Southern Bannock County being aligned with Oneida
24 County in precincts. That's as it is today.
25 That's the way it existed before L66.

1 So there is some precedent there, which
2 seems to me it wouldn't be all that difficult to
3 argue, versus splitting up an Indian reservation,
4 which to me falls higher up the chain of priority
5 than the Constitution, than the Idaho Constitution.

6 So in my mind, that is sort of where I
7 am vacillating is, we have precedents with Southern
8 Bannock County already going south because they
9 have been there forever, and then trying to keep
10 Fort Hall as closely together as possible. So
11 that's where it seems to make sense to me.

12 MR. STUART: Another observation, I addressed
13 this to Commissioner Sellers' comment that she
14 received quite a bit of input from Bannock County.
15 I say Southern Bannock County requested that
16 realignment with Bear Lake, Caribou, and District
17 28, the corner there.

18 I realize we don't always visit with the
19 same constituents, but I am hearing just the
20 opposite. I got six phone calls in the last two
21 days from Bannock County folks. Some are closer to
22 the city limits and some were way out in South
23 Bannock. And the public comment I am getting is
24 very adamantly opposed to any plan that does not
25 keep Bannock County intact.

1 Now, there is various approaches between
2 those lines in L66 that now depict District 29, and
3 District 30 might change or might vary. But to a
4 person, all the comments that I have got -- have
5 told me to -- not those counties. I appreciate
6 that. It doesn't all agree. That's just from
7 Bannock County.

8 MS. SELLERS: You know, being from there and
9 being essentially the representative from that
10 area, you know, I am certain any number of people
11 could ask and you can call and you can get however
12 many phone calls. But, we have had the county
13 commissioners testify to us, as well as any number
14 of other county factions and that is a community of
15 interest, that they would choose for it to go, and
16 so I need to point that out.

17 MR. GIVENS: Mr. Chairman.

18 MR. STUART: Commissioner Givens.

19 MR. GIVENS: Just one point of clarification,
20 it has been suggested that for 40-some-odd years,
21 the southern part of Bannock County has been with
22 the counties around the corner. In the
23 reapportionment during the 1980s, so from 1984 the
24 court order reapportionment from '84 to 1990, that
25 just was not correct.

1 this. I think, Commissioner Sellers, you raised
2 the issue. Was your intention there a motion? We
3 went ahead with a discussion but --

4 MS. SELLERS: Sure. I move that we accept
5 Petitioner's C, otherwise known as L69 as
6 presented.

7 MR. HAAGENSON: As amended?

8 MS. SEELERS: As amended by the Bonner
9 change.

10 MR. STUART: The Clark Fork and Priest River
11 changes previous.

12 MR. HAAGENSON: Second that motion.

13 MR. STUART: Okay. We have a motion on the
14 second. This commission adopt Plan L69 with the
15 additional points previously approved in District 1
16 and District 2. Further discussion?

17 MR. HAAGENSON: Mr. Chairman.

18 MR. STUART: Commissioner Haagenson.

19 MR. HAAGENSON: Mr. Chairman, Commissioners,
20 I fully recognize there are severe heartburn on the
21 Democrat side of the Commission on the issue of
22 putting off Southern Bannock County. But as many
23 times as we have been back around this point of
24 this discussion, it becomes clearer. It makes a
25 much more compact district. It keeps the

1 communities of interest together, county line issue
2 notwithstanding, it makes for more compactness and
3 it allows us to deal with, I think, more fairly
4 with the Fort Hall Reservation. And I think it
5 would put incumbents on the screen. We can see why
6 it is so contentious, but I believe quite sincerely
7 that the Southern Bannock County voters are largely
8 Republican and those other four counties are going
9 to vote Republican in the foreseeable future. I
10 think it actually helps the Democrats in the rest
11 of Bannock county. But in any case, I think absent
12 the issue of incumbency that it is pretty hard to
13 argue that this isn't a superior plan, and I would
14 urge your support.

15 MR. STUART: Other discussion?

16 MR. SHURTLIFF: Mr. Chairman.

17 MR. STUART: Mr. Shurtliff.

18 MR. SHURTLIFF: I am thinking of what
19 Commissioner Haagenson said about the power of
20 diplomacy and recognizing that with all due. But
21 the fact of the matter, is under the 1990 Plan all
22 this other Bannock County was not included with
23 Caribou, Oneida, Franklin, Bear Lake County.
24 Unfortunately for discussion purposes, the portion
25 that was not is the portion that is encompassed

1 with it. So the fact of the matter is a portion of
2 Southern Bannock County was included in the 1990
3 Plan.

4 This is a far cry from that concept.
5 Bannock county was split four times in 1994. And
6 only a portion went south, and a portion was in the
7 middle, and a portion in the city of Pocatello, and
8 a portion went up north to the north parts. So I
9 think we are comparing apples and oranges frankly
10 when you talk about what was historical about it.

11 So I am prepared to vote no on the
12 motion that we ought to split Bannock County, not
13 all if we don't have to. And if it
14 serendipitiously affects an incumbent or two, so be
15 it.

16 MR. HAAGENSON: Mr. Chairman.

17 MR. STUART: Commissioner Haagenson.

18 MR. HAAGENSON: Mr. Chairman and members of
19 the Commission, Mr. Shurtliff is entirely right
20 about where that line moved, and there is a real
21 simple reason for that. That is that the
22 demographics changed, the population changed.
23 There is a real good way to fix that, Commissioner
24 Shurtliff, just import some people that live in
25 Souther Bannock County and you don't have to go as

1 far north with the line. It is just a matter of
2 numbers is why the line moved.

3 MR. SHURTLIFF: It is not Bannock county that
4 lost population. It was Bear Lake, Caribou, trying
5 to solve it. And they were dividing them up
6 unnecessarily.

7 MR. STUART: Commissioner Sellers.

8 MS. SELLERS: The reason that line is where
9 it is or where we have drawn it, as well as the
10 Madison County people, is because of Marsh Valley
11 School District. That school district does run to
12 the south. It doesn't connect to Pocatello in any
13 way. And that was the reason for the division at
14 that point.

15 MR. SHURTLIFF: Well, we start talking about
16 school districts -- I heard Mr. Moeller arguing a
17 case, and I thought he did an excellent job in the
18 Supreme Court. But, among other things, he said
19 that the children and all that district goes to
20 school in Madison County. Well, a few of them go
21 to school in Menan from Rexburg in Madison County,
22 and a few of them go to school in Rigby by that
23 little piece around the butte. And so we start
24 talking about where kids going to school, we would
25 be here for a good portion, more than 90 days.

1 So I appreciate Marsh Valley going south
2 and all that, but I don't think that where kids go
3 to school trumps, as Commissioner Givens has
4 pointed out, the notion that we shouldn't be
5 splitting counties if we don't need to.

6 MR. STUART: I will jump in and make an
7 observation here. I am equally concerned about the
8 unnecessary splitting of Bannock County. I must
9 confess that initially. I am comparing L69 as the
10 motion addressed with the L72, which I think is a
11 very similar and close parallel. And when I
12 compare those two plans, I am assuming that we
13 ultimately have that choice as well, I see some
14 dramatic advantages of the one approach over the
15 other.

16 One is certainly the Bannock County
17 being kept intact, as opposed to Bannock County
18 being divided in any way we might do that. I also
19 note that the Petitioner's Plan C L69 splits
20 Bingham County into three districts, which although
21 Mr. Moeller and others have not stated they
22 specifically object to. But I think if we can do a
23 cleaner division, putting them in two, we are
24 better off.

25 I think in terms of how Bonneville

1 County is handled between the two plans there, in
2 the L69 we have five different districts that are
3 represented by some portion of Bonneville County
4 geography. Whereas the L72 Plan, that's reduced by
5 one.

6 So I can see a number of factors here
7 where I am personally convinced, although both
8 these plans have some advantages. I think the
9 comparative advantages of the one of the L72 over
10 the L69 for me will be controlling here.

11 Once again, Commissioner Shurtliff has
12 voiced some of my personal views about splitting
13 Bannock. I think that's a bad idea. There is no
14 reason for doing that. Bannock County has 2.04
15 districts by population as it is currently
16 configured. I think that's the controlling factor
17 here for my vote. Further discussion? We have a
18 second. Do we have a motion on the second? Do you
19 want to take a brief break here?

20 MR. SHURTLIFF: Vote.

21 MR. GIVENS: Vote.

22 MR. STUART: Okay. If there is no further
23 discussion, we will do our roll call vote. The
24 motion is that the Commission adopt Plan L69, which
25 is on the right with the Clark Fork and Priest

1 River area modifications previously adopted. And
2 that motion has been made and seconded. Do roll
3 call vote. Commissioner Givens?
4 MR. GIVENS: No.
5 MR. STUART: Commissioner Taylor?
6 MR. TAYLOR: Aye.
7 MR. STUART: Commissioner Sellers?
8 MS. SELLERS: No.
9 MR. STUART: The Chair votes no.
10 Commissioner Haagenson?
11 MR. HAAGENSON: Aye.
12 MR. STUART: Commissioner Shurtliff?
13 MR. SHURTLIFF: No.
14 MR. STUART: Okay.
15 MR. SHURTLIFF: Now, what do we do?
16 MR. STUART: I suggest a -- can folks live
17 with 15 minutes? Let's take a real brief break
18 here. Let's identify at 10 and be back at 15. Be
19 back here at 3:00 to reconvene. A brief recess.
20 (Recess.)
21 MR. SHURTLIFF: Mr. Chairman.
22 MR. STUART: Commissioner Shurtliff.
23 MR. SHURTLIFF: I move for the adoption of
24 L72 as amended by the Clark Fork.
25 MR. STUART: Okay.

1 MR. GIVENS: Second.

2 MR. STUART: We have a motion of a second.

3 Any discussion? Would we like to review that? We
4 have got this on the machine right here. Would we
5 like to take a look? Ross, would you set that up?

6 Commissioner Shurtliff, with your
7 concurrence we might rename and give this plan with
8 the modifications included a new number?

9 MR. SHURTLIFF: Oh, I forgot about that thing
10 up by Blackfoot and the northern additions.

11 MR. STUART: L76 that is. Okay.

12 MR. SHURTLIFF: I would amend my motion to
13 adopt L76.

14 MR. STUART: Second approves that?

15 MR. GIVENS: Second approves the amendment.

16 MR. STUART: Okay. Just to review for
17 clarification, that involves the Clark Fork changes
18 that we adopted, the Priest River and Old Town
19 changes that we adopted. Commissioner Sellers,
20 just for input, those minor two changes to Ada
21 County are already included in that as I just
22 explained to you with no impact and the -- and
23 Commissioner Taylor.

24 MS. SELLERS: They are already in L76.

25 MR. STUART: They are right here. And the

1 change in Bigham County north of the highway there
2 is also included, as you can see. Discussion?
3 This is L76. I'll jump in. I am going to support
4 this one for the reason that I articulated in part
5 in comparison with the L69. I think it is very
6 clean. It is not a perfect plan, as so many of you
7 have already said, but I think it is closer than we
8 have been before.

9 And I agree with the observation someone
10 made that this is a better plan than L66, than the
11 one we previously approved. It does a much better
12 job -- it leaves most of the State alone, which I
13 support. It does a better job with Bingham County.
14 It keeps Madison whole. And the division in
15 Fremont County, which is the only division that
16 this plan makes that we must not make for
17 population reasons, is done for population equity.

18 So I think this is really a legally
19 sound plan. Communities of interest, I think, have
20 been observed to a tremendous extent, if not
21 perfectly so, I think it is as close as any plan we
22 can come up with. Commissioner Haagenson.

23 MR. HAAGENSON: Mr. Chairman and members of
24 the Commission, it strikes me that all of us are
25 probably guilty of calling a plan clean if it is

1 one we want to adopt. But it is a little hard to
2 say that this plan, with District 28 configured as
3 it is, is clean.

4 I would agree that it is better than L66
5 that we passed some months ago. But, it is not as
6 good as L72 that we just turned down. So I am
7 going to have to vote no.

8 MR. STUART: Further discussion? Ready to
9 vote? If there is no further discussion, we will
10 proceed with a roll call vote here. The motion is
11 the Commission adopt the L76 Plan to use the new
12 number, which is the L72 Plan previously discussed
13 with modifications as explained. Commissioner
14 Givens?

15 MR. GIVENS: Yes.

16 MR. STUART: Commissioner Taylor?

17 MR. TAYLOR: No.

18 MR. STUART: Commissioner Sellers?

19 MS. SELLERS: No.

20 MR. STUART: Co-chair votes yes.

21 Commissioner Haagenson?

22 MR. HAAGENSON: No.

23 MR. STUART: Commissioner Shurtliff?

24 MR. SHURTLIFF: Yes.

25 MR. STUART: Okay. We are at a deadlock.

1 MR. HAAGENSON: Mr. Chairman.

2 MR. STUART: Commissioner Haagenson.

3 MR. HAAGENSON: Mr. Chairman and members of
4 the Commission, at the risk of sounding flippant,
5 no pun intended. I want to make maybe an
6 off-the-wall suggestion, but I am deadly serious
7 about it. I could live with the plan we just
8 turned down. I don't think it is as good as the
9 other one.

10 But I would suggest that we flip a coin.
11 Ross can flip the coin. You can call it. Whoever
12 wins, we'll adopt tentatively and that we seek
13 outside legal advice as to which concern trumps the
14 other. Is the county line more important, or is
15 preserving the reservation more important?

16 MS. SELLERS: Mr. Chairman.

17 MR. STUART: Commissioner Sellers.

18 MS. SELLERS: We are bringing a map in here.
19 Did you know that?

20 MR. HAAGENSON: Madam Chairman, I knew you
21 had another one to amend. That doesn't alter my
22 motion. I do want the motion --

23 MR. STUART: I believe you did, Commissioner
24 Haagenson.

25 MR. HAAGENSON: I move that we do that. If

1 that fails, we will stick with the other plan.

2 MR. TAYLOR: Explain that motion to me one
3 more time.

4 MR. HAAGENSON: Mr. Chairman and members of
5 the Commission, I suggest that we have Ross flip a
6 coin and Commissioner Stuart call it. And if he
7 wins, he can choose which plan he would like to
8 have tentatively approved and put out for public
9 comment, and with the other plan being the back up.
10 And we seek outside legal advice as to whether or
11 not the county boundary trumps the Indian
12 reservation or vice-versa.

13 MR. GIVENS: I'll second that motion.

14 MR. STUART: We have a motion second.
15 Discussion?

16 MR. TAYLOR: Question or two.

17 MR. STUART: We will start with Commissioner
18 Taylor and then Commissioner Shurtliff.

19 MR. TAYLOR: Just so I understand exactly
20 what is on the table here. We are flipping a coin
21 between 76 and 69. Is that correct?

22 MR. STUART: That is my understanding. That
23 is Commissioner Haagenson's motion.

24 MR. SHURTLIFF: Mr. Chairman.

25 MR. STUART: Commissioner Shurtliff.

1 MR. SHURTLIFF: The part of the motion that
2 bothers me is not the size of the coin, but who
3 picks outside counsel. Very often, it is not
4 suggested, but the result you get depends on the
5 lawyer you go to, but it sometimes happens. So I
6 think that is critical to the kind of quality of
7 the legal advice you get, so who you start out
8 with. So I'm a little troubled by that. If we
9 want to go to the Attorney General, it is cheap,
10 cheaper, but some times you get what you pay for.
11 (Laughter). So I wonder if it is such a good idea.

12 Why don't we put both plans out for
13 tentative and seek legal counsel and decide who,
14 what legal counsel we get, and maybe have a
15 gentleman and gentlelady resolution that we vote
16 between those two plans and one of them will be
17 adopted.

18 MR. STUART: Commissioner Haagenson.

19 MR. HAAGENSON: Mr. Chairman and members of
20 the Commission, I will be perfectly content to
21 eliminate from the motion the issue of outside
22 counsel and just live with the coin toss.

23 (Laughter).

24 Again, and I am not being facetious
25 here. We got two acceptable plans, in my mind.

1 One is supported by Republicans and one supported
2 by Democrats. And I am willing to live with the
3 odds and flip a coin and be done with it. But, I
4 know that Commissioner Givens has raised the idea
5 of outside counsel. He is not talking about
6 inhouse Attorney General as outside counsel. I
7 think he has some ideas. Obviously, this
8 Commission would have to vote and select who that
9 outside counsel was. I do have a concern about
10 this, putting both of them out without suggesting
11 which one is tentatively approved because I think
12 we will generate a lot more testimony and facts and
13 stuff like this we got to read, if we got two of
14 them we got to look at.

15 MR. SHURTLIFF: Mr. Chairman.

16 MR. STUART: Commissioner Shurtliff.

17 MR. SHURTLIFF: I don't -- there is a certain
18 aspect to the motion that is intriguing and
19 interesting, but we don't allow juries to decide
20 cases by luck, and I suspect that we might not
21 allow redistricting plans to be determined by luck
22 either. So I am straining, notwithstanding I don't
23 mind gambling a little bit. I am not opposed to it
24 myself, but I do believe it portends some
25 difficulty. I think that would be a fairly easy

1 complaint. So I will probably vote against it, but
2 notwithstanding, it does have some merit.

3 MR. STUART: Put the humor side, the 50/50
4 odds are probably better than the odds we had with
5 the Supreme Court here this last time around.

6 MR. HAAGENSON: Mr. Chairman.

7 MR. STUART: Commissioner Haagenson.

8 MR. HAAGENSON: Mr. Chairman, members of the
9 Commission, I guess we can ascribe to decide by
10 luck. But in my mind we have a tie; we need to
11 break. It is not an unprecedented kind of thing
12 on major issues. I happen to be in the
13 construction business, and once in a while, a major
14 job, it happened here in Boise, Idaho some years
15 ago, a major Public Works job and the bidders were
16 tied. Flipped a coin. Winner of the coin toss
17 gets the job. So again Republicans favor one of
18 these plans. The Democrats favor the other. Let's
19 flip a coin.

20 MR. STUART: Open to discussion. I'm going
21 to personally ask for a recess to think this
22 through before I vote.

23 MS. SELLERS: Well, we do have a third plan
24 put on table that is somewhat an accommodation.

25 MR. STUART: We do have a motion on the

1 table, unless we can certainly accommodate that
2 with the pleasure of the two Commissioners who gave
3 us the motion and the second for the coin toss.

4 MR. GIVENS: Mr. Chairman.

5 MR. STUART: Commissioner Givens.

6 MR. GIVENS: Would it be appropriate to have
7 a short recess before we vote on this motion?

8 MR. STUART: I would like it. Another
9 discussion I would like to have at some point is
10 the issue of legal counsel. It is obviously
11 related to -- that the ties are becoming stronger
12 and more obvious here. Any other discussion? How
13 brief a break will we all swear to here? Is it
14 ready?

15 MS. SELLERS: I am just waiting for Graham to
16 walk in.

17 MR. STUART: I want to defer to the two
18 Commissioners who have the motion on the floor, I
19 would like to take a short break to think that over
20 before we vote on that. If Commissioner Haagenson
21 and Commissioner Givens would agree to view your
22 plan first.

23 MR. SHURTLIFF: Do you got a three-headed
24 coin?

25 MR. HAAGENSON: Mr. Chairman, I am thinking

1 here. I am kind of slow. I think that this motion
2 has to be disposed of even if we look at the other
3 one. We can look at the other one as though it
4 were sort of a debate on this one. People will
5 make up their mind what they want to do. I don't
6 have any objection to that, if we want to -- this
7 motion is on the floor properly to be voted on.
8 And during the discussion on that motion, we take a
9 look at the alternative, I have no objection to
10 that. But, I do think before a vote can be taken
11 on that plan, a vote has to be taken on this
12 motion.

13 MR. STUART: I concur with that.
14 Commissioner Givens, are you okay with that?

15 MR. GIVENS: Yes.

16 MR. STUART: Okay. Let's do that. Why don't
17 you take the five minutes or whatever you need to
18 present this next plan, Commissioner Sellers, and
19 we will go from there.

20 (Recess.)

21 MR. STUART: Okay. We will reconvene.
22 Commissioner Sellers, I guess you and Mike, are you
23 ready to walk through this, another iteration here.
24 This will be L77.

25 MS. SELLERS: Okay.

1 MR. STUART: Commissioner Sellers, can you
2 use the microphone, please. We have some trouble
3 hearing you. You are softer spoken than the rest
4 of us.

5 MS. SELLERS: Mike, if you will enlarge --
6 let's just start it at 27, and we will go around.
7 Yes. Most of this is just fairly easy to see what
8 we have done. We have left the north boundary of
9 27 as it was in 72, yeah, or 76. Just moved to the
10 east somewhat. And we left Bannock County intact
11 with the exception of the upper -- I can't see from
12 here. I am thinking it is two precincts. Maybe
13 there is only one. Yeah, either one or two. I
14 can't tell. Go with Fort Hall. Anyway, so that we
15 could still keep the city of Fort Hall intact but
16 still maintain the essence of keeping Bannock
17 County intact.

18 So the city of Pocatello, we didn't
19 change any of those lines. That is as we did it
20 way back when.

21 MR. GIVENS: Could we have the reservation
22 boundaries clicked on. Thank you.

23 MS. SELLERS: So we still are eliminating the
24 portion of Power County because that would
25 necessitate one more county division. And in the

1 situation where there are that few bodies, we feel
2 like certain county lines have to be in to trump,
3 the trump boundaries. But, it does keep the
4 essence of the reservation intact.

5 MR. GIVENS: Go ahead and click them off,
6 again. Okay.

7 MS. SELLERS: Okay. Would you just zoom in,
8 Mike, on the boundary between 31 and 28. Just give
9 us a little larger picture of that, so we can see
10 that division and what cities are on there. Click
11 on city names. Firth and Shelley and Blackfoot go
12 with 31. Firth and Shelley are restored. Intact.

13 Yeah, back down a little bit. If you
14 would just enlarge around Idaho Falls. Follow
15 First Street to Hit Road to sunny side. Just
16 the -- I have tried to make very clean lines.
17 Obviously, there is only a portion of the town that
18 can be kept together anyway. Just move north of
19 Yukon. Go with 32. Would you back out a little
20 bit, please. Keep going out. Madison County is
21 intact. Fremont is intact. Keep moving on.

22 MR. GIVENS: Is Fremont intact?

23 MS. SELLERS: No. Fremont has got -- north
24 Fremont. So north Fremont is not. So south area
25 which is a rural area of Fremont goes with Teton.

1 Jefferson is intact.

2 Is there anything specific you would
3 like me to zoom in on? We have all looked at these
4 boundaries a multitude of times. But, as I said,
5 this is kind of a meld of the two plans. We tried
6 to correct the things, and Shelley/Firth area, and
7 make the changes in Bannock County that we felt
8 would keep the tribe intact, and like I said,
9 maintain the spirit of at least keeping Bannock
10 County as one.

11 MR. STUART: Commissioner Sellers, Mike, can
12 you blow up the detail there north of Chubbuck,
13 between Chubbuck and Fort Hall. I just want to get
14 a look of how the city of Chubbuck and Fort Hall
15 line up there on the border there. I need a little
16 more detail there on Chubbuck area and Fort Hall,
17 please. Show me the city limits a couple of times.
18 Okay. Thank you.

19 MR. SHURTLIFF: Mr. Chairman.

20 MR. STUART: Commissioner Shurtliff.

21 MR. SHURTLIFF: How many people are we
22 talking about that have been moved north?

23 MS. SELLERS: I don't know. Charlotte, could
24 you look it up maybe by precinct?

25 MS. SAMIS: 1,337.

1 MR. STUART: That is in one precinct,
2 Commissioner Shurtliff. Looks like there is some
3 block work in an additional precinct there.

4 MS. SELLERS: Closer to 2000 probably.

5 MR. SHURTLIFF: So where do we make up that
6 difference?

7 MS. SAMIS: Deviation. 28 in this plan is
8 around one and in that plan it is positive 3.49.

9 MR. GIVENS: Mr. Chairman.

10 MR. STUART: Commissioner Givens.

11 MR. GIVENS: What is the population deviation
12 of 29 and 30 on this new plan? I can't see it.

13 A SPEAKER: 29 is negative 4.49, and 30 is
14 positive 3.46.

15 MS. SELLERS: The total deviation is nine
16 point something. I was having Graham re-run it
17 with the two decimal places, and he hasn't come
18 back with it. So my computer wasn't configured
19 right when I first did it, but it is under ten. It
20 is nine and a little --

21 MR. SHURTLIFF: Mr. Chairman.

22 MR. STUART: Commissioner Shurtliff.

23 MR. SHURTLIFF: So I can understand it, what
24 problem does this correct from a perfect plan?
25 What is it we are trying to accomplish with this

1 that wasn't accomplished otherwise?

2 MS. SELLERS: The things that we specifically
3 dealt with, if I can address that, Mr. Chairman.

4 MR. STUART: Commissioner Sellers.

5 MS. SELLERS: As I said, put Bannock County
6 back as a whole rather than taking that corner as
7 we have done in the past. Put the reservation back
8 essentially intact, which was and is a goal for us.
9 Took care of Shelley and Firth area. Took care of
10 the Madison County division, and that's it. That
11 pretty much makes this a perfect plan.

12 MR. SHURTLIFF: Pretty much makes this a what
13 plan.

14 MS. SELLERS: Perfect.

15 MR. SHURTLIFF: Perfect. I have seen several
16 of those.

17 MR. STUART: Commissioners Sellers,
18 Charlotte, just handed me a note, and we need to
19 cross check this. She suggests that the plan
20 deviation may be over the threshold, if we want to
21 go forward here. She suggests that District 5,
22 which is still light, is a minus 5.52 percent.

23 MS. SELLERS: District 5?

24 MR. STUART: Right. That's --

25 MS. SELLERS: We didn't deal with District 5.

1 MR. STUART: No, no, this is just a
2 calculation of plan deviation.

3 MS. SELLERS: Oh, I see.

4 MR. STUART: And the District 34 under this
5 plan is a positive 4.6, and if those are correct,
6 that would be a 10.12 percent, which may be over
7 the threshold if those numbers are correct.

8 MS. SELLERS: We need to get those high
9 deviations down. We did our part. We are under
10 ten.

11 MR. STUART: I'm sorry.

12 MS. SELLERS: I said, we did our part. We
13 are under ten.

14 MR. STUART: Charlotte tells me this plan is
15 not under ten. This is the part we need to double
16 check.

17 MS. SELLERS: Graham, just brought me in the
18 double checked figures. The low is 4.87 and the
19 high is 4.6.

20 MR. STUART: The problem is up north. Check
21 District 5.

22 MS. SELLERS: Well, that is what I said.
23 This map only deals with the east side. We did not
24 deal with District 5 or any of the north part of
25 the state.

1 MR. SHURTLIFF: Well, that would be fine if
2 the people up north didn't care, but they do.

3 MS. SELLERS: It was our understanding that,
4 Ray, him being from up north we were going to deal
5 with those deviations and make the corrections that
6 needed to be made, and maybe that is not the case.

7 MR. SHURTLIFF: Mr. Chairman.

8 MR. STUART: Commissioner Shurtliff.

9 MR. SHURTLIFF: We would have to get down to
10 the five-four. We got to split the Latah County.
11 We have to deal with District 5 as five-two. And
12 Nez Perce County, and I can't remember offhand, but
13 it was right up in there. So we got to get -- so
14 our max is five-four. So we got a lot more work to
15 do. It is not quite perfect.

16 MS. SELLERS: Mr. Chairman.

17 MR. STUART: Commissioner Sellers.

18 MS. SELLERS: If I can comment on that.
19 Eastern Idaho should certainly not have to suffer
20 because someone did a poor job on deviation for the
21 rest of the state.

22 MR. STUART: Commissioner Sellers, with all
23 due respect, that decision up north, especially on
24 the case of Latah County were made, of course, to
25 keep the counties whole. So that is the luck of

1 the draw. That is what gives us the 5.52. And I
2 might notice that -- might observe that keeping
3 counties whole, as in Latah County, which is the
4 low-end determining factor there, I believe, about
5 the -- which is a minus 5.5 deviation, give or
6 take, minus 5.5 or 5.52. I am not sure I remember
7 which. To let that stand and observe the counties
8 whole philosophy that I think we should observe,
9 about the max we can go is about a 4.48 or 4.45 on
10 the positive side.

11 MR. SHURTLIFF: Mr. Chairman.

12 MR. STUART: Commissioner Shurtliff.

13 MR. STURTLIFF: May I suggest that there be a
14 substitute motion to adopt whatever it is so we can
15 move on to the coin motion. But I think that's the
16 form that we need to take. It is a motion by
17 somebody to substitute the adoption of this plan
18 and move to the coin toss motion, which is on the
19 table.

20 MR. STUART: That's correct. That coin toss
21 motion is on the table. Is there additional -- go
22 ahead, Commissioner Haagenson.

23 MR. HAAGENSON: Mr. Chairman and members of
24 the Commission, Commissioner Shurtliff is right. I
25 think a substitute motion could be offered to adopt

1 this plan, that if that motion passes, we adopt it.
2 If it fails, we vote on the coin toss. But it
3 seems to be that a motion is to be made on this has
4 to be made that it is going to be, I don't know how
5 you do it. We would have to make some changes into
6 two or three districts, as has been pointed out, in
7 order to get the overall deviation below ten.

8 MR. STUART: Correct. I share Commissioner
9 Haagenson's concern. I don't think it is fruitful
10 for us to vote on a plan where the deviation is
11 going to exceed ten percent. So I think that is
12 counter to the scope we have agreed to.

13 MR. GIVENS: Mr. Chairman.

14 MR. STUART: Commissioner Givens.

15 MR. GIVENS: My understanding was that we had
16 a motion on floor, that is a coin toss motion. And
17 as part of the debated coin toss motion, there was
18 no objection to discussing this plan and it is
19 still part of just the debate of the coin toss
20 motion.

21 If anyone wants to make a motion to
22 adopt this plan, I guess they would have to do it
23 as a substitute motion, but there is no requirement
24 of a substitute motion, as I understand it. We can
25 just proceed to vote on the coin toss motion. If

1 that is the case, I call a question.

2 MR. STUART: I think that's where we are. If
3 there is no further discussion at this point on
4 plan that is present, we'll move toward the vote on
5 the coin toss motion. Any further discussion on
6 this one? Okay. We have a -- I will try to
7 restate your motion, Commissioner Haagenson.
8 Correct me if I get it wrong. Commissioner
9 Haagenson's motion and Commissioner Givens' second,
10 is that Mr. Ross Borden flip a coin. I would call
11 that. If I win the toss, I would select between
12 L69 and L76. Is that correct?

13 MR. HAAGENSON: Yes.

14 MR. SHURTLIFF: What happens if you lose the
15 toss.

16 MR. STUART: Fair question. Thank you,
17 Commissioner Taylor. And the alternative was if I
18 lose the toss, then it goes to legal counsel for
19 advice. Is that correct, Commissioner Haagenson,
20 or is that incorrect? Would you restate, please.
21 Pardon me.

22 MR. HAAGENSON: Mr. Chairman and
23 Commissioners, it is almost exactly right. But
24 what was intended, if not stated, was that you
25 would select your choice. If you win, and I

1 presume your choice would be 76, if you lose then
2 69 would be.

3 MR. STUART: 69 would be.

4 MR. HAAGENSON: Perhaps Commissioner Sellers
5 could pick 69 and that would go out as the
6 tentatively approved plan with us. Another part of
7 the motion was that we would secure outside legal
8 advice as to which criterion was the -- trump the
9 other. Whether it was county lines or keeping the
10 Indian tribe together.

11 MR. STUART: Thank you for the clarification.
12 Is the motion clear? I will not risk restating it.
13 I will do the vote. Commissioner Givens?

14 MR. GIVENS: Yes.

15 MR. STUART: Commissioner Taylor?

16 MR. TAYLOR: Yes.

17 MR. STUART: Commissioner Sellers?

18 MS. SELLERS: No.

19 MR. STUART: Co-chair has to vote no for now,
20 but I won't rule it out in the future.
21 Commissioner Haagenson?

22 MR. HAAGENSON: Aye.

23 MR. STUART: Commissioner Shurtliff?

24 MR. SHURTLIFF: No.

25 MR. GIVENS: Mr. Chairman.

1 MR. STUART: Commissioner Givens.

2 MR. GIVENS: I would move that we tentatively
3 approve Plans L69 and L70 and seek -- excuse me,
4 L76, I'm sorry. L69 and L76, and that the
5 Commission employ, hire legal counsel to advise the
6 Commission on the -- I will say basically the same
7 thing that Dean just suggested a while ago. The
8 relative pecking order of the Constitutions and
9 federal statutes as to which takes precedence, the
10 division of counties or the keeping the reservation
11 whole or as partially whole, and that legal counsel
12 that we select be Mr. Tim Hopkins from Idaho Falls
13 with a cap of \$10,000 to provide this advice and to
14 write post findings on both plans.

15 MR. STUART: Do we have a motion? Do we have
16 a second?

17 MR. TAYLOR: I have a question.

18 MR. STUART: Commission Taylor.

19 MR. HAAGENSON: Question second on a motion.

20 MR. STUART: Do we have a second for the
21 motion?

22 MR. HAAGENSON: I'll second the motion.

23 MR. STUART: We have a second. Commissioner
24 Taylor, we have some discussion.

25 MR. TAYLOR: Mr. Chairman, my question is if

1 we adopted this motion, are we then bound as a
2 Commission by the decision of the law firm, the
3 counsel of the law firm, or is it just an opinion?

4 MR. STUART: Commissioner Givens, I will
5 refer that one to you.

6 MR. GIVENS: I, in 26 years of lawyering have
7 had the opportunity to numerous times by clients
8 that paid no attention to my advice. (Laughter).
9 For once being on that side of the table, I intend
10 to reserve that right to myself as well. And I
11 guess in doing this, in making this motion, I am
12 not intending to in any way limit the Commission's
13 discretion to adopt any other plan ultimately, if
14 it chooses to. But I think we are blowing hard and
15 I think we really have narrowed it down to probably
16 the two best plans that are out there. And I know
17 I personally will be guided by that legal advice,
18 but will not feel bound by it or absolutely bound
19 by it, but I will certainly be guided by it.

20 MS. SELLERS: Mr. Chairman.

21 MR. STUART: Other discussion. Commissioner
22 Sellers.

23 MS. SELLERS: I would probably be willing to
24 vote for that if we were not at this point
25 stipulating the firm. I am not willing to just

1 agree, when I am not -- I have no knowledge of this
2 firm whatsoever. So we might want to separate that
3 out initially and say the firm be agreed on in the
4 near future in a day or two. But, I would have to
5 vote no, even though I am not opposed necessarily
6 to the motion.

7 MR. HAAGENSON: Mr. Chairman.

8 MR. STUART: Go ahead.

9 MR. HAAGENSON: Mr. Chairman, I am going to
10 support the motion, even though I second it, I am
11 going to support it somewhat productively because
12 as I expressed earlier, I am concerned about two
13 plans being out there and the amount of input we
14 are probably going to get. But I think this is a
15 good approach. And as far as I am concerned, as a
16 nonlawyer, you hire to give you advice, but it
17 doesn't mean you necessarily take their advice.

18 Most business deals would never be made
19 if you listened the attorney. Right? So you
20 listen to what they have to say and weigh it, and
21 then you do what it is you think is correct. As
22 far as the firm is concerned, I have a high regard
23 for Tim Hopkins. I believe he is Republican, so I
24 appreciate the fact that Commissioner Givens is
25 offering a Republican attorney, and he is from the

1 region where the most effect is.

2 And so I think it would be a big mistake
3 to leave it up in the air, to leave it up in the
4 air who the counsel is. I think you need to know
5 who you are supporting to look at it. So I am
6 going to support the motion. I hope other
7 Commissioners will as well and get on down the
8 road.

9 MR. STUART: Other discussion.

10 MR. SHURTLIFF: Mr. Chairman.

11 MR. STUART: Commissioner Shurtliff.

12 MR. SHURTLIFF: I am going to vote against
13 the motion, not that I have any disregard for
14 Tim Hopkins. But, we are not bound to take the
15 advice of any \$10,000 of people resources to buy.
16 We are not bound to adopt one or two plans that we
17 are asking somebody to analyze. So it seems to me,
18 with all due respect, we are not getting down the
19 road. We are just further obfuscating, getting
20 down the road.

21 And I have -- I appreciate the concerns
22 that have been expressed about the Federal
23 Voting Rights Act and impact on the population
24 of Fort Hall. And I don't know what kind of legal
25 advice that Mr. Hopkins or anybody else could come

1 up with in that regard. But you get, and I
2 appreciate that, but I am not -- Mr. Hopkins wasn't
3 appointed to this Commission. I was. And I am
4 willing, able, and ready to make a judgment. And
5 if somebody doesn't like that judgment, the Court
6 doors are open. And I think that's how we get down
7 to voting.

8 I don't think this moves us very far
9 down the road. I think it complicates rather than
10 uncomplicates. The need for the individual members
11 of this Commission to make a judgment as between
12 these two plans or any number of other plans.
13 Because we know one thing, that there are almost
14 infinite number of plans that are possible and
15 there is not going to be perfect and some are less
16 perfect than others.

17 But we wait two or three weeks, these
18 computers are not going to shut themselves off and
19 people are going come up with further and more
20 plans. And maybe that's not a bad thing. But I
21 would like to see this process ended. And I don't
22 think really moves us toward ending it. So I am
23 going to vote against it. And I would hope we keep
24 voting here and we make a decision ourselves and
25 see where we are. If we are at a deadlock, we are

1 deadlocked.

2 MR. STUART: Other discussion. Personal
3 observation, this is from my part. There is some
4 additional information I want to have, and it may
5 take me a minute or two to get this. I appreciate
6 the concern to do what we can, as much as we can,
7 for the Shoshone-Bannock Tribe's Reservation. With
8 that said, it is not clear to me at this point how
9 the various plans that are on the table impact the
10 representation of that group of Native Americans.

11 I didn't have time during the last
12 break, but I saw some preliminary numbers that
13 actually compared how we are doing on the L69 for
14 Native Americans versus the L76 Plan and where we
15 achieve greater representation. There are some
16 questions there that are really going to affect my
17 vote on this issue.

18 Some figures that Charlotte handed to me
19 preliminary, indicated that if we are trying to do
20 the best we can for Native Americans, and I need to
21 confirm these figures, that the District 31 that is
22 drafted in the L76 Plan here, actually contains a
23 larger percentage of Native Americans than the
24 District 29 in L69.

25 If that is true, that's going to -- it

1 is going to influence my direction significantly.
2 Which is not to say that I am going to hedge on
3 this motion. I think what I am going to have to do
4 though on the motion that is on the table, is
5 opposed it at this point. If we need to vote right
6 now, I would just like to get a better analysis of
7 how we are doing for the constituents that we are
8 trying to represent here.

9 MR. HAAGENSON: Mr. Chairman.

10 MR. STUART: Commissioner Haagenson.

11 MR. HAAGENSON: Mr. Chairman and members of
12 the Commission, I am at loss for what the fear is
13 here and what is to lose. I don't think any of us
14 want to end up back in court, so why don't we get
15 comment from competent outside counsel. Commission
16 has had its concerns about representation. You get
17 Greg Wallace here. Let's have them tell us,
18 because I don't want to be back in court again. I
19 don't want to be sued by the tribe next time. What
20 is to lose?

21 MR. SHURTLIFF: The tribe is not bound by
22 what legal counsel says.

23 MR. HAAGENSON: We are just getting advice as
24 to how -- anybody can sue us.

25 MR. SHURTLIFF: I am not concerned about

1 being sued. I am concerning about someone winning.

2 (Laughter).

3 MR. STUART: Further discussion. Ready to
4 vote on this?

5 MS. SELLERS: Are we voting on the coin toss,
6 or on getting outside counsel motion?

7 MR. STUART: I am going to ask Commissioner
8 Givens if I can impose on him to restate his motion
9 for clarity.

10 MR. GIVENS: The motion is that we hire
11 outside counsel to do two discreet tasks. Prepare
12 findings, proposed findings, and to give us legal
13 advice on whether the Idaho Constitution limiting
14 the division of counties prevails over any Federal
15 Rights regarding keeping the Fort Hall Reservation
16 whole in the context of plans L69 and L76.

17 And secondly that we tentatively approve
18 both plans L69 and L76, and then to put them out as
19 tentatively approved until a later date that we
20 select for a hearing after we have received legal
21 advice.

22 MR. STUART: Thank you, Commissioner Givens.
23 And we have a second from Commissioner Haagenson.
24 Are we clear? Ready for roll call vote.
25 Commissioner Givens?

1 MR. GIVENS: Yes.

2 MR. STUART: Commissioner Taylor.

3 MR. TAYLOR: No.

4 MS. SELLERS: No.

5 MR. STUART: Co-chair votes, yes.

6 MR. HAAGENSON: Yes.

7 MR. SHURTLIFF: No.

8 MR. STUART: We are at an impasse on this

9 one. I suggest to take a -- I think we need a

10 break for a couple of possibilities. I might

11 suggest that if Commissioner Sellers and your staff

12 want to work on the number issues a bit on the plan

13 that was tentatively proposed, that would be

14 useful.

15 MS. SELLERS: Are you leaving, Carl?

16 MR. STUART: You have a committment,

17 Commissioner?

18 MR. HAAGENSON: Mr. Chairman.

19 MR. STUART: Commissioner Shurtliff, hey,

20 don't leave yet.

21 MR. SHURTLIFF: I thought we were going to

22 take a break.

23 MR. STUART: We are.

24 MR. HAAGENSON: Mr. Chairman, I think I can

25 move that meeting up. I can just depart now and

1 take care of that and then I came be back in about
2 45 minutes.

3 MR. STUART: Should we tentatively set 5:30.
4 Let's go 5:30 knowing this group. Does 5:30 work
5 for everyone else? Okay. We are in recess until
6 5:30 p.m.

7 (Recess.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

BEFORE THE COMMISSION ON REDISTRICTING
STATE OF IDAHO

In the Matter of:)	Public Hearing
)	
Redistricting the)	REPORTER'S TRANSCRIPT
State of Idaho)	
)	
_____)	

Hearing taken on the 4th day of January, 2002 at
10:00 a.m., before Katherine McCoy, Certified Court Reporter
and Notary Public, at University Place Auditorium, 1776
Science Center Drive, Idaho Falls, Idaho, before
Commissioners Kristi Sellers and Tom Stuart, Co-Chairmen,
and the Panel of Commissioners on Redistricting the State of
Idaho consisting of:

- KRISTI SELLERS, Co-Chairman
- TOM STUART, Co-Chairman
- DEAN HAAGENSON, Commissioner
- DERLIN TAYLOR, Commissioner
- CARL SHURTLIFF, Commissioner
- RAY GIVENS, Commissioner

CERTIFIED COURT REPORTERS
P. O. Box 51020
Idaho Falls, Idaho 83405
(208) 529-5491

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

For the Commission: TIMOTHY C. HOPKINS, ESQ.
HOPKINS, RODEN, CROCKETT,
HANSEN & HOOPES
Attorneys at Law
P. O. Box 51219
428 Park Avenue
Idaho Falls, Idaho 83402

1	I N D E X		
2		WITNESSES	PAGE
3	No. 1	LOWELL WILLIAMS	13
4	No. 2	LIN HINTZE	21
5	No. 3	BRUCE DREDGE	24
6	No. 4	DeVAUGHN SHIPLEY	33
7	No. 5	CONRAD MICHAELSON	39
8	No. 6	DON CLARK	48
9	No. 7	BRUCE ARD	49
10	No. 8	EULALIE LANGFORD	56
11	No. 9	PAUL CLARK	65
12	No. 10	GLENN DAVIS	72
13	No. 11	ABBIE MACE	74
14	No. 12	LIN WHITWORTH	78
15	No. 13	LARRY GHAN	83
16	No. 14	GREG MOELLER	89
17	No. 15	DAVID WHITWORTH	94
18	No. 16	ROBERT HANSON	94
19	No. 17	GERALD GOODENOUGH	99
20	No. 18	TIM HOPKINS	104
21	No. 19	CLAIR CHEIRRETT	146
22	No. 20	LINDA MILAM	149
23	No. 21	ROGER CHRISTENSEN	151
24	No. 22	RON LONGMORE	156
25	No. 23	JANICE McGEACHIN	160

1	I N D E X (CONTINUED)		
2		WITNESSES	PAGE
3	No. 24	REED SOMMER	162
4	No. 25	WENDELL WINEGAR	168
5	No. 26	RAY STRATFORD	172
6	No. 27	WAYNE BROWER	174
7	No. 28	TRENT CLARK	178
8	No. 29	MARK BALZER	186
9	No. 30	PAUL ZELUS	187
10	No. 31	JEANETTE WOLFLEY	190
11	No. 32	CHICK BILYEU	197
12	No. 33	HARVEY WALKER	199
13	No. 34	SCOTT KID	200
14	No. 35	WAYNE HEARST	204
15	No. 36	J. O. COTANT	206
16	No. 37	SCOTT KID (2nd Time)	209
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 January 4, 2002

10:00 a.m.

2 P R O C E E D I N G S

3 CO-CHAIRMAN SELLERS: I'd like to welcome you
4 all here today on this blustery day. I'm impressed you all
5 made it on these terrible roads.

6 I'd like to first recognize the legislators that
7 we have here. There are far too many of them for me to call
8 them by name, but if you'd please just stand so that we can
9 see who's here and be able to recognize our local
10 legislators. Thank you.

11 I'll apologize in advance. I have a cold.

12 We were going to go ahead and take some public
13 testimony this morning. The public testimony was to begin
14 at noon, but we will go ahead and do some amount of public
15 testimony right away.

16 We'd like you to hold it to three minutes. I'm
17 going to have Ross be our timer and he will nod to you
18 because we already -- and there are a number of people
19 knowing it begins at noon who are not here yet -- we've
20 already got nearly 200 people signed up to speak.

21 So taking that into consideration, and as none
22 of us want to sit here for the next 20 or 30 hours listening
23 to some public testimony, not that we don't want to hear
24 every word, but would you please be concise in the things
25 that you have to say to us, and if you have the ability to

1 say, I just completely agree with so-and-so and this is what
2 I recommend.

3 If you have already turned in written notes to
4 the commission, we have been over those. And so you can
5 summarize without reading your entire notes to us because we
6 will have already been through those.

7 Like I said, we want everyone to have the
8 ability to have their say. So please keep that time limit
9 in mind when you stand up.

10 Just very quickly, I want to remind, an
11 administrative word to the commissioners that we need to get
12 time sheets turned in.

13 Have you got anything else that we want to go
14 over prior to --

15 CO-CHAIRMAN STUART: I think a couple of the
16 commissioners would like to introduce themselves and make
17 some brief introductory comments.

18 CO-CHAIRMAN SELLERS: Mr. Givens?

19 COMMISSIONER GIVENS: Thank you, Madam Chairman.

20 I'm Ray Givens from Coeur D'Alene. One thing
21 that has always bothered me when I was on that side of the
22 table, and I've been on that side of the table in these
23 kinds of -- a jury table a lot in twenty-five years of
24 lawyering, is that it's hard to know what the people you're
25 talking to think and what they -- why they are thinking

1 about doing the things that seem just stark, raving mad.

2 And I don't know if it's more valuable to kind
3 of explain that stuff through first or talk about it later,
4 but I know there are some districts, and in particular here
5 in southeastern Idaho, probably every one of us wish we
6 could do much differently.

7 And they come out of the various plans because
8 of the requirements of the federal constitution, one person,
9 one vote; and the courts have said that you've got to keep
10 the deviation between the highest and lowest districts
11 should be around ten, and maybe even go up to as much as
12 fifteen percent deviation.

13 And then there are the requirements of the Idaho
14 Constitution that limits the division of counties. And how
15 strictly that has to be complied with is probably a matter
16 of the different commissioners and different folks that have
17 different ideas about it.

18 I happen to be kind of a strict constructionist
19 and so I view that rather strictly. And not just because
20 it's in the constitution but because it's good policy.
21 People understand county boundaries. And that's where they
22 get their driver's licenses and that's where they pay their
23 taxes. I think it helps representation.

24 The other thing is that once you start splitting
25 boundaries -- splitting counties, it becomes real easy to

1 do, jerry-rigging the legislature. I don't think that's
2 good state policy, but that the result of that, though, is
3 some districts in that get kind of goofy.

4 So I -- what would be helpful to me is -- as a
5 commissioner, I have preferences. I think that the more
6 I've thought about this, I'm moving back toward maybe we
7 ought to be coming up with a plan that doesn't split any
8 counties any more than absolutely have to be.

9 And -- but what would be helpful, at least to
10 this commissioner, and I think to all of us, would be to, if
11 you don't like a particular plan, we probably don't know the
12 reasons why eastern Bonneville doesn't fit well with the
13 counties around the corner of the state, or why folks don't
14 like Fremont which has to split, or people in Bannock don't
15 want Bannock split, or the people in Bingham would like to
16 have a district all by itself and the excess put somewhere
17 else.

18 But tell us what other alternative you think
19 would be better than the ones we've talked about. We put
20 them up on the board and on the walls, at least some of
21 them. So that's what would be helpful to me as I look at
22 how to deal particularly with this section of the state.
23 Thank you.

24 COMMISSIONER SHURTLIFF: I have nothing to say.
25 Thank you. It sounds like other people have more to say.

1 Tom Stuart was born and raised in Menan so he --

2 CO-CHAIRMAN STUART: I'm Commissioner Tom Stuart
3 from Boise and Stanley. I'm glad to get back to someplace
4 where it snows. Boise is the banana belt, and now I
5 actually feel comfortable again.

6 It might be useful to share a couple of my views
7 and tell you how best you can help me with your testimony
8 today. I, too, am very sensitive to the splitting and
9 dividing of counties. I think our constitution puts
10 enormous constraints and pressure on us to avoid doing that.

11 The constitution says we should not do that.
12 And it goes on to say that if we must do that, we shall only
13 do that to equalize the populations. And then it goes
14 further to say that if we have to do that, we should do it a
15 minimum number of times. I'm very, very sensitive to the
16 number of times we split the countries.

17 All of us on this commission, now that we're
18 into our seventh month of this ninety-day project, are
19 sensitive to the legal aspects of our decision. Of course,
20 our first plan was overturned by the Idaho Supreme Court.
21 So we're very interested in minimizing what are, what we
22 view as the greatest legal risk.

23 In my view, the more countries we divide, the
24 greater is our legal risk. So in addition to your comments
25 about L76 and L69, what I'd like to hear, it could be that

1 neither one of those plans work for you. And if they don't,
2 I'd like to hear that.

3 For my perspective, I'm very -- I'm going to be
4 very reluctant to split Bannock County for the reasons I've
5 already spoken. So given that, if I can't do it at L69
6 which splits too many counties, divides too many counties,
7 what I want to know is what other option works for you.

8 There is a bunch of them around on the wall
9 here, down here foremost on the right is a plan that keeps
10 just about every county whole with a deviation of about
11 twelve percent. And you can keep everything whole with a
12 deviation of about fourteen percent.

13 One step back there on number two is the minimum
14 number of county splits that gets our deviation below ten
15 percent, which is an important legal threshold. The splits
16 there are in Kootenai, Canyon, Bonneville, and has to be an
17 additional one of Madison or Fremont to make that work.

18 The L69 and L76 plans are posted there. In
19 addition, up in the back on the left top three, show three
20 additional ways to skin the cat. We can get below ten
21 percent deviation with splits or a combination of splits
22 with Fremont, Madison, Custer or Jefferson. The only way to
23 get deviation below ten percent, and I'd like to know which
24 one you can live with. Thank you.

25 CO-CHAIRMAN SELLERS: I'm Kristi Sellers from

1 Pocatello. I'm the co-chair of the commission, and I won't
2 take any more of your time with anything further.

3 COMMISSIONER TAYLOR: My name is Derlin Taylor.
4 I'm from Burley. And I have no editorial at this point.

5 COMMISSIONER HAAGENSON: I'm Dean Haagenson from
6 Coeur D'Alene. And I would say a couple things, I guess.
7 One is we're here. This commission appears in Idaho Falls
8 because of a good deal of the controversy about the original
9 plan by the court that came from this part of the state.
10 This part of the state, because of the demographics
11 involved, is going to lose precincts irrespective of what we
12 do so, obviously, there is a little more pain here.

13 As has been expressed by the other
14 commissioners, if L76 or 69 are not acceptable and you want
15 to offer something else, we want to hear that, but it's not
16 sufficient to say, you have to go beyond that and say, this
17 is how you deal with the surrounding area if you make the
18 change that I'd like to see made.

19 Finally, I would say we were criticized by the
20 court for not having public hearings after the tentative
21 approval of L76. And so if we chose another plan besides 76
22 or 69 today, I think we're going to have to have another
23 public hearing at which time those whose ox was gored that
24 time will be in to talk to us.

25 And the country clerks have got until the 15th

1 of January to start to have the precinct work done. So I'm
2 hopeful today we can walk out of here with a plan adopted
3 that is in your collective judgment of the least worst.
4 Thank you.

5 CO-CHAIRMAN SELLERS: It's been requested that
6 we have the county commissioners stand up and identify
7 themselves just so that we're aware of who is here. If they
8 could just do that, I'm not going to have them come up to
9 the podium because that will take up too much time. If they
10 could stand and give their name and what county they're from
11 so that we have an idea of the attendance.

12 And then as I call your names, and I apologize
13 in advance that I'm going to butcher your names because we
14 didn't tell you only to print and some of them, I'm sorry, I
15 can't read. Anyway, as you give testimony, you will come to
16 the podium.

17 Then just start in the front row and give your
18 name and what county you're from.

19 MR. DREDGE: Bruce Dredge, Caribou County.

20 MR. RASMUSSEN: Lloyd Rasmussen, Caribou County.

21 MR. CLARK: Don Clark, Bear Lake County.

22 MR. MICHAELSON: Conrad Michaelson, Bear Lake
23 County.

24 MR. SHIPLEY: Rod Shipley from Bingham County.

25 MR. JOLLEY: Cleone Jolley, Bingham County.

1 MR. CLARK: Paul Clark, Bingham County.
2 MR. DAVIS: Glenn Davis, Fremont County.
3 MR. HINTZE: Lin Hintze, Custer County.
4 MR. MORRY: Bill Morry (phonetic), Fremont
5 County.
6 MR. BAKER: Richard Baker, Fremont County.
7 MR. SOMMER: Reed Sommer, Madison County.
8 MR. EDWARDS: Ted Edwards, Clark County.
9 MR. STAKER: Lee Staker (phonetic), Bonneville
10 County.
11 MR. CHRISTENSEN: Roger Christensen, Bonneville
12 County.
13 MR. COPE: Cope, Lemhi.
14 MR. GOODENOUGH: Gerald Goodenough from Oneida
15 County.
16 MR. CALDWELL: Gene Caldwell from Oneida County.
17 CO-CHAIRMAN SELLERS: Thank you very much.
18 Okay. Let's begin. Lowell Williams.
19
20 WITNESS ONE: Lowell Williams.
21 MR. WILLIAMS: There is nothing like being the
22 keynote speaker.
23 And Kristi, you certainly threw me a curveball
24 because I was still up there writing my notes so if I fumble
25 through a little bit, please forgive me.

1 My name is Lowell Williams from St. Anthony.
2 I'm involved with the Fremont County Republican Committee as
3 chairman, but today I want to be here as a private citizen
4 and I'm not speaking on partisan politics.

5 In speaking before this group here today and put
6 a little more humor, you might find out that I'm not
7 completely, at age seventy-five, potty trained.

8 You commissioners have worked hard. You've had
9 a difficult task, and I like the introduction that you just
10 made. Great. I hope it is the process that we go through
11 here today.

12 There are three points that I wish to make. My
13 employment was in the civil engineering field in the
14 building of buildings. We had many multimillion dollar
15 complex structures. And one of the things we had to do in
16 planning the event of constructing them was not to put all
17 the piece parts in play until you have a good view of the
18 total picture.

19 If I had a criticism of what the commission has
20 done, to set northern Idaho in concrete. Then you went down
21 into the Ada complex and everything is still over here, and
22 we're in kind of deep yogurt here in eastern Idaho.

23 My point, number one, is that I really wish that
24 you'd have the open-mindedness of going back and taking
25 another look at northern Idaho as was expressed in the

1 Fremont County letter.

2 It is absolutely ridiculous to put Island Park
3 into the five counties to the west. And that was also
4 explained in that letter. My encouragement, my plea is to
5 go back and look at plan A that Madison County presented to
6 you, which indeed adjusted Districts 3, 4 and 5 up in
7 northern Idaho. It will solve a lot of problems by removing
8 the high negative deviations.

9 My second point, which you spoke of here today,
10 please go slow. I attended a meeting last night with
11 several of the commissioners of the eastern Idaho counties.
12 And it's their thought that if we could have two weeks, if
13 they could have two weeks to work with the commission and
14 help, as Madison County did, in coming up with plans, that
15 you would do a better job and you would be in a position to
16 help them.

17 My -- thirdly is that in going slow and allowing
18 some extra time here, of which you spoke of, I think Dean
19 Haagenson spoke of that, you're creating something that
20 we're going to live with for ten years. And I say, please,
21 give every consideration you can to going slow, working with
22 the commissioners, and my personal thought nonpartisan is to
23 go back to northern Idaho and help the negative deviation up
24 there, reduce them, so that here in eastern Idaho that we
25 have more flexibility. Thank you very much.

1 CO-CHAIRMAN STUART: Just a brief question,
2 Mr. Williams, if I might. Thank you, especially for your
3 observation about Island Park and the problems of just
4 separating that out, as some of the plans do. Let me ask
5 you a hard question here.

6 If we end up, this commission ends up having to
7 divide a portion of Fremont, for whatever reason, is there a
8 better alternative that works for you like, for example,
9 that western most precinct, what's that, is that the --

10 THE WITNESS: The western most precinct?

11 CO-CHAIRMAN STUART: The western most precinct.

12 THE WITNESS: Well, if you threw Island Park in
13 with Egin --

14 CO-CHAIRMAN STUART: Egin, I think it's Region
15 5. Would that potentially be a better option? Can you
16 comment on that?

17 THE WITNESS: It seems to me, Tom, that one of
18 the things you could consider is to leave Fremont County
19 whole with Madison and having the high deviation, but at the
20 same time, justify it. You are allowed that option.

21 We have had discussions in Fremont County. And
22 it is difficult to say what are we going to sacrifice. I
23 don't think it's necessary. Egin, yes. Parker, yes.
24 Island Park, yes. There are reasons pro and con for all of
25 that.

1 It's a strictly agricultural community. There
2 are no roads that go west out of Island Park. Island Park
3 should not be divided, but then every other spot in the
4 county is also involved with the business corridor of what
5 is U.S. 20.

6 It's -- you have a difficult job. Maybe some of
7 the commissioners can expand on that.

8 CO-CHAIRMAN STUART: Any other questions?

9 THE WITNESS: Thank you for the question.

10 COMMISSIONER SHURTLIFF: Sir, I have a question.

11 I love the word "ridiculous." You've alluded to
12 the fact, and the folks here have alluded to the fact that
13 this is a difficult chore. And it has been a difficult
14 chore. And quite frankly, we can't ignore the reality, as
15 we said earlier on other occasions, if we could ship a map
16 of the state of Idaho back to an MIT student, I've said
17 this, a demographic material and census data, somebody back
18 there might do a better -- a pretty good job whacking up the
19 numbers, but that's not what we're about. And to suggest
20 that it's that simple is, in my view, simplistic.

21 It's a political process, whether we do it or
22 the whether the legislature does it or whether the court
23 does it. I can't help but note that among other things at
24 our meetings, we introduce all the local politicians, and if
25 you don't think it's a political process, why did they do

1 that?

2 Now is it any more ridiculous that the people in
3 Island Park precinct be combined with the people in Custer
4 and Lemhi and Butte Counties, and Rigby and Ririe, than it
5 is for the people in Peck and Headquarters to be put
6 together in a district with the people in Smiths Ferry? Or
7 is it any more ridiculous that the people in Marsing are put
8 together with the people in Burley -- on the boundary of
9 Twin Falls?

10 I submit to you that it is not any more
11 ridiculous. It might be ridiculous, but it is not any more
12 ridiculous. And what you suggested, sir, is -- I'm afraid
13 that by the notion you think that the people in Island Park,
14 in Fremont County would be better served by being in an
15 under represented district than in a district that works and
16 more closely comports with the notion of, one man, one vote.

17 You're willing to give up the principle of, one
18 man, one vote, to keep Madison and Fremont Counties whole
19 which requires a deviation of plus six percent. So you're
20 suggesting that that's a more valuable consideration than
21 the notion of trying to get it to one person, one vote?
22 That's my question.

23 THE WITNESS: Mr. Shurtliff, I disagree with you
24 completely in terms of the one man, one vote, and the under
25 representation or over representation.

1 We have a college town in Rexburg which is being
2 combined with Fremont County. It seems, if I remember some
3 of the statements that were made, there is about 370 or
4 eighty voters there, and there are 9000 students.

5 Now this is true of every college town all
6 across the nation, but in terms of what is representation
7 there, it's a justification that can be argued.

8 So I wasn't acquainted with the other references
9 you made. I'm just saying that I do feel that the census is
10 wrong in how it takes in prisons, schools, colleges and
11 whatever. So I do support --

12 COMMISSIONER SHURTLIFF: And I might not
13 disagree with that, but unfortunately I think the United
14 States Supreme Court would though. And again, I appreciate
15 your view and I'm not sure that I disagree with that, but I
16 don't know that I can do anything about it even if I do
17 agree with it. Because I think we are constrained, whether
18 they're students or whether they're prisoners or whatever.
19 If they show up in the population, we have to deal with it.
20 I understand.

21 THE WITNESS: I do feel there is an opportunity
22 of justifying an overage.

23 COMMISSIONER GIVENS: Madam Chairman, sir, what
24 I'd like to do is take this comment to a specific plan if
25 you can. I believe it is the plan you have closest to you

1 there. Doesn't that one keep Fremont County with Madison
2 County whole?

3 THE WITNESS: Yes, it does.

4 COMMISSIONER GIVENS: And that kind of approach,
5 even if it has twelve or fourteen whole percent deviation,
6 is the one you feel would be better than splitting?

7 THE WITNESS: Well, my understanding you'd have
8 6.24, 6.26 deviation.

9 COMMISSIONER GIVENS: In that particular
10 district?

11 THE WITNESS: Yes. And then you have your
12 negative 5.3 negative, 5.5 in the northern counties.

13 If you could open up the plan A that Madison
14 County gave you and take a serious look at it, you would
15 eliminate half of that doughnut in zone two, and also fix
16 things in three, four and five.

17 COMMISSIONER GIVENS: I understand that.

18 COMMISSIONER SHURTLIFF: So you're suggesting to
19 split -- rather than Fremont.

20 THE WITNESS: I believe there's some historical
21 references that I'm not technically astute or educated in
22 that northern area, but it was explained to me that there
23 are opportunities to revisit the northern counties.

24 CO-CHAIRMAN SELLERS: Are there any further
25 questions? Thank you very much.

1 THE WITNESS: Thank you.

2 CO-CHAIRMAN SELLERS: I'm going to read the next
3 three, and if you could move up in advance so that we could
4 have people waiting, Cleone Jolley, Lin Hintze and Bruce
5 Dredge.

6 UNIDENTIFIED SPEAKER: I wasn't going to speak
7 today. We'll let them go over there.

8 CO-CHAIRMAN SELLERS: The next one would be
9 Shipley.

10

11 WITNESS TWO: LIN HINTZE.

12 MR. HINTZE: Thank you, Madam Chairman.

13 My name is Lin Hintze. I'm a county
14 commissioner in Custer County. My speech, talk today is not
15 only for the commission sitting in front of me, but also for
16 the legislature, the county commissioners, and the future
17 legislatures that will be Idaho's representatives in the
18 next ten years.

19 I think that's pretty important that we do that
20 because you identified the state legislators down here
21 earlier.

22 At the same time, the county commissioners, if
23 you take the map behind us and if you look at southwestern
24 Ada packed in there so tight that there is one on top of the
25 other; in fact, I think in the Treasure Valley there is some

1 eight different districts. If you take District 35, that's
2 in Ada County, and you go to work from the western side of
3 Ada County to Micron, which is less than 30 miles, you go
4 through eight districts.

5 If Custer County and Lemhi County, District 35,
6 and you're in Island Park, you would travel 300 miles if you
7 could even get in there in the wintertime.

8 I understand the one man and one vote that you
9 folks have to adjust the legislative districts for that, but
10 in the future I can see a problem. If you think that 300
11 miles is something today, what kind of a mess are we going
12 to have in ten years?

13 I know that's not your problem here, but it's
14 something for all of us to think about. This could really
15 be a boondoggle in ten years. What we're trying to do
16 today, we're trying to set this thing up with the people for
17 the future.

18 So if there is any way possible by looking at
19 this, and as I understand it, that northern Idaho and
20 western Idaho, and I understand because of what --
21 Mr. Shurtliff, what you're familiar with and what I am
22 familiar with, that area traveling back and forth to the
23 University of Idaho, I know there is a problem there, but I
24 think it's time we start fixing the problem, and we start
25 with our legislature and county system working together to

1 try to solve this.

2 And as someone said once before, if northern
3 Idaho and that area was set and the only decisions we're
4 working on here is southeastern Idaho, that southeastern
5 Idaho should have the opportunity to work together and make
6 a bad situation a little bit better by letting us have a
7 couple of weeks. If it's set in stone and we're the ones
8 that have to be renegotiating, it would sure be nice if we
9 could do it ourselves and come up with a plan if it did not
10 effect this part of the state. Thank you.

11 CO-CHAIRMAN SELLERS: Thank you.

12 COMMISSIONER GIVENS: There are a couple of
13 plans that have been talked about at the last meeting that
14 divide Custer County, took the Mackay area and they put it
15 with Butte and portions of Bingham and western Bonneville.
16 Those would be plan 73 and 74. I believe those were the two
17 up that are up high on the end over there.

18 I don't know if you had a chance to look at
19 those. That's how that effects Custer -- and as I looked at
20 them, I've kind of thought of it as the INEEL district. I'd
21 be curious of your thoughts if you're going to be splitting
22 counties to try to keep population down, I'd be curious as
23 to your thoughts of the wisdom of splitting off that Mackay
24 area of Custer County and putting it with Power and those
25 portions of Bingham and Bonneville.

1 THE WITNESS: As a county commissioner, I would
2 not like that because once again, it is disenfranchising --
3 I realize that the INEEL, that the land use impacts Mackay,
4 as far as some of the businesses run in Mackay, are due to
5 the INEEL and that proportionately, I can see where you're
6 coming from.

7 But from the standpoint of public lands, that's
8 not a good idea. Custer County itself is 95 percent owned
9 by the public, and these other counties are not. Now we get
10 into the issue of that of when we are billed payment, and
11 other things like that, would be very hard to divide the
12 town up, the counties, and deal with the public lands if we
13 did that.

14 COMMISSIONER GIVENS: You'd rather keep Custer
15 County whole?

16 THE WITNESS: I'd like to keep a county that is
17 three million acres, I would like to keep it together.

18 COMMISSIONER GIVENS: Thank you.

19 THE WITNESS: Thank you very much.

20 CO-CHAIRMAN SELLERS: Bruce Dredge.

21

22 WITNESS THREE: BRUCE DREDGE.

23 THE WITNESS: Honorable Redistricting Commission
24 Members, the Caribou County Commissioners would like to
25 strongly recommend plan L69 as the redistricting plan you

1 approve. On July 24, 2001 we recommended that southern
2 Bannock County communities of Lava Hot Springs and McCammon
3 be added to our current legislative district in order to
4 reach the targeted goal of 37,000 residents in our
5 legislative district. This is still our recommendation.

6 We have many common community interests with
7 residents of that area. We are in the same health
8 districts. We are in the same judicial district and the
9 judge travels from community to community in this area
10 presiding over legal issues. We share and financially
11 support the same female detention center, and many of us are
12 from these counties in the recommended legislative district
13 to sit on that board.

14 With the exception of northern Bannock County
15 and Power County, this legislative district is comprised of
16 the Idaho Association of Counties, District 5, and we meet
17 regularly to discuss common concerns and solutions.

18 We share policy programs. We share common
19 concerns on how to find solutions for certification
20 requirements for use on federal lands. We use, to the
21 extent possible, Bannock County jail facilities and are
22 working on a more permanent solution in the ever increasing
23 jail population problem and the enormous cost of that
24 program.

25 County elected officials from District 5 sit on

1 many state committees so that our area of the state will be
2 represented. Many times we'll call our legislative
3 delegation to help with current spending or proposed
4 legislation that will have a great deal of impact on our
5 area.

6 We share a commonality of interest in the same
7 major highways in southeast Idaho. Highway 30 is a main
8 feeder to I-15 and runs through both Lava Hot Springs and
9 McCammon.

10 The truck weight limit issue had a heavy impact
11 on our area, including interstate traffic, the mining
12 industry, which is in our area -- which our area relies upon
13 heavily, as well as getting our agricultural commodities to
14 market.

15 Other areas compete -- our area competes with
16 many of the same athletic, scholastic, and other
17 competitions. Residents from those communities work in
18 Caribou County in the mining industry. And members from our
19 county work and shop in the Pocatello area.

20 This is a definite -- there is a definite strong
21 tie between the communities of Lava Hot Springs, McCammon,
22 and those of our current legislative districts. This would
23 make a perfect fix and reach the required goal.

24 We could go on and on with the common interest
25 we share with Lava and McCammon. We haven't talked about

1 the common recreation areas we share as most folks recreate
2 and work in our area, the impact they have on ours and other
3 southeast Idaho county services, many times we need
4 legislative help on issue after issue. We just don't have
5 the same common interest with the residents of the Idaho
6 Falls area.

7 We believe plan 76 would not put -- would put
8 some of those residents in the same legislative district
9 with us and is not a good plan. Either the area -- neither
10 of the areas would have good representation.

11 Why you would have to go through three or four
12 legislative districts or out of state or on a summer-only
13 gravel road to get from area to area. In our opinion this
14 is a bad plan.

15 We, therefore, strongly recommend you approve
16 L69 as the redistricting plan. Sincerely, Bruce Dredge,
17 Chairman of the Caribou County Commission.

18 COMMISSIONER GIVENS: Mr. Dredge, you hit on
19 exactly my dilemma. I think probably everybody in this room
20 would say that just in terms of an area of community of
21 interest, neighborhoods or compactness, it makes sense to
22 put Caribou and Bear Lake and Franklin and Oneida together.

23 And my dilemma is the provisions of the
24 constitution and the statutes because of the way they seem
25 to put a higher priority in keeping counties whole. What

1 the statute says is -- well, let me premise this with one
2 other fact.

3 Bannock County is just exactly the right size
4 for two districts wholly contained within itself. So it
5 doesn't have to be divided to have two districts.

6 The statute says, counties should be divided
7 into districts not wholly contained within that county only
8 to the extent reasonably determined necessary to meet the
9 requirement of equal population principles.

10 Now what you're talking about is common sense
11 principles, community of interest principles, but it's not
12 equal population. So the statute allows us to even do that.

13 The constitution is the same way. The
14 constitution says, counties may be divided in community
15 districts only to the extent it is reasonably determined by
16 statute that counties must be divided to create senatorial
17 and representative districts which comply with the
18 constitution of the United States. And that's the equal
19 protection one person, one vote. So that's the dilemma.

20 And I'd like to come down your way. If we
21 weren't limited by this provision of splitting or not
22 splitting counties, then it would be easy to draw the
23 district that made good sense, but we all swore to uphold
24 the constitution. When Derlin was -- took his oath here a
25 couple of weeks ago, I listened to that oath again. And

1 just as you've sworn to uphold the laws, the constitution as
2 a county commissioner, I have too.

3 And I guess what I'm doing is using you as the
4 opportunity to articulate the dilemma, at least this
5 commissioner is struggling with. You don't have to convince
6 me that in a practical sense it makes more sense to put
7 those counties around the corner with southern Bannock, but
8 I just don't know if it's right for us to do it. There are
9 the laws.

10 THE WITNESS: I appreciate that, Mr. Givens. I
11 just want to -- my answer to that is we already have part of
12 south Bannock now, and ten years ago, I would assume, the
13 same statutory requirements of the constitution had to be
14 upheld at that time restricting, if you take our district
15 up, you're going to split, as 76 recommends you split
16 Bonneville County also as you're trying to do Bannock.

17 COMMISSIONER GIVENS: That's a good point.
18 Bonneville is just the right size for two districts and has
19 some left over. So if you go up and get that additional
20 population from that leftover Bonneville, then that's, I
21 guess, that's the genesis of the thinking how to put it
22 together.

23 THE WITNESS: We try to recognize the
24 responsibility you folks have, and we appreciate you
25 allowing us to submit our comments to represent the

1 responsibility that we have to constituents as we try to
2 find the use and the impact that governments and other
3 people have on communities. And that's our responsibility.
4 Thank you for letting us submit our comments. I appreciate
5 that.

6 COMMISSIONER SHURTLIFF: Commissioner, if I may,
7 Madam Chairman, in the area you represent population to make
8 a district, you recognize that --

9 THE WITNESS: Yes, we do.

10 COMMISSIONER SHURTLIFF: -- that we are limited
11 somewhat to what we can do in that regard. So we can go to
12 Teton County. That's one plan proposed early on. Do you
13 recall that? To put Teton County down with Caribou, Bear
14 Lake, Franklin, Oneida Counties. Do you recall that?

15 THE WITNESS: I recall some decision on that,
16 yes, sir.

17 COMMISSIONER SHURTLIFF: That seemed to strike a
18 resonant note with people. They didn't seem to like that.
19 They didn't want to drive through Wyoming to get from one
20 end of the district to another.

21 We can go to Power County, could we not, and
22 make a contiguous district? It attaches with Oneida County,
23 could we not?

24 THE WITNESS: It does.

25 COMMISSIONER SHURTLIFF: It's in the same

1 judicial district as the other counties you spoke of, and
2 the judge transports back and forth from American Falls to
3 Caribou County. So in that sense Power County makes more
4 sense than Teton County would; right? And you can get there
5 from here, although it's not -- you still have to drive
6 through Pocatello to do it unless you want to go the back
7 way. Would that be correct?

8 THE WITNESS: That's correct.

9 COMMISSIONER SHURTLIFF: The other option would
10 be to pick up some population in Bingham County to attach to
11 Caribou County in that configuration; right?

12 THE WITNESS: That's correct.

13 COMMISSIONER SHURTLIFF: Or we can go to
14 Bonneville County; right?

15 THE WITNESS: That's correct.

16 COMMISSIONER SHURTLIFF: What options have I
17 missed?

18 THE WITNESS: I haven't studied this nearly as
19 thorough as you and Mr. Givens reminds me. And I failed to
20 -- probably Cassia, we can go over and pick up part of
21 Cassia. It's attached to Oneida County around there.

22 COMMISSIONER SHURTLIFF: It's difficult to get
23 from Caribou County from Cassia County on the roads in the
24 state without going great distances for people. If we adopt
25 that plan like that, it's going to be difficult to get from

1 Marsing to Twin Falls without going through the other, as
2 the commission indicated, eight districts in Ada County,
3 four in Canyon County. And that person is going to travel
4 through fifteen districts to get from one end of the
5 district to the other. So I appreciate it would be
6 difficult. Which of those options do we -- so the only
7 option you see as viable is in Bannock County to split the
8 county?

9 THE WITNESS: To put -- to add to the additional
10 split of you folks, yes.

11 COMMISSIONER SHURTLIFF: Thank you.

12 COMMISSIONER HAAGENSEN: Are we going to enforce
13 the three minutes on the opening statements by those that
14 testify.

15 CO-CHAIRMAN SELLERS: You did run over some.
16 Please try to hold to that. When you come to the stand,
17 will you restate your name properly? I'm sure I had
18 butchered it. Thank you.

19 CO-CHAIRMAN STUART: Thank you, Mr. Dredge.

20 I notice -- I appreciate your comments and your
21 observations from Caribou. I had adjusted the written
22 testimony that we read yesterday. As a matter of fact I
23 mention that just to remind everyone that it's not necessary
24 to read your written testimony if you've already done that
25 and it will save us some time.

1 THE WITNESS: Thank you very much.

2 CO-CHAIRMAN SELLERS: Mr. Shipley, and then
3 Conrad Michaelson, Don Clark, Bruce Ard.

4

5 WITNESS FOUR: DeVAUGHN SHIPLEY.

6 THE WITNESS: Madam Chairman, Members of the
7 redistricting committee, my name is DeVaughn Shipley. I'm a
8 commissioner from Bingham County.

9 First, thank you so much for the opportunity we
10 have of coming and sharing our thoughts and feelings today.
11 And secondly, thank you so much for the great effort you put
12 into this difficult task. We recognize that and we just
13 appreciate that and what you're doing on this.

14 As you well know, one of the major concerns of
15 Bingham County has been the number of splits that we've had
16 over the total course of this activity. And we believe, as
17 I have looked at the various maps, and particularly, the two
18 that are on the table at this time, that there are some
19 issues that need to be addressed beyond what is currently
20 proposed.

21 And as I look around the maps, I notice that
22 there is one common thread with regard to Bingham County and
23 that is that the precincts making up the area of Rockford,
24 Pingree and part of Moreland have been split from the major
25 part of Bingham County. We feel this is major problem for

1 Bingham County.

2 First of all, Bingham County is an agricultural
3 county. The whole county is dependent upon the agriculture
4 for our economy. And the area that you have removed from
5 Bingham County there is really the heart of the agricultural
6 area of Bingham County.

7 I would love to have the opportunity to take the
8 commissioners around Bingham County and review and show you
9 the areas that we're talking about as compared to the rest
10 of Bingham County and help you understand that the area that
11 you've cut out of Bingham County there is really the
12 agricultural area of Bingham County. And that's very
13 important to us.

14 Secondly, I believe that you're being -- a
15 community of interest, that area has historically been part
16 of the major part of Bingham County. If we went back to
17 1982, I presume prior to that even, it has always been part
18 of the Bingham County greater area. So I think there is a
19 historical community of interest there that should not be
20 overlooked.

21 And thirdly, there are others, not quite so
22 significant still at issue, and that is by drawing that line
23 where you did, you actually split a school district right in
24 half, which concerns us very much.

25 Now, what are the alternatives here? I believe

1 that if you were to adopt L76, the decision would be fairly
2 easy to make. I believe that you could take -- and we have
3 run the numbers -- that you could take a portion that is a
4 Fort Hall precinct and add them to District 27.

5 CO-CHAIRMAN SELLERS: Your time is up.

6 THE WITNESS: And then bring the Pingree,
7 Rockford, Moreland area back into District 31. That's
8 almost an exact trade off in terms of population. I think
9 that would be a very easy thing to do.

10 Now, as I look at many of the other maps, you
11 could do the same thing with several of the other maps. It
12 would be more difficult with L66 to do that because you have
13 other issues outside of Bingham County to deal with.

14 CO-CHAIRMAN SELLERS: Any questions?

15 COMMISSIONER GIVENS: When someone comes up
16 before you and you say, well, I wonder what he's going to
17 say? I bet he'll talk about this. And you didn't. What I
18 expected you to be talking about was the fact that Bingham
19 County is big enough to have one legislative district all by
20 itself.

21 THE WITNESS: Absolutely.

22 COMMISSIONER GIVENS: And these plans, 69, 76,
23 or even the proposal you just talked about, would deny
24 Bingham having a district all by itself. And I think my
25 question to you, sir, is, do you see that, as a county

1 commissioner, do you see that as something that is -- if a
2 county is big enough to have a district by itself that it
3 have one?

4 THE WITNESS: We recognize with 41,000 plus
5 people in Bingham County there must be at least one split in
6 order to meet the population numbers. What -- it is
7 important to us to keep as much of Bingham County intact as
8 we possibly can. We recognize that there must be a split or
9 two in order to make it work. So that's what -- I believe
10 however that the way that we're suggesting here really makes
11 us a more cohesive unit within Bingham County than have one
12 district which is made of Bingham County, not entirely, but
13 pretty close.

14 COMMISSIONER GIVENS: Ross, could you put this
15 on that overhead?

16 CO-CHAIRMAN STUART: While we're doing this, let
17 me ask you question. As you corrected the L76 plan puts
18 Bingham in two legislative districts.

19 THE WITNESS: Correct.

20 CO-CHAIRMAN STUART: The L69 plan, I believe,
21 puts Bingham County in three. Does that make a difference
22 to you? What's your preference there?

23 THE WITNESS: Given the community of interest
24 that I already talked about, I would prefer to have three
25 splits than I would two for that reason. I believe that's

1 important to bring this community of interest back into the
2 major part of Bingham County.

3 CO-CHAIRMAN STUART: Excuse me. Just to follow
4 up. I'm not sure I understand you, Mr. Shipley. I think in
5 the L69 plan, which is the third one up there on the wall,
6 which divides Bingham County into three legislative
7 districts, it does not actually conform to the kind of logic
8 that you explained previously, can you clarify that? But
9 you may want to check that. I'm not clear exactly what you
10 mean.

11 THE WITNESS: L69 does put Bingham County in
12 three legislative districts.

13 CO-CHAIRMAN STUART: Correct.

14 THE WITNESS: L76 has two splits.

15 CO-CHAIRMAN STUART: Neither one of those unite
16 the primary ag area you're talking about with the rest of
17 Bingham.

18 THE WITNESS: That's my problem.

19 CO-CHAIRMAN STUART: Neither one does that.

20 THE WITNESS: That's correct. And based on that
21 I would prefer, if you would go ahead and make that one
22 change, then I would have no problem with having three
23 districts in Bingham County.

24 COMMISSIONER TAYLOR: Farmers grow potatoes;
25 right?

1 THE WITNESS: Yes, potatoes, beets, hay, grain.

2 COMMISSIONER TAYLOR: That's the same thing that

3 they do in Cassia County and Power County?

4 THE WITNESS: Yes.

5 COMMISSIONER TAYLOR: I appreciate what you're

6 saying. My question to you is, would the residents of that

7 area of Bingham County be any less represented in their

8 interests as it has to do with agriculture with a

9 representative from Power County, Cassia County or --

10 THE WITNESS: I believe that there are issues

11 that are between Bingham County and Cassia County that are

12 in conflict in the agricultural area. And to have a small

13 group of people up in Bingham County who compete for certain

14 resources, particularly water, would be a problem with

15 having the agricultural area putting Cassia County and

16 Bingham County in the same district.

17 COMMISSIONER TAYLOR: Thank you.

18 COMMISSIONER GIVENS: It seems to be the

19 transparency, it isn't here yet. Maybe we'll deal with it a

20 little differently. Thank you very much.

21 CO-CHAIRMAN SELLERS: A couple of things, will

22 you please turn your cell phones off or turn them really

23 loud so we can all enjoy the music.

24 8B1122, that license plate, your lights are on.

25 I don't know what kind of vehicle it is.

1 Conrad Michaelson.

2

3 WITNESS FIVE: CONRAD MICHAELSON.

4 THE WITNESS: Commissioners, and other elected
5 officials in attendance, I'm pleased to have this
6 opportunity to speak to you this morning.

7 First of all, I would like to say that I want to
8 let you know that I approve of everything that Mr. Bruce
9 Dredge from Caribou County said. Without reiterating the
10 same things, I feel that his comments were very appropriate
11 as far as the feelings of the citizens in Bear Lake County
12 are concerned.

13 In addition to that I would like to make a
14 couple of other comments.

15 COMMISSIONER TAYLOR: Excuse me. Can you tell
16 me where you're from?

17 THE WITNESS: Bear Lake County. I'm sorry.

18 I believe that the preferred political
19 boundaries should be set so that citizens having common
20 economic, cultural and ethnic interests should be grouped in
21 an area which is most compact, while keeping whole political
22 subdivisions, ie, precincts, districts, counties, intact
23 where possible.

24 I think that you've described that. Mr. Givens,
25 I believe, said something very similar to that. And I

1 believe that's what law asks us to do. Yet, I look at these
2 maps and I see some things there that are obviously not in
3 accordance with that ideal philosophy and I think some of
4 those things have been described to you. Particularly,
5 we're talking about the inclusion of part of Bonneville
6 County into the area represented at the present time by Bear
7 Lake County, Caribou County, Franklin and Oneida County, and
8 part of the southern part of Bannock County.

9 During the past national election, if any of you
10 looked at how the counties in the United States voted, you
11 would see that urban areas voted one way and rural areas
12 tended to vote the other way. It's not strictly true, but
13 look at the map and it revealed a profound -- to me, a
14 profound difference between people in urban area's thinking
15 and the people in rural area's thinking.

16 I guess one of the problems that I would like to
17 avoid is having those people in urban areas dictate to the
18 people in rural areas how their policies should be made.
19 And I think that in order to do that, to avoid that problem,
20 we need to redistrict in a manner where urban areas are
21 combined where they have common interests and where rural
22 areas are combined where they have common interests.

23 And one of things that I see is that the
24 Bonneville County, where Idaho Falls is located, has been
25 divided into -- on almost every one of these situations, has

1 been divided into four separate districts. And I can't see
2 how that's in keeping with the philosophy that we just
3 described here.

4 And I think that by adding a part of Bonneville
5 County with the district in southeastern Idaho where I live,
6 that we are not complying with this ideal of having people
7 with common interests in the same area.

8 I would suggest that we follow plan number --
9 plan 69, that we take part of south Bannock County and
10 include it into that area so that -- in order to create that
11 voting district.

12 CO-CHAIRMAN SELLERS: It's time.

13 THE WITNESS: I also feel we should have a look
14 at some of the other cities and see if we couldn't combine
15 those urban areas. Thank you.

16 CO-CHAIRMAN SELLERS: Thank you. Hold on. Do
17 we have questions?

18 COMMISSIONER GIVENS: Thank you.

19 I believe it is plan 76 in the portion of it
20 that is in Bonneville County, it gets right up onto the
21 outer reaches of the City of Idaho Falls.

22 THE WITNESS: That's right.

23 COMMISSIONER GIVENS: But other portions of it
24 that are in Bonneville County more to the east is a pretty
25 rural area, isn't it? Are you familiar where that part of

1 Bonneville is?

2 THE WITNESS: Yes, that's right. It is. In
3 fact the population there is probably dominated by the area
4 of those residents around Idaho Falls in that district in
5 that section that you've drawn.

6 COMMISSIONER GIVENS: But then as you move east
7 in Idaho Falls, it becomes much more rural.

8 THE WITNESS: Yes.

9 COMMISSIONER GIVENS: And Teton County is pretty
10 rural also, isn't it?

11 THE WITNESS: I would say so.

12 COMMISSIONER GIVENS: Now I realize this is a
13 choice that you don't like. I went to the eye doctor the
14 other day. And he goes back and forth like this
15 (indicating), and says, "Which one is better?" Sometimes
16 they're both fuzzy and you don't like either one of them.

17 And this is probably one of those kinds of
18 questions to you, but if the decision were only between
19 those two options that is putting your county and the other
20 counties around the southeast corner with Bonneville as it
21 is in 76, it goes up to the side of Idaho Falls and has
22 those urban people, or having less of Bonneville and just
23 being rural and adding Teton as well. I know there are a
24 lot of other options, but between those two options, which
25 in your view would be better?

1 THE WITNESS: Which of those two?

2 COMMISSIONER GIVENS: Yes.

3 THE WITNESS: Neither of those two really are --

4 (Applause from audience.)

5 THE WITNESS: You're giving me a choice and I

6 really don't like either of those options. I would prefer

7 to take the southern half portion of Bannock County,

8 southern portions of Camas County (phonetic) and put it with

9 those. And I think that it is a more compact geographic

10 area. Either of the two you just described require that

11 that portion of the district is remote from the rest of the

12 district, and communication and travel between the two areas

13 is very difficult.

14 COMMISSIONER GIVENS: I appreciate that. I'm

15 not -- I've written down that your clear preference is 69,

16 but between those two, would it be better to keep -- not

17 have those urban people on the edge of Idaho Falls in that

18 district and have the folks in Teton instead, or would you

19 rather have just one county to have to deal with?

20 THE WITNESS: Let me put it this way. If I

21 lived in Idaho Falls, I would prefer to have the -- be with

22 the other people in Idaho Falls and be in a common voting

23 district with them. So I guess what I'm saying is that if I

24 lived there, or perhaps if I lived in Teton County, I would

25 prefer the second option that you described; that is, having

1 part of Teton County and the rural part of Bonneville County
2 as part of the southeastern district but --

3 COMMISSIONER GIVENS: I went to a doctor about a
4 week ago that did that and they were both blurry and I
5 didn't like either one of them. I appreciate your comments.
6 Thank you, sir.

7 THE WITNESS: There's one more point I'd like to
8 make. And one man, one vote, is an ideal. This country is
9 a republic. And there are certain -- when the United States
10 was set up, each state had equal representation. And I
11 believe that counties should have representation and
12 districts should have representation as well as citizens.

13 COMMISSIONER SHURTLIFF: Madam Chairman, that
14 argument has been made and lost in the 1960s. We had a plan
15 that was adopted by this commission. It went to the Idaho
16 Supreme Court and had a case brought by plaintiffs residing
17 in Madison and Bingham Counties who prevailed and had the
18 plan declared unconstitutional, not by this commission, but
19 by the Idaho Supreme Court based on the proposition that it
20 violated the notion of one man, one vote, inappropriately.

21 So while you can argue all you want, and as I
22 said, one of the earlier speakers, I might share some of
23 that view, the fact of the matter is that this commission is
24 stuck with the proposition that one person, one vote, is the
25 law of the land. It's supreme in what we do. And that any

1 plan that has a deviation of over ten percent is suspect.

2 And the way I read the last decision of the
3 supreme court is probably not going to be countenanced
4 because there are too many alternatives, all be it, some are
5 inconvenient for people and some of them create districts
6 some people might not like. But one of the things that I
7 have learned in traveling around this state listening to
8 people talk about various proposals and various applications
9 of redistricting is that it seems to me there is a common
10 thread that, let's gore the other guy's ox. Let's don't
11 gore mine. Let's don't make it inconvenient for me.

12 And I keep going back to the people in Challis
13 and Clayton and Stanley. And they have been inconvenienced
14 for a long time complying with the people in Ririe and
15 Salmon. And the commissioners spoke earlier, it's 300 miles
16 across that district and they have been inconvenienced for
17 at least twenty years like that.

18 And we are inconveniencing a whole lot of people
19 in this process, but we can't undo what the supreme court
20 said in Baker versus Carr. And we can't undo what the Idaho
21 Supreme Court said as recently as a month ago. So it's not
22 helpful to suggest that we ought to ignore what we're
23 required to do.

24 You asked us to -- you're asking us to split off
25 Bonneville County because it makes a nice compact -- or

1 Bingham -- part of Bannock County -- excuse me -- because it
2 makes a nice compact, contiguous district.

3 Well, I'm not stupid. I can look at a map and
4 see that as well; but on the other hand, the constitution of
5 the State of Idaho says divide counties only as necessary to
6 get to one man, one vote. Not because you don't divide
7 counties, because you don't want to be associated with the
8 urban area of Idaho Falls. That's not one of the parameters
9 we're talking about. And I would suggest, with all due
10 respect Commissioner Mickelson --

11 THE WITNESS: Michaelson.

12 COMMISSIONER SHURTLIFF: -- Michaelson, that if
13 you look at the demographics of the people that are being
14 suggested in L76 with Bonneville County being divided,
15 combined with Bear Lake, Franklin, Oneida, Caribou into that
16 district, that the ethnic background is not that much
17 different, that the religiousity of those people is not that
18 much different, that the economics are not that much
19 different.

20 Indeed, Commissioner Givens points out a
21 significant portion of that district is rural. And I would
22 suggest that if you look, as you apparently think we ought
23 to look, at voting patterns and demographics of voting, that
24 you would find those people don't vote unlike the people in
25 Bear Lake, Caribou, Franklin or Oneida Counties in terms of

1 political partisanship.

2 So I would suggest on that basis an argument
3 could be made that there is a significant community of
4 interest between those populations and the population that
5 you represent, and represent well. But on the other hand --

6 Madam Chairman, I appreciate that I'm being
7 indulged, but I'm seven months into a ninety day process and
8 nobody likes what they see. Well, duh. Somebody is going
9 have to live with some things they don't like. And we've
10 got people harping about Sagle and Clark Fork ad nauseum.
11 The people in Clearwater County aren't real crazy about what
12 we did to them. The people of Owyhee County aren't real
13 crazy about what's happened to them.

14 Frankly, what's happened is a significant shift
15 of population. And we might not like it and we can all rail
16 against it, but it's here and it's now. And as one of the
17 earlier speakers alluded to, if you think we're having fun
18 now, wait until ten years from now. If the population
19 trends continue as they have with the population growth
20 being in southwest Idaho and in north Idaho in a
21 concentrated area, and diminished population in some of the
22 areas we're talking about, this is a picnic compared to what
23 we're going to go through in ten years.

24 So I suggest, with all due respect, that some of
25 us just better get over it. It's here. It's now, and this

1 is the way it's going to be. The population has changed.
2 The demographics have changed, and there is going to be some
3 people inconvenienced by whatever plan we take. However
4 fuzzy it is, there is going to be a choice made.

5 THE WITNESS: Very well put. I appreciate that
6 your obligation is a difficult one. I don't envy you in
7 doing this at all, but I still believe strongly in the
8 philosophy that I espoused earlier as far as the creation of
9 these districts. I believe that it should be done for
10 economic and cultural and ethnic reasons and not, I might
11 add, for political reasons. If that has been done that way,
12 then that's probably fair. Just be sure it hasn't been done
13 for political reasons. Thank you.

14

15 WITNESS SIX: DON CLARK

16 THE WITNESS: Don Clark, Oneida County
17 commissioner, I endorse what Mr. Michaelson commented on. I
18 would prefer plan L69 county in our legislative district,
19 would be Bear Lake, Oneida, South Downey, including Lava Hot
20 Springs. The area is not nearly as square. All conditions
21 are about the same, and I feel that being closer together,
22 and we can be more united, and have more ways as far as our
23 schools and highways and fairs, and so forth. I just prefer
24 plan L69. Thank you.

25 CO-CHAIRMAN SELLERS: Thank you. Any questions?

1 I would hope that the commission will keep their
2 questions succinct and orations to a minimum so we could get
3 through everyone's testimony.

4 Bruce Ard, Eulalie Langford, Paul Clark, Glenn
5 Davis.

6

7 WITNESS SEVEN: BRUCE ARD.

8 THE WITNESS: My name is Bruce Ard. I'm the
9 mayor of Ammon and represent 7500 people, these people
10 you're saying are east of Idaho Falls that are tied to
11 southern Idaho.

12 You've talked about splitting counties and my
13 situation is split, my city is only 7500 people. Taking us
14 to the south, we don't have anything in common. Our ties
15 are all up in this area. We have our economic ties and
16 people work here. We're not tied to agriculture. Myself, I
17 am, but most of the people I represent are not. And pulling
18 us away, sending us down, I welcome any of you come to my
19 house and try to drive through to Montpelier, Soda Springs
20 today. There is no way to get eight months of the year or
21 at least six months of the year, and the rest of the time
22 it's not a good situation to try to go that way unless
23 you've got a long time to get there.

24 We have -- I look at 69. It doesn't do
25 everything we need, but at least it puts us in an area where

1 we have representation and we can talk to the people that
2 represent us. And the people I have there will be able to
3 talk to their representatives so far away.

4 In the past we have been included up in Teton
5 County and we were at one time with Bonneville County. I
6 realize things can't be put together in that way, but there
7 is other things that can be done. I don't think cutting off
8 Ammon and sending us to southern Idaho is going to
9 accomplish what you want. I don't think our people will be
10 represented adequately.

11 I would support 69 because that does at least
12 make us whole. And for a split within the county, and
13 that's Bonneville County, like I said, represents big enough
14 area to have three areas, not quite, almost three. And yet
15 we're split four ways in this 76. I don't think that helps
16 us at all. I did write of a letter.

17 CO-CHAIRMAN STUART: Thank you for You're input.
18 I appreciate your written comments. They are useful to me.
19 I have two brief questions. I want to call your attention
20 to the second map there going up the wall, which is the map
21 that represents the fewest number of county splits that gets
22 us below a ten percent deviation.

23 It probably gets it closer to Bonneville County
24 there. And if you could give me your reaction, in that plan
25 you'll note that the Idaho Falls city core urban center is

1 in tact. And the bright orange area there, which would be
2 where you live, comprises all of Ammon and most of the rest
3 of Idaho Falls that could not be contained in the urban core
4 of Idaho Falls because it's too large.

5 Is that sort of arrangement one that works
6 better for your city? It appears to me it is, but I'd like
7 to hear your view.

8 THE WITNESS: That one or 69 would be better for
9 our city.

10 CO-CHAIRMAN STUART: Thank you.

11 COMMISSIONER GIVENS: Ross, could you put that
12 thing up? This might be a good time to talk about it with
13 this gentleman.

14 I sat down the other day confused by all of
15 those plans and all the different counties. And it seemed
16 like in every plan we split more counties. So what I tried
17 to do was to go through the counties that were split. And
18 the one county that is split that's not on here is Ada.
19 It's split eight ways or into eight districts. So these are
20 the splits other than Ada. And let me take a moment to
21 explain it before I ask you a couple of questions about it.

22 The first column there is the ideal district,
23 that is, if you read the constitution statutes to say that
24 you shouldn't split counties unless you have to to satisfy
25 the one person, one vote, well, then there are several

1 counties that have more than enough population for one
2 district.

3 Kootenai has just the right population for three
4 districts. Canyon is three and then some left over. Ada is
5 just right for eight. Bannock is just right for two. As
6 you said Bonneville is just right for two with some left
7 over. And Bingham is just right for one with some left
8 over.

9 And then we had a plan that strictly complied
10 with that. There has been some different iterations of it.
11 That's what that next column is. You can see there that
12 those numbers are identical two columns. For Bonneville
13 County there would be two districts wholly within the county
14 and one district that is combined with others.

15 And one thing the commission has tried to do in
16 all these plans and has succeeded most of the time is keep
17 cities whole. That was one of the rules we tried to do. So
18 Idaho Falls is too big for one district. It has enough
19 population there with one district would be just Idaho Falls
20 and some left over.

21 In other areas of the state, I think it was
22 particularly in Canyon County, the county clerks and others
23 came to us and said, you know, these cities that are growing
24 like Napa is, and I guess Idaho Falls and your cities are,
25 someone's coming in every other week with wanting to annex

1 some new area into the city.

2 So really we would be better off if we have a
3 buffer we can annex out into if you're going to draw lines
4 out into the city so we try to do that. We always try to
5 square things off where we can rather than jagging around
6 the city boundary and just run it along the road, people
7 would understand a little better that the south side is one
8 district.

9 I think that squaring it off results in what you
10 saw as a concern, that part of your city was stuck off in
11 rural areas throughout this corner. And I think that's a
12 legitimate concern and one that this commissioner would like
13 to address.

14 As you can see from the chart, just looking at
15 Bonneville County, in plan 65 and 65-1, that has the minimum
16 number of counties split to get the whole thing under ten
17 percent. And that's one of those first two plans there that
18 are behind you.

19 As to Bonneville, what those would do is it
20 still keeps two districts whole in Bonneville, and the
21 access population, some goes one way and some goes another
22 way which isn't ideal. And I think it violates the
23 constitution strictly, but it's okay because it's done to
24 get the deviation under ten percent for the one person, one
25 vote, for the constitution as our requirement.

1 Some of these other plans only have one district
2 in Bonneville, and that excess population is split off three
3 different ways. Unfortunately, both 69 and 76 do that.

4 I'd be interested in your thoughts. Is there
5 value in having the maximum number of districts Bonneville
6 is entitled to because of population? Should we do it
7 because it has two or does it matter? Would you rather have
8 one and then chop the rest of county up and put it wherever
9 we have to?

10 THE WITNESS: I guess my preference would be if
11 we had two counties in two districts if that's -- but I
12 understand there is jaggging. My problem is, like I say, in
13 our city, the way -- it's not a large city, and yet we are
14 the growth on the east side. So, therefore, if we have to
15 deal with two sets of legislatures on everything that
16 concerns our city and our citizens, you know as well as I do
17 how hard it is to get them to come and vote and to know
18 which people they need to vote for.

19 I can see some real problems that way. So as
20 far as the county, it's hard for me to answer for the
21 county. We have commissioners that would answer that way.

22 I can live with my city being in two districts
23 if I have to have it that way as long as the local districts
24 and the people are here so we can work with them and deal
25 with them, but I think when you get them far away, it's so

1 hard to get to them. I don't think that's good for the
2 people that I represent, and so I'll let the county
3 commissioners address the districts within the county.

4 COMMISSIONER GIVENS: Here's the same eye doctor
5 question as I asked the county commissioner a while ago.
6 Having grown up in Teton County, it's easier for you to
7 address probably, and you wouldn't like either one of them,
8 if the choice were just between those two options; that is,
9 counties around the southeast corner, would you put them
10 with the most eastern part of Bonneville in Teton, or would
11 you put them like they are in 76 with more of Bonneville,
12 include the outskirts and part of your town? Which of those
13 two least -- you probably don't like either one -- which of
14 those two makes more sense?

15 THE WITNESS: I can't say I can support 76 at
16 all drawing down that way. I know that doesn't answer the
17 question you want. I just can't see the people I represent
18 served well by that. I understand your problem.

19 COMMISSIONER GIVENS: What I'm suggesting as an
20 alternative to 76, whereas that line moves further to the
21 east so people in your city are not going to --

22 THE WITNESS: That would solve the situation for
23 Ammon, yes. Whether it would benefit the rest of the county
24 necessarily, I'd have to think about that for a minute.

25 COMMISSIONER GIVENS: Thank you very much.

1 COMMISSIONER TAYLOR: Can you take that down?
2 It's in my line of sight. Thank you.

3 CO-CHAIRMAN SELLERS: I'd like to remind
4 commissioners to speak into their microphones. I guess
5 there is some in the audience that are having a difficult
6 time hearing us.

7 COMMISSIONER TAYLOR: Isn't that a blessing?

8 CO-CHAIRMAN SELLERS: Eulalie Langford, Paul
9 Clark, Glenn Davis and Lin Whitworth.

10

11 WITNESS EIGHT: EULALIE LANGFORD.

12 THE WITNESS: Members of the commission, ladies
13 and gentlemen, thank you for this opportunity to speak to
14 you. I submitted written comment to the commission earlier
15 and I will not repeat any of the things I said in that.

16 I would like to add that I feel that your prime
17 concern should be linking communities of mutual interest.
18 We, in what is now legislative District 32, are rural. Let
19 us maintain our rural identity. Keep rural people in
20 southeast Idaho in one compact legislative district. Do not
21 force us to unite with big city interests. Adopt plan L69.

22 As a candidate for state representative, I
23 visited every household in Downey and Arimo and became
24 acquainted with many residents and elected officials in
25 south Bannock County.

1 As a state representative, I make frequent trips
2 to my constituents in Oneida County traveling through Lava
3 Hot Springs and McCammon and visiting my constituents in
4 Arimo and Downey on my way to Malad. Is it important that a
5 state representative make frequent visits to their
6 constituents? I think it is. Will a state representative
7 from Bear Lake or Franklin County be inclined to make
8 frequent visits to Idaho Falls? I think not.

9 In visiting my constituents in south Bannock
10 County I asked them, would your interests be better served
11 if you were to remain in this legislative district or if
12 your legislative district were linked to Pocatello? Every
13 one of them has answered, whenever we are linked to
14 Pocatello, it seems we were completely left out. We would
15 be better off if we were part of the same district as our
16 neighbors in Franklin and Oneida County.

17 The people of south Bannock County have their
18 own Marsh Valley School District, their own south Bannock
19 County fair. And two years ago, because they felt that
20 their rural interests were overshadowed by the interests of
21 Pocatello, they considered forming their own county.

22 Just as the people in south Bannock County have
23 little or no community interest with Pocatello, so we, in
24 Bear Lake, Caribou, Franklin and Oneida Counties have little
25 or no community interest with Idaho Falls.

1 I seldom come to Idaho Falls. I even had
2 difficulty locating this building. Most of the people that
3 I phoned to invite to this meeting had no idea how to find
4 the place.

5 Let me repeat, your prime concern is linking
6 communities of mutual interest. Please do this. Please
7 adopt plan L69. Thank you.

8 CO-CHAIRMAN STUART: Madam Chairman?

9 CO-CHAIRMAN SELLERS: I'd like to ask the
10 audience please to refrain from clapping or any other kind
11 of demonstration. It just takes time.

12 CO-CHAIRMAN STUART: Thank you for your input.
13 I appreciate your articulate letter. I read it several
14 times. I need to ask you a question with humor in mind. I
15 note several folks mentioned the difficulties of connecting
16 the southern portion of Idaho Falls, as the L76 plan does,
17 with your part of the state. I share that observation
18 that's not ideal; however, I note that L69 which you and
19 others advocated to some extent has a similar problem, and
20 that is, connect the northwestern portion of the City of
21 Idaho Falls near the airport with communities like Stanley
22 and Salmon and Challis.

23 Now I started to ask myself the question, gosh,
24 we have the Bonneville County folks are concerned about one
25 and not the other. I wonder if that means they like Challis

1 better than they like you. I'll leave that to you to
2 answer.

3 I wonder if you can comment on that. I keep
4 coming up empty and I make the observations because we have
5 long distances to deal with no matter what plan we adopt or
6 alternative or potential alternative we adopt. And in the
7 L69 plan that certainly exists. It exists as well in L69.
8 I just wonder.

9 THE WITNESS: In considering this, I considered
10 my own legislative district and the interest of the people I
11 represent. And it's up to the people of Challis and Idaho
12 Falls and those other communities, who are very nice people
13 and whom I respect. It's up to them to decide which plan is
14 best for them.

15 COMMISSIONER SHURTLIFF: I would like to ask a
16 question if I could.

17 Much of what you say, I understand. It's been
18 repeated, whether you would be more likely, if you were
19 reelected to visit your constituents in Ammon as opposed to
20 the north there, Challis traveling over to Ririe for a
21 Kiwanis Club meeting. I leave it to somebody else.

22 But I can't help but notice, frankly, your
23 letter, I read it too, it's written on your stationery. So
24 it came to my attention. And I read your letter, and it
25 says, among other things, looking at the map, looking at the

1 facts, considering the community interests, what is best for
2 the people involved, it seems to me that the only
3 intelligent plan to consider is L69.

4 I thank you for that compliment. You will do
5 yourselves and the restricting committee a great disservice
6 if you allow gerrymandering to influence your decision. It
7 appears to me that some members of the commission in order
8 to protect the seat of Democrat senator living in McCammon
9 are unwilling to allow that community to be included in this
10 strongly Republican district. Is that really in the best
11 interest of the citizens involved? I ask you, is that what
12 this is about is protecting incumbents, making safe seats
13 for people, making sure the people don't have to run, making
14 sure that there is a district in which they can run?

15 THE WITNESS: I hope not. I certainly hope not.
16 It shouldn't be.

17 COMMISSION SHURTLIFF: Indeed it shouldn't be.
18 What is it that this commission has done that allows you or
19 permits or requires you to make that suggestion that is what
20 has influenced this?

21 THE WITNESS: What is so sacred about Bannock
22 County? Why cannot Bannock County be split when you're
23 splitting other counties three and four ways? Why is
24 Bannock County sacred?

25 COMMISSIONER SHURTLIFF: Is any county being

1 split that doesn't need to be split to meet the one man one
2 vote requirement in L69 or L76?

3 THE WITNESS: You know the answer to that
4 question better than I do.

5 COMMISSIONER SHURTLIFF: Indeed I know the
6 answer to that question. The answer is no. Might I suggest
7 to you, how many legislative districts there are now in
8 Bannock County? Eight? Bannock County is now in three
9 districts, is it not?

10 THE WITNESS: That's true.

11 COMMISSIONER SHURTLIFF: If L76 were passed, it
12 would be in two discrete districts, wouldn't it?

13 THE WITNESS: That's correct.

14 COMMISSIONER SHURTLIFF: In L76, if you can't
15 help it, but let's because you raise the issue of
16 gerrymandering. You said L76 is to protect the Democrat
17 incumbent who lives in McCammon. What about L76 as it
18 applies to and effects Senator Frasure -- let's put the
19 cards on the table, Representative.

20 The fact of the matter is L76 leaves him without
21 a district, doesn't it? And that's about half of what this
22 is about, is making sure that Mr. Frasure has a seat to run
23 from, isn't it? Because if you split Bannock County in two
24 portions, he has to run head-on with that Democrat incumbent
25 from McCammon. And he doesn't want that. And a number of

1 other people don't want that.

2 I would like to take the politics out of this.

3 I share that view with you, but don't accuse me of putting
4 politics into it when there are politics in it in any event.

5 COMMISSIONER GIVENS: Madam Chairman,
6 Representative, you stated something a moment ago that I
7 very much agree with. And I want to just work that idea
8 again.

9 Ross, could you put that transparency up again?
10 Can you do it from down there so it doesn't get up in the
11 line of sight? Tilt it up a little bit.

12 Yeah, that's great. The more I've thought
13 about this, and particularly in the last couple of weeks,
14 I've come to the same conclusion you came to. Well, if
15 you're splitting a whole bunch of counties, whether it be
16 making eight more splits that you've got to make in plan 69
17 or six more splits like in 76, what's the difference?
18 You're still splitting a whole bunch.

19 Where that led me was, why should we be
20 splitting any that we don't absolutely have to split for the
21 one person one vote requirement? Why don't we pay strict
22 attention to what the people of Idaho adopted in their last
23 two constitutional amendments to say, split counties only
24 when necessary to satisfy the U.S. Constitution and give
25 special attention to the legislatures, the statutes,

1 implemented by this commission when it said, when a district
2 is in -- put more simply -- don't split districts and don't
3 combine them, cut them up any more than you absolutely have
4 to.

5 That leads us back to the no split plan, that
6 second column where the deviation is fourteen. And as
7 someone said, this is permissible under the federal
8 standards. Others would say, well, we've got to get it
9 under ten. So that leads us just to splitting four counties
10 instead of a whole bunch.

11 But certainly, I think you'd agree, wouldn't
12 you, that the less counties you split, the less opportunity
13 there is for political monkey business in the creations of
14 districts. Would you agree with that?

15 THE WITNESS: I suppose so.

16 COMMISSIONER GIVENS: Do you think it makes more
17 sense to go work back toward splitting no counties we don't
18 have to split?

19 THE WITNESS: I do.

20 COMMISSIONER GIVENS: So do I. Thank you very
21 much.

22 COMMISSIONER HAAGENSON: Madam Chairman and
23 Representative Langford, following up on Commissioner
24 Givens's on the constitution, I happen to be the author of
25 that amendment during my time in legislature. It was one of

1 my proudest hours because not only did it require you not to
2 split counties, it also limited the size of legislature,
3 reduced it down to thirty-five from seventy. So we figured
4 less people in town -- but what it doesn't say absolutely, I
5 just want to make that clear.

6 It says, "Counties should be divided into
7 districts not wholly contained within that county only to
8 the extent reasonably necessary to meet the requirement of
9 equal population principle."

10 Then it's the definition of reasonable that's
11 different in different people's minds. In some people's
12 minds they generally feel that that means you shouldn't
13 split one unless you absolutely can't find some other
14 solution. Others would say, well, it's reasonable to
15 preserve a community of interest.

16 So there is legitimate debate over what is
17 reasonably necessary, but I think you do have the ability to
18 split some counties if there are other important issues,
19 other important considerations.

20 THE WITNESS: You absolutely do have the ability
21 to split counties, and you did that with south Bannock
22 County the last time around. You even split -- not you, but
23 the last time it was decided, split the City of Arimo. And
24 the people of Arimo are very unhappy about the fact that
25 half of them are part of my legislative district and half of

1 them are in another district.

2 They do not want their town to be split. So
3 this has been done in the past. And there's -- the supreme
4 court didn't challenge it and it has stood. So you can
5 split counties to conserve -- to unite communities of
6 interest.

7 I think in this case the spirit of the law is
8 more important than the letter of the law. And the spirit
9 of the law is to keep communities of interest intact. Thank
10 you.

11 CO-CHAIRMAN SELLERS: We currently have fifteen
12 county splits in case there is anyone who isn't aware of
13 that and the supreme court upheld that. Obviously, having
14 as few county splits as necessary is not what we are
15 mandated to do.

16

17 WITNESS NINE: PAUL CLARK.

18 THE WITNESS: My name is Paul Clark. I
19 appreciate the opportunity to stand up here and speak to
20 you. I would like to commend Ray Givens on his attitude and
21 open speech where he is very open minded to any plan, any
22 proposal being made today.

23 I would also like to commend Dean for his last
24 comments where he said he would consider splitting counties
25 if it's going to benefit communities of interest.

1 I have the opportunity of working with closely
2 the seven southeast counties of southeast Idaho. Bingham
3 County has stated they would support 76 with revisions, and
4 that's important. They would not support it as is. The
5 rest of the counties are in support of 69.

6 The question I have -- well, it's not a
7 question, but the statement I would like to make is the
8 problem I really see that we're having here is if we're
9 going into the urban areas, and Ray mentioned that earlier,
10 they tried to keep those urban areas intact, but we're going
11 into the urban areas making a compact district and then
12 going out there with these wild lines in the outlying
13 communities.

14 I really think that it's important that you
15 consider doing the reverse. Going out to the communities of
16 interest and then be looking at the population areas which
17 would be Idaho Falls. You've already done that. And
18 Pocatello, which I don't understand, is the golden cow, but
19 I know there is people in there in Bannock County that is
20 open to, you know, adjustments. And they are not in
21 opposition of that county being associated with Oneida
22 County, Bear Lake County, Caribou County.

23 So I would strongly urge that this commission
24 look at doing the reverse in this area. And I think you
25 could appease most everybody in this room because what I'm

1 hearing is that the communities of interest are much more
2 important than keeping the counties whole.

3 And if you remember the main reason why the
4 Idaho Supreme Court rejected the proposed redistricting was
5 not because of the counties being kept whole. It was
6 because of the negative and positive difference between
7 northern and eastern Idaho. Eastern Idaho took a tremendous
8 beating in the redistricting, not just because we lost
9 legislative districts, but because of the way the districts
10 are being proposed.

11 And so I strongly recommend, Mr. Stuart, that
12 you consider doing that. You're the one that made the
13 statement, so please reconsider, that Bannock County is not
14 on the table because it's important to look at the
15 communities of interest.

16 COMMISSIONER SHURTLIFF: When did I say Bannock
17 County wasn't on the table?

18 THE WITNESS: No, it was Mr. Stuart. And let me
19 rephrase that. You said you're open to any suggestion other
20 than splitting that county.

21 COMMISSIONER TAYLOR: Mr. Clark, are you an
22 attorney representing these other counties?

23 THE WITNESS: No, I'm affiliated with a
24 political party. I represent seven southeast counties.

25 COMMISSIONER TAYLOR: Okay.

1 COMMISSIONER HAAGENSON: Madam Chairman and Mr.
2 Clark, I guess I want to clarify, since you've made comments
3 and so no one has misunderstood my statement. I do not
4 think anyone can conclude that communities of interest
5 supersedes the splitting of counties. Keeping counties
6 whole is a constitutional requirement. The communities of
7 interest is a statutory one. I think it's subservient to --
8 but that doesn't mean in cases where there is a clear
9 community of interest, and you're going have to split some
10 counties somewhere anyway, that maybe split one.

11 Keeping counties whole, I think that is prime
12 over communities of interest. That doesn't mean you ignore
13 communities of interest in order to keep counties together
14 if that makes sense.

15 THE WITNESS: I understand that, but what I'm
16 trying to do here is put a positive spin on what you just
17 have to do and what you're trying to do. Essentially,
18 that's reaching a compromise that, you know, is fair, that
19 you think is fair. And that's how come I mentioned
20 Mr. Givens and Mr. Haagenson. When they first came in,
21 they're very open minded. And I think you gentlemen need --
22 lady and gentlemen need to be open minded. And you need to
23 be receptive to what the people on this side of the state
24 want.

25 We're talking about minor change here. We're

1 not talking about going back to Coeur D'Alene or going back
2 to Boise. I really think that it is important that you look
3 at your core population areas and then work out. Then you
4 can appease these counties out here.

5 COMMISSIONER SHURTLIFF: Madam Chairman, Mr.
6 Clark, you indicate that southeast Idaho, I guess you're
7 referring to southeast Idaho taking a tremendous hit in this
8 process, not just because of population, but because of the
9 redistricting plans.

10 I appreciate that point of view. Have you done
11 any analysis, when you say "hit," I take it be that means in
12 terms of representation, seats in the legislature?

13 THE WITNESS: Well, first of all, we lost two
14 districts. We can't control that. When you look at the
15 population variances on the map, you've got positive
16 variances up in northern Idaho. You've got negative
17 variances in eastern Idaho. And so, you know, I realize and
18 we realize that everything can't be perfect, but it can be a
19 whole heck of a lot better.

20 COMMISSIONER SHURTLIFF: I appreciate that, and
21 I haven't done the analysis, but I will have done it. Do
22 you have any notion of what that variance really equates to
23 in the number of seats?

24 THE WITNESS: Number of seats over the Idaho
25 house?

1 COMMISSIONER SHURTLIFF: Yes.

2 THE WITNESS: Well, physically we lost two
3 legislative districts.

4 COMMISSIONER SHURTLIFF: You're saying part of
5 the hit is caused by low negative numbers in the north and
6 the high positive numbers in the southeast.

7 THE WITNESS: I'm saying that's one example.

8 COMMISSIONER SHURTLIFF: What that equates to in
9 reality is that there are positive and negative in both ends
10 of the state.

11 THE WITNESS: With due respect, Mr. Shurtliff,
12 when you take Bingham County -- because I live there, I'm
13 using that as an example -- and you put them in right along
14 western Twin Falls County, we've got a difference of
15 opinions that was stated before.

16 One instance is what they call American Falls
17 water basin. That's a big concern. So what you're going to
18 do is you're going to have legislators that's going to be
19 split and, of course, they're going to represent the bigger
20 population areas. So, yes, it has, and we can't control
21 that. That's just how things evolved. But, yes, we work
22 with a disadvantage.

23 And that's what I'm saying is consider, you
24 know, the concerns that this group of individuals has
25 because they're not asking for a lot. And it's dealing with

1 eastern Idaho. That's where the lawsuit came from. The
2 lawsuit came from the Bingham County commissioners and a
3 citizens group in Madison County. Everybody else was pretty
4 well pleased with your overall performance.

5 COMMISSIONER STUART: Madam Chairman, Paul, just
6 a comment. I appreciate Commissioner Haagenson's
7 clarification of the actual view on my position of splitting
8 counties. If I overstated that, I apologize, but I do feel
9 strongly however that the Bannock County is a community of
10 interest unto itself. I think we heard part of the story
11 from the folks who testified so far. I'll be eager to hear
12 from the Bannock and the folks --

13 THE WITNESS: With due respect, Mr. Stuart, I
14 disagree with you because I, being from Blackfoot, have a
15 lot in common with Pocatello. I went to Idaho State
16 University. I work there every other day, you know. It's
17 twenty minutes away. I have much more in common with the
18 City of Pocatello than I do with Malad or Bear Lake or
19 Caribou.

20 CO-CHAIRMAN SELLERS: Thank you.

21 THE WITNESS: Thank you, I appreciate your time.

22 CO-CHAIRMAN SELLERS: Glenn Davis, Lin
23 Whitworth, Larry Ghan, Greg Moeller.

24

25 WITNESS TEN: GLENN DAVIS.

1 THE WITNESS: I'm Glenn Davis, Fremont County.
2 It's a privilege for me to come here and we thank you, Madam
3 Chairman and the commission, for coming here and letting us
4 air our problems.

5 Last night we had a meeting that was called
6 together for the purpose of finding out where we were
7 together, the various counties on these various plans. And
8 it didn't take very long to find out that no one plan is
9 going to fit us all. It's impossible. So we would like to
10 very seriously ask you for a little more time, a week or
11 two, to get together with Dr. Paul who's a specialist on
12 these kinds of things, and Scott Kid from Madison County who
13 were very helpful last night in delineating the
14 possibilities on the various plans.

15 And the conversation between the committee and
16 the individual testifiers today have indicated to me that
17 it's going to take some time to put things together here so
18 that it is effective and beneficial as we can make it to the
19 county.

20 We are, of course, opposed to this over 300 mile
21 unit that's proposed here for Fremont County from
22 Yellowstone Park to the Sawtooth recreation area. And, of
23 course, we're not here to make things easier for our
24 legislators, but I think they should be considered.

25 And for a legislator to take care of that piece

1 of land, real estate and contact the people as he or she is
2 called on to attend various meetings and things, no road
3 runs clear through those 300 miles. It's in and out like a
4 top of the mountains over on the Sawtooth to get in and out
5 of there. So it is a very difficult situation that we're
6 faced with there.

7 We have with us today several people, members of
8 the Island Park Village, and a letter from the mayor up
9 there. And probably you'd just as soon I didn't read these,
10 but give you their feelings; is that acceptable?

11 COMMISSIONER TAYLOR: Summarize it.

12 THE WITNESS: Every one of them, of course, are
13 opposed to this proposal. And I can't quote to you the
14 numbers. There is one number, this 66A, which we would not
15 object to at all in our case. This puts Madison and Fremont
16 County together, and we do work well together and we have no
17 opposition to that or that situation on any of the other
18 plans that might be put together.

19 To give you an idea of what our preference would
20 be, if you will give me permission, I'd like to ask our
21 county clerk who worked last night with Dr. Paul and others
22 in preparing our preferences. She's not as long-winded as I
23 am. It won't take her as many minutes to tell you what we
24 would like. Is that permissible?

25 CO-CHAIRMAN SELLERS: We need it to be brief.

1 CO-CHAIRMAN STUART: Madam Chairman and
2 Mr. Davis, what would be useful is to get this in writing?
3 THE WITNESS: Pardon?
4 CO-CHAIRMAN STUART: What would be most useful
5 would be getting these suggestions in writing if you could.
6 THE WITNESS: I think that's right.
7 COMMISSIONER GIVENS: Let's hear them now, too.
8
9 WITNESS ELEVEN: ABBIE MACE.
10 THE WITNESS: Basically, at the meeting last
11 night we looked at the possibility that we know that
12 someone's got to be split. Fremont County has been split
13 for the last ten years and we have adjusted and have worked
14 with it. It hasn't always been easy, but it's been done.
15 So those things are possible.
16 We looked at the communities of interest that
17 have been established through that split that has been the
18 last ten years, and felt like instead of taking Fremont
19 County to the west, if we could take the eastern side of
20 Fremont County, Island Park, and take Warm River toward
21 Drummond and attach them with Teton County and Bonneville
22 County as we have been in the past, and take the part of
23 Bonneville County in plan 69 that is already being put with
24 the legislative District 35 and add that population there,
25 that at least we would have our established legislators that

1 we have worked with to be able to continue to work with.

2 And so those are our suggestions that we wanted
3 to put as far as what precincts we felt -- it's not ideal.
4 we would love to stay whole, but if we had to make the
5 concession, we've already got the ties established there
6 with our legislature.

7 CO-CHAIRMAN STUART: Madam Chairman, Ma'am, I
8 need to ask you the Solomon's choice question I asked folks
9 earlier. If the numbers are such in Bonneville County and
10 elsewhere that we have to look at moving part of Fremont
11 west into that Custer, Jefferson district, is there one that
12 works better than the other? I hear your testimony loud and
13 clear that Island Park may not be the right one. I'm fine
14 with that. What about that Egin community of interest, is
15 that less onerous perhaps? I need your comment.

16 THE WITNESS: Both are hard because there are
17 not the communities of interest. I happen to live in that
18 Egin precinct, and it is primarily agricultural. That's
19 what it is. Sand Hills are in that area. There really
20 isn't a community of interest in Island Park or Egin, you
21 know. That's the hardest part. No matter which way you
22 pull us, there isn't a community of interest.

23 CO-CHAIRMAN STUART: It would seem there is a --
24 pretty close connection between Egin and Jefferson
25 certainly; is that true?

1 THE WITNESS: Egin, Hamer Road, I guess. Other
2 than that, just to get to market type things, but as far as
3 schools, any of that kind of thing, there really isn't that
4 I'm aware of.

5 COMMISSIONER HAAGENSON: Madam Chairman and
6 Ma'am. To the extent I understood your suggestion, it
7 sounded like it may have some real merit. Can we get either
8 a map or description precisely of what it is so we can take
9 a look at it?

10 THE WITNESS: Yes, I'll get that to you.

11 COMMISSIONER HAAGENSON: Is that something you
12 have that we can have this morning or today?

13 THE WITNESS: I think that Mr. Davis does have
14 maps here, and I will try and get that from him.

15 COMMISSIONER GIVENS: Madam, what is your name?

16 THE WITNESS: My name is Abbie Mace.

17 COMMISSIONER GIVENS: Ms. Mace, how big a deal
18 is this January 15 deadline for finalizing precinct
19 boundaries? The concern is that's ten days away. You're
20 the first county clerk that has talked since we recently
21 met. Is that a big deal?

22 THE WITNESS: Yes, precinct lines are -- as you
23 know people are very territorial and they don't like change
24 as we all know. When you start disrupting those changes, as
25 you know, people get upset. If at the last minute as you're

1 doing here, change the same, then we would be under the same
2 scrutiny you are saying if we make those changes. What I
3 suggest is to not change any of our precinct boundaries.

4 COMMISSIONER GIVENS: Some of the other
5 potential ones do.

6 THE WITNESS: Yes.

7 COMMISSIONER GIVENS: We'll take that into
8 consideration. So if I understand, we've got to make up our
9 minds before the fifteenth.

10 THE WITNESS: Right. I think as quick as
11 possible that needs to be done, but if it takes some extra
12 time, if we could go to the legislature and ask for an
13 extension on that deadline of a couple of weeks, I don't
14 think that's out of line either.

15 COMMISSIONER GIVENS: We just got handed a
16 little bit ago from the governor asking us to finish our job
17 so the legislature doesn't have to be encumbered by the
18 cloud of uncertainty over the report, so there are others
19 that think like that. Thank you very much.

20 THE WITNESS: Thank you.

21 CO-CHAIRMAN SELLERS: Lin Whitworth, Larry Ghan,
22 Greg Moeller, David Whitworth.

23

24 WITNESS TWELVE: LIN WHITWORTH.

25 THE WITNESS: Thank you, Madam Chairman,

1 commissioners, for allowing me to stand before you. You
2 have my sympathy. I don't think this should have happened
3 to you, but here we are. I, as everyone knows, I was the
4 senator in one of the districts that is highly in question
5 today. I resigned, but I'm still a citizen and I'm still
6 concerned, very concerned about what happened in Bannock
7 County.

8 I can't understand why Bannock County should be
9 the victim of a lawsuit that happens up here in the north
10 counties, but that's what you've got. There's nothing you
11 can do about it -- and in that lawsuit -- I can't either,
12 but the point is, the county boundaries are emphasized over
13 and over of how important it is to keep that county where
14 you have the opportunity to keep a county whole, exactly the
15 right amount of constituents in that county to the next two
16 districts, just -- it would seem -- I don't know --
17 unconscionable not to do that, to take advantage now. I was
18 around when they split and I understand what went on. But I
19 want to say this. These people that have been up here
20 before already asking for 69 have made my case on 76.

21 The people from Bannock County, south Bannock
22 County, and I'm not talking about the elite or certain
23 particular people or big farmers or big ranches. I'm
24 talking about rural farmers, I'm a farmer, but we also -- he
25 teaches school and I worked for the railroad for forty

1 years. We are rural. Anybody that lives in Bannock County
2 south of Johnny Creek is rural, and there is a lot of us.
3 So for these people to insinuate we're not rural, they're
4 mistaken. That's all I can say about that.

5 Now I want to say this. When Gray Davis wanted
6 help with the highway bill, he came to me. When the people
7 in Majestic Park, Downey wanted help with a bill, they came
8 to me. When the residents, the people from Donnetta
9 (phonetic) wanted help with a bill, they came to me. That
10 is not to say they weren't being well represented.

11 Let me tell you why they came to me. Because
12 their kids and my kids went to the same school. We talked
13 to each other at basketball games. These people are trying
14 to tell you that they're more connected to them communities
15 than I am. Come on. Where are we at?

16 Bannock County should be kept whole for the very
17 reasons that these people have been talking about,
18 absolutely should be kept whole. There's a bedroom
19 community clear down as far as Swan Lake people work for the
20 PFE. They work for the railroad. They work for FMC. Their
21 kids go to ISU. It's their county seat. Pocatello is the
22 county seat for Bannock County and it's their county seat.

23 And both communities, whether you like it or
24 not, whether they like it or not, are bedroom communities
25 for Pocatello because the majority of the people that live

1 in those areas, work in Pocatello if they work out of their
2 own community or off their own farm.

3 The majority of them work in north Bannock
4 County. And for us to deny that that county should be kept
5 whole just because we need a few more people over in another
6 county, now I wouldn't bring up politics if it hadn't
7 already been put on the table, but I do think that you
8 should consider nearly everybody ahead of me that's
9 testified as far as I know are Republicans. I'm a Democrat.
10 I'm not afraid. I spent seven years in the legislature with
11 ninety percent Republicans and I can stand here and tell you
12 whatever I feel like.

13 But my problem with the politics, there is one
14 single Democratic district left in eastern Idaho, Burt
15 Marley's and mine and Dr. Chasen's, and they want to split
16 it right down the middle so that we cannot hold that seat
17 any longer. It's their politics, not mine. Leave Bannock
18 County whole if you possibly can. Please. I'm speaking for
19 my constituents in the past. Any questions?

20 COMMISSIONER GIVENS: Madam Chairman, maybe this
21 is an opportunity to address this political issue regarding
22 Bannock, at least from this commissioner's perspective.

23 Bannock County is big enough that it's entitled
24 to two districts. And in all of the plans that we put
25 together, the commission has cut one district out of

1 Pocatello, and they've generally been south and west of the
2 freeway, a minor deviation.

3 And then there really are two other viable
4 options we looked at. One of them is to put the rest of
5 Bannock County in a district all by itself. And that
6 accomplishes the don't split up counties unless you have to
7 issue. I talked about earlier and the senator talked about
8 that.

9 The other approach is the one that is plan 69,
10 putting southern Bannock with the counties around the corner
11 and putting northern Bannock and Chubbuck area and that area
12 with a portion of Bingham County. And the charge has been
13 leveled here today, and other times throughout this, that
14 those who wanted to keep Bannock whole were just trying to
15 keep a Democratic -- keep two Democratic districts in
16 Bannock County. And the numbers don't lie.

17 The staff loaded on to these laptop computers
18 they gave us, it's in the same programs as in the library
19 here in Idaho Falls that you can go look at, they break down
20 by district how that district voted in the last several
21 elections. Then they even have a composite.

22 And the district that includes Chubbuck and
23 Bingham County in plan 69, that's the one that many of you
24 have spoke in favor of, that is a more Democratic district,
25 not much, but a more Democratic district than the plan that

1 includes all of Bannock County except for Pocatello.

2 So that -- because of that, it just gets under
3 my skin a little bit when I keep being accused of supporting
4 a plan to protect Democrats. I don't know Senator Marley.
5 I don't believe I knew his father. I heard fine things
6 about him, but I am not the least bit interested in taking
7 care of his seat and seeing that he runs against Senator
8 Frasure or testify against Senator Frasure. I really don't
9 care.

10 But these two plans are not -- 76 and 69 are not
11 about making Democrat or Republican districts. They are
12 about how we view the Idaho constitution, and they are about
13 whether the splitting of counties is predominant or
14 communities of interest is predominant, not splitting or
15 community of interest of is predominant. And I don't know.

16 Maybe that's just rhetoric. And I appreciate
17 you bearing with me to get it off my chest because I don't
18 like the insinuation that I have sat here to try to create
19 Democratic district.

20 I spent a long time really on the other side of
21 reenforcement issue twenty years from Senator Rich
22 (phonetic) who was on the other side. I understand that
23 Senator Rich said it doesn't matter how you split up a
24 cherry pie. You're going to get cherries.

25 In this area of the country it doesn't matter

1 how you're going to draw these lines, you're going to get a
2 Republican district. I think that's right. Our task is to
3 split up lines in ways that we believe complies with our
4 constitution. Thank you.

5 THE WITNESS: My response, and I just want to
6 say I agree with what you said. Only thing that I would ask
7 in that respect is I agree you should not draw lines to
8 protect Bert Marley's seat or mine or Evan Frasure's or
9 anybody else's, absolutely, but neither should you draw
10 lines as some have insinuated to annihilate a senator's
11 district, his seat, his possibility of winning a seat.
12 Thank you.

13 CO-CHAIRMAN SELLERS: Larry Ghan.

14

15 WITNESS THIRTEEN: LARRY GHAN.

16 THE WITNESS: I'm Larry Ghan. I'm the clerk in
17 Bannock County and I appreciate the commissioners giving me
18 the opportunity to present my comments today.

19 I'd, first of all, like to take the opportunity
20 to thank the reapportionment committee for this opportunity
21 and to be willing to address you once again. And to thank
22 you also, and to recognize that you're doing a truly
23 daunting and thankless job that's a very sensitive issue as
24 we can all see and feel today, but I would like to interject
25 that I think it's a process also that we ought to understand

1 that's had some constraints thrown on to it that's making
2 your job harder.

3 One is the legislature gave you by not being
4 able to form more than thirty-five districts, and my
5 question has been what's holy about that number other than
6 the size of the building where people sit, which is a
7 significant fact, we're talking about our democracy here.

8 Secondly, I think that we're faced with this
9 dilemma still because the attorney general's office failed
10 to explain adequately what the work was that you all worked
11 so hard to do on our behalf. And I think that was a real
12 disservice to the court, and they didn't have the facts
13 presented to them to help understand why you had to make
14 those minor deviations to make the original plan work in the
15 first place.

16 Thirdly, Idaho is under transition. We're under
17 a lot of pressure right now. I'm a native. I was born and
18 raised here. And I understand, I've seen the changes happen
19 in over fifty years that have created the dilemma. I
20 remember when Pocatello was bigger than Boise. And just
21 briefly, but it was, and there have been a lot of changes, a
22 lot of shifting to the west and to the north.

23 And I think also it needs to be pointed out, if
24 you weren't aware of it, I found out as a county clerk there
25 a lot of erroneous data in the database and if you had a

1 good review process in place to just review the data, we
2 could have helped probably solve some problems that you no
3 doubt have faced through this process.

4 But anyway, I want you to know I appreciate your
5 fortitude and your courage that's been shown by several --
6 all the members of the commission that you've expended on
7 our behalf. I publicly thank you again for the good work
8 that you're doing for each of us and you're yet endeavoring
9 to do.

10 This is a ticklish situation for me because I've
11 got a lot of friends here and it's like going to a family
12 reunion where you haven't seen each other for a long time
13 and we have some different perceptions about things.

14 But I wish to present my comments in the support
15 of plan L76. This plan seems to be very familiar in its
16 effect upon Bannock County to the plan that you correctly
17 adopted, I believe, that you correctly adopted last August.
18 In addition you have overcome those, I think, those concerns
19 expressed to the supreme court that they raised concerning
20 their decision in November.

21 I believe that L76 meets those concerns heads
22 on, head-on. It's too bad that the attorney general's, as I
23 mentioned just a minute ago, adequately addressed to the
24 court why those issues were, in fact, developed that forced
25 the deviation to happen.

1 Had Mr. Lance's office fully informed the court
2 at the hearing, maybe we would not be here again today. But
3 the adoption of this better plan maybe our state finally can
4 move forward without further disruption in the electoral and
5 governmental processes that we need to address. And at this
6 point moving on, I'm sure all of us would appreciate, the
7 process sounds pretty good.

8 While no plan is perfect, I believe L76 meets
9 the spirit and the intent of your mission and the commission
10 does less harm in this process, it does less harm to my
11 county and my constituents, and I believe less harm to our
12 state. It's time to move forward at this stage with L76.
13 I'm being timed?

14 CO-CHAIRMAN SELLERS: You're done.

15 THE WITNESS: I didn't realize that because
16 other people seemed to ramble on. I'm sorry. I just wanted
17 to submit it's critical -- there's two things -- because it
18 didn't seem that other people were being timed as I was.

19 CO-CHAIRMAN SELLERS: They have been being
20 timed.

21 COMMISSIONER GIVENS: May I ask the person a
22 question?

23 CO-CHAIRMAN SELLERS: Sure.

24 COMMISSIONER GIVENS: What are the two points
25 you'd like to make?

1 THE WITNESS: Thank you. We need to keep
2 Bannock County whole. It's a community of interest clearly
3 from the standpoint of economic, cultural and politically
4 shared interests, and we are the hub of eastern Idaho. We
5 do have some unique differences that are vastly different
6 than that vast area and those counties around us and rural
7 areas demonstrate in their connection and their concerns and
8 in things that they connect to themselves.

9 Also, I would suggest as a possible point you
10 might want to consider, it's important to recognize I think
11 the role that the Sho-Ban nation has in this and the support
12 to keep them together.

13 If you had to make any deviation from the
14 statement I just made, it would seem to make sense that the
15 one precinct we have in northern Bannock County, which is
16 basically our boundary with the reservation, it would be
17 correct probably to move that in with the reservation both,
18 and still retain the rest of the essence of L76.

19 I think that might give you some room to work
20 and would still meet, not only the community of issue --
21 community of interest issue relative to the Sho-Ban, but it
22 would also recognize, I think, the original jurisdiction
23 concept, I think, counties should and do enjoy in this
24 process. We are one of the original jurisdictions in the
25 state of Idaho and I think the process needs to recognize

1 that. Those are the two primary points. Thank you. Any
2 other comments or questions, I'd be happy to entertain some.

3 COMMISSION GIVENS: I appreciate your answer.
4 One additional question, how big a deal is this January 15
5 deadline?

6 THE WITNESS: It's very big to us mainly because
7 we're not sure what it's going to mean to our hides as
8 clerks in counties to have it done. I talked with the
9 secretary of state's office, and I get sort of a vague
10 answer as to whether or not we're going to be covered or not
11 by that deadline.

12 I know my board and myself, we both desperately
13 want to get it done. We desperately want to address that
14 because the process needs to move on, but I think you're
15 going to hear from Paul Zelus in a few minutes hopefully,
16 and he's going to address why we might need to extend the
17 process for a few more days to finally get it right. And I
18 respect Paul Zelus and in his opinions and ideas. It would
19 be very helpful.

20 What I'm trying to say, Mr. Givens, is I'm not
21 clear what our liabilities are going to be. No one seems to
22 be able to give me a straight answer on it. It's not
23 because they didn't want to. We're under the gun and we
24 need to move. We want to move but because court threw this
25 whole thing out, all the work you guys did, it's thrown us

1 into a quandary now and we're not sure what our liabilities
2 will be.

3 COMMISSIONER GIVENS: Just for the record let me
4 make clear that the January 15 deadline is the deadline on
5 county clerks for setting their precinct boundaries. Thank
6 you.

7 THE WITNESS: Thank you.

8 CO-CHAIRMAN SELLERS: Greg Moeller, David
9 Whitworth, Robert Hanson, Mark Balzer.

10

11 WITNESS FOURTEEN: GREG MOELLER.

12 THE WITNESS: When asked to comment on those
13 proposed plans, I can't help but feel we had an opportunity
14 like this in August, maybe after L65 and L6 -- had been
15 proposed, maybe we could have avoided the trial court action
16 that resulted in us being back today.

17 On December 12 last year when this commission
18 met, they tentatively approved two plans, 76 and plan 69.
19 At that time I believe I had an opportunity to speak
20 previously to you. I told you that the Madison County plan
21 that was favored most was a plan that we designated as plan
22 L67, and plan L66A on the supreme court filing that were
23 made.

24 I would just for the record want to indicate, we
25 still believe that plan L67 is the best plan. L67 is the

1 only plan that's really been discussed today that makes an
2 effort to try and address some of the issues in northern
3 Idaho of the deviation and representation issue in northern
4 Idaho and the underrepresentation in southeastern Idaho.

5 I see a lot of maps on the walls today with
6 proposed plans and variations. I find it ironic that plan
7 L67 isn't one of those plans on the wall.

8 I understand and understood on December 12th
9 there probably weren't the votes and certainly the political
10 will to adopt 67. For the record I want to indicate on
11 behalf of my client, we do believe that's the best option.

12 I'm not here today speaking for 66. I'm
13 speaking for Madison County's thousands of residents that I
14 represent, both Democrats and Republicans. That's an
15 important distinction and I want to make sure it's
16 understood.

17 Our motivation has never been partisan. The
18 word "Democrat" or "Republican" didn't appear in any of our
19 court meetings, in any of the previous addresses I made to
20 this commission.

21 Frankly, I have kept myself intentionally
22 ignorant as to the addresses of incumbents in this. The
23 only two incumbents I know where they live happen to be two
24 neighbors of mine, other than that, if you show me a map, I
25 have no idea where Senator Marley lives or any of the other

1 representatives and senators we are talking about. I don't
2 think that's a criteria that should even be considered.

3 As the constitution and the statutes list the
4 things to be considered, they talk about keeping counties
5 together and preserving local communities of interest.
6 Protecting incumbents or attacking incumbents is not one of
7 things listed by the legislature or in the constitution. I
8 don't think that's even worth being discussed today.

9 If the only two politically viable plans this
10 commission has before it are L76 and L69, on behalf of my
11 clients we would favor L69. We believe that L69 is the
12 fairest of the two options and it's the most legally
13 defensible.

14 Now, I know at the conclusion of our meeting in
15 Boise a decision was made by the commission to retain
16 separate counsel to be given an opinion as to which of those
17 two plans was the most legally defensible. I've had an
18 opportunity to get a preview of that, and my understanding
19 would be that the legal advice you're going to be receiving
20 later is consistent with the legal advice or that legal
21 opinion we offered you in Boise back on December 12. We
22 believe that L69 is the most legally defensible plan.

23 When we are considering dividing counties, I
24 understand there is a constitutional requirement. We only
25 do it if it's reasonably necessary. This legislature also

1 passed a statute which says its communities of interest
2 shall be preserved.

3 Now those of you who have studied legislative
4 construction know the word "shall" means important things.
5 Shall doesn't mean there is an option there.

6 In conclusion, I would just state that we
7 believe that any plan that divides Madison County under the
8 definition contained in the statute is wrong. Madison
9 County is a very small county in miles, but a very fast
10 growing population county. BYU Idaho and the expansion
11 going there, most of the new homes being built in Madison
12 County are in the western part of the state -- excuse me --
13 the western part of the county. And that's the part that
14 was cut off in the prior plan and thrown out by the supreme
15 court.

16 We would encourage the commission to keep
17 Madison together and adopt plan L69, unless they have
18 political will to adopt plan 67. Thank you.

19 COMMISSIONER GIVENS: Madam Chairman.

20 Mr. Moeller, my recollection of that last
21 hearing in Boise you said your client could support either
22 76 or 69; is that correct?

23 THE WITNESS: We could live with either of those
24 plans because they address the issues that we raised before
25 the supreme court as they effect Madison County.

1 CO-CHAIRMAN SELLERS: Could I ask that we not
2 have so much conversation in the audience or go outside,
3 please? Go ahead.

4 COMMISSIONER GIVENS: You made reference to the
5 word "shall" in the statute regarding communities of
6 interest. Actually that statue reads, "To the maximum
7 extent possible districts shall preserve traditional
8 neighborhoods and local communities of interest," doesn't
9 it?

10 THE WITNESS: I totally agree with that.

11 COMMISSIONER GIVENS: To say that the statute
12 makes it absolutely mandatory communities of interest
13 abound, is an inaccurate statement?

14 THE WITNESS: If I said that, that's not quite
15 the point I was making.

16 COMMISSIONER GIVENS: Thank you.

17 CO-CHAIRMAN SELLERS: Thank you.

18 David Whitworth, Robert Hanson, Mark Balzer.
19 And I understand Dr. Gerald Goodenough is substituting for
20 Mark Balzer.

21 MR. MARK BALZER: Dr. Goodenough has to leave.
22 I would like to trade places with him on the list so he can
23 speak in my place and I will speak in his.

24 CO-CHAIRMAN SELLERS: Okay.
25

1 WITNESS FIFTEEN: DAVID WHITWORTH.

2 THE WITNESS: I'm David Whitworth from Pocatello
3 and I'd like to pass on my right to speak, but I would like
4 to say I support L76 and I think Bannock County should be
5 kept whole because the constitution says so and also because
6 of the community interest deal. I think Swan Lake and
7 Downey go with Pocatello. Thank you.

8 CO-CHAIRMAN SELLERS: Robert Hanson.

9
10 WITNESS SIXTEEN: ROBERT HANSON.

11 THE WITNESS: My name is Bob Hanson. I just
12 happen to be the precinct committee for precinct 51 of
13 Bonneville County, so it's one of the precincts that is in
14 question with 76. Also I'm treasurer for Bonneville County
15 Republican Central Committee.

16 With all that, it doesn't really matter. I'm
17 most concerned about my neighbors in precinct 51. I thought
18 my job was tough in the nuclear business. There is a saying
19 "not in my backyard." It doesn't matter how ideal your
20 backyard is, not in my backyard. I guess it goes for this
21 too. It's a tough job.

22 I'm not particularly worried about getting a
23 piece of cherry pie. I do believe that either way we go,
24 we're going to get a piece of cherry pie. But I am very
25 concerned about the fact that in precinct 51, we are urban.

1 We are part of Idaho Falls. We are part of the growth of
2 Idaho Falls. People in my precinct are working hard to make
3 Idaho Falls all that it can be.

4 They aren't within the city limits, but I would
5 say, I don't know exactly, but I would say probably 95
6 percent of the people in precinct 51 are within forty-five
7 miles as the crow flies of the nearest city boundary. We
8 definitely are a community that shares interests with Idaho
9 Falls. I'm not going to belabor it. You heard the folks on
10 the other side of the hill talk about the differences, and
11 they are significant.

12 Yes, we are all Republicans perhaps, as you
13 quote the voting histories. I don't think that's the issue.
14 I think the fact of the matter is all politics are local and
15 that needs to be preserved from the standpoint of the
16 community of interests.

17 So I would recommend you take a good hard look
18 at L69, and give some of the folks that have the
19 understanding of the details and the county commissioners a
20 chance to work out some of the bugs that may exist there. I
21 think that pretty well covers my side.

22 CO-CHAIRMAN STUART: Mr. Hanson, I'm still
23 confused, forgive me for this, why folks in precinct 51 the
24 other south of Sunnyside feel disenfranchised or are
25 insulted by being attached to the southeast corner of the

1 state where the precincts in the northwest part of Idaho
2 Falls are linked to Stanley are somehow not effected. Can
3 you explain that to me?

4 THE WITNESS: Well, I think somebody already
5 addressed that. I can't. I think there are issues there
6 too.

7 CO-CHAIRMAN STUART: I wasn't clear. L76 plan,
8 of course, does what you've described, precinct 51 and other
9 areas, Bear Lake and Caribou, and the southeast corner, but
10 L69 which you apparently advocate does the same thing with
11 district 51.

12 THE WITNESS: With some possible revisions. I
13 think there are folks who suggest 69 could use a little bit
14 of scrutiny, but it's certainly, from our standpoint
15 speaking for several precincts in Bonneville County that are
16 looking at being moved over to the other side of the hill, I
17 think that 66 does us disservice, and 69 perhaps can serve
18 the interests of Bonneville County a little bit better.

19 I think it's also important to take a look at
20 the Idaho Falls area and where it's going. I don't want to
21 step on anybody on the west side of Idaho Falls' toes. For
22 the most part, the city is going east and the city is going
23 south.

24 I moved out on Sunnyside Road several years ago,
25 eighteen, nineteen, twenty years ago. And you couldn't get

1 more than about a mile and a half past my house. That's how
2 far they plowed the road. That's not the case anymore. I
3 have a lot of neighbors now, and I'm getting more neighbors
4 all the time. And that's where our city is going.

5 And I believe to take those folks and put them
6 into another community of interest, and it doesn't -- I
7 mean, our community interest is here. The growth on the
8 west side, there is some growth on the west side, but it's
9 definitely less than our side. Like I said, I don't want to
10 step on anybody's toes on the other side of Idaho Falls, but
11 I can only speak for precinct 51.

12 COMMISSIONER GIVENS: Where is precinct 51?

13 THE WITNESS: Precinct 51 is in, I would say,
14 pretty much the most southeast corner of this valley. It
15 runs all the way over to Skyline Ridge, but all along these
16 foothills from about First Street all the way down to about
17 Cotton Road. And then it goes east from there. And from
18 about, I think it's Ammon Lincoln Road, and in some places a
19 little further west than that.

20 COMMISSIONER GIVENS: So how far is it from the
21 precinct to Idaho Falls or Ammon?

22 THE WITNESS: Well, I live about two and a half
23 miles or about three and a half miles from the city
24 boundary. Ammon is about two miles from my house. So
25 that's from my house, there are folks that are a little

1 further south of me, but they're probably, like I say, about
2 three miles or four miles crow flight from Idaho Falls. And
3 from Ammon it's even closer.

4 COMMISSIONER GIVENS: Is your concern basically
5 the same as the mayor of Ammon's, deal with where that line
6 is drawn on the southern end of Idaho Falls?

7 THE WITNESS: I think my concern is taking the
8 95 percent of the people who live within four miles of Idaho
9 Falls and lumping them with a district that encompasses a
10 lot of different issues.

11 COMMISSIONER SHURTLIFF: A lot of what?

12 THE WITNESS: A lot of different issues we may
13 have, these are much more urban. We are not an agricultural
14 precinct. Yeah, there are farms there, but they're very
15 rapidly building and being turned into subdivisions.

16 COMMISSIONER GIVENS: I've got a map on this
17 laptop. Would you come here and just show me where on this
18 laptop? That's Idaho Falls and that's Ammon.

19 THE WITNESS: (Witness complies.)

20 COMMISSIONER GIVENS: That's all I have.

21 COMMISSIONER SHURTLIFF: Madam Chairman.

22 THE WITNESS: Which district is precinct 51,
23 Bonneville County presently in?

24 THE WITNESS: Bob, do you know which one we're
25 in? District 30, I believe it's 30.

1 CO-CHAIRMAN STUART: The third map on the left.

2 THE WITNESS: I believe it's 30. Mel Richardson

3 is our senator if that helps anybody.

4 COMMISSIONER SHURTLIFF: Do you know what other

5 geographical areas are in that district?

6 THE WITNESS: Geographic areas?

7 COMMISSIONER SHURTLIFF: Eastern Bonneville

8 County?

9 THE WITNESS: Yeah, I would say that -- if we

10 talk about the amount of land that Bonneville County has,

11 like I say, 95 percent of the people in my precinct live in

12 a very, very small geographical area within the precinct.

13 We have a tremendous amount of land in precinct 51, but

14 there aren't very many people living in most of it.

15 CO-CHAIRMAN SELLERS: Thank you very much. Dr.

16 Gerald Goodenough.

17

18 WITNESS SEVENTEEN: DR. GERALD GOODENOUGH.

19 THE WITNESS: I'm Dr. Goodenough. I'm a county

20 commissioner from Oneida County. When I was asked to sign

21 up for the election, I tossed a coin and it came up Democrat

22 so I'm a Democrat, but I'm not here to represent the

23 Democrats. I'm not here to represent the Republicans. I'm

24 here to represent the people. I appreciate this opportunity

25 to talk to you and I appreciate the difficulty with the

1 board.

2 Mr. Shurtliff, I know you put a lot into this
3 L76. I'm going to speak in favor of L69 and I'll tell you
4 why. And I'm going to skip a lot of things because they
5 were in Mr. Bruce Dredge's dissertation. I agree down the
6 line and it sounds like the one I wrote and submitted.
7 You've got my written submission there too. We have a
8 commonality economically, culturally and by district.

9 I was born in McCammon so I'm from southern
10 Bannock County. I grew up there. I now live in Malad. I
11 don't live in Pocatello. I wouldn't know how to live in
12 Pocatello. I'm a farmer. I don't know about phosphate or
13 things.

14 When I was born in Malad, because my parents
15 drove from Malad and had me in the hospital. They didn't
16 drive to Pocatello from McCammon. We lived thirty-five
17 miles to the south. They did the same thing when my little
18 sister was born. We -- I went to Marsh Valley High School
19 and we played other schools that are in the district that
20 are proposed by L69.

21 So you can see that we have a commonality there
22 by history and by the types of farming we do, the land use
23 issues that we have. It seems that that's well put and
24 understood, but the stumbling block seems to be this idea of
25 splitting Bannock County. And I understand about the

1 statute about not splitting counties, but I think that any
2 time there is a law or statute, that law or statute has a
3 spirit that has to be interpreted. If that weren't the
4 case, we wouldn't need a judicial process. We would be a
5 land without lawyers and judges, Then where would we be?

6 Now I can see if you take a blank picture in the
7 state of Idaho and start to whack it up according to
8 population without even county boundaries, that would be
9 kind of chaotic because most counties are, I think most
10 counties are kind of homogeneous.

11 Bannock County never was. Bannock County is
12 naturally split not by boundary, but by it's commonality of
13 interests for reasons that you've already heard expressed.
14 And I'm speaking as a person who grew up in McCammon, went
15 to Marsh Valley High School. Now I represent Oneida County.
16 I'm at home in both parts.

17 I respect the City of Pocatello, and we love to
18 come to Idaho Falls and visit, that's not my country.
19 That's not the country, I mean, farm country, not the
20 U S of A, but that's not my land. And my folks that I feel
21 adhere to this in terms of representation in Boise. And so
22 I'm going to ask that you consider L69 for these reasons and
23 that the spirit wouldn't prevent us from dividing Bannock
24 County where it seems already kind of naturally split for
25 those reasons. Thank you.

1 COMMISSIONER SHURTLIFF: Dr. Goodenough.

2 THE WITNESS: Yes.

3 COMMISSIONER SHURTLIFF: When you graduated from
4 Marsh Valley High School, you worked up to Pocatello to go
5 to school, did you not?

6 THE WITNESS: I actually went to the University
7 of Idaho at Moscow, and the one year that I didn't put in at
8 Idaho State, I graduated from the University of Washington.

9 COMMISSIONER SHURTLIFF: A few years ago there
10 was an effort on the part of some of the people in the
11 southern Bannock County to secede from Bannock County.

12 THE WITNESS: I read that in the paper last
13 year.

14 COMMISSIONER SHURTLIFF: Were you there?

15 THE WITNESS: Back in Oneida County.

16 COMMISSIONER SHURTLIFF: Yes.

17 THE WITNESS: Yes.

18 COMMISSIONER SHURTLIFF: They didn't -- those
19 people didn't ask the legislature to whack them off Bannock
20 County and put them with Oneida County, did they? They
21 asked them to whack them off of Bannock County and create a
22 county of their own, didn't they?

23 THE WITNESS: A few people did. I understand
24 that the preponderance of the people did not go for it
25 saying it wasn't economically feasible, but you're saying

1 that some folks wanted to be their own county and not part
2 -- that's definitely true.

3 COMMISSIONER SHURTLIFF: They didn't want to be
4 part of Oneida County, as lovely as it is.

5 THE WITNESS: That's true. We weren't even
6 approached about that. That's a different issue altogether.

7 COMMISSIONER SHURTLIFF: There was people down
8 there on the commission that said either get out on their
9 own or stay where we are; right? It wasn't join up with
10 Oneida or Caribou or Bear Lake or Franklin?

11 THE WITNESS: That's right. That's different
12 issues than representation for the legislature because of
13 the economics of forming their own county. I don't think
14 that become an argument.

15 COMMISSIONER SHURTLIFF: I appreciate that, sir.

16 CO-CHAIRMAN SELLERS: Any other questions?

17 Thank you. We're going to recess for 30 minutes.

18 (Off the record.)

19 (Lunch break from 12:45 to 1:40 p.m.)

20 CO-CHAIRMAN SELLERS: Because there has been a
21 significant amount of testimony about the division of
22 counties versus the communities of interest, some of us felt
23 strongly that it was time to go ahead and hear the findings
24 of our outside counsel that was brought in, Mr. Tim Hopkins.
25 And I'd like to go ahead and give him the floor, and we will

1 go from there.

2

3 WITNESS EIGHTEEN: TIM HOPKINS.

4 THE WITNESS: Thank you very much, Madam
5 Chairman, and members of the commission.

6 It was a pleasure for us to be -- a privilege
7 for us to be contacted by the commission and asked to
8 present you with our legal opinion concerning the matters
9 that are before you. I've been impressed, as I've been here
10 this morning, to hear the strength of opinion that has been
11 expressed to you by citizens in public offices from
12 throughout eastern Idaho and am impressed by that with the
13 importance of your work and the importance of your eventual
14 decision as you try to resolve these matters in the best
15 interests of the State of Idaho and consistent with the law
16 of the State of Idaho.

17 In employing us, you asked us to specifically
18 review plans 76 and 69. Those, as we were given to
19 understand it, were the two plans that the commission had
20 tentatively adopted, tentatively adopting plan 76 and as an
21 alternate plan 69.

22 With respect to those plans, you directed us in
23 particular to look at issues related to eastern Idaho, which
24 had to do with the Federal Voting Rights Act as it may be
25 applicable to the work you do on the Fort Hall Indian

1 Reservation, and as well the provisions of the United States
2 Constitution and the Constitution of the State of Idaho
3 having to do with the division of counties.

4 And then you asked that we provide you with
5 opinions as to the specific risks of each plan. The
6 magnitude of any of those risks, and if the risk differs,
7 which of the two plans is the more defensible from a legal
8 standpoint.

9 So in an effort to respond to those questions
10 very specifically, as you know, we have provided the
11 commission with a draft of our opinion which we got to you
12 on New Year's Eve night, and then a final opinion which we
13 delivered to you here in Idaho Falls yesterday.

14 And I'm assuming that all of you have had the
15 opportunity to review that plan and to consider its
16 contents, review those opinions of ours as they relate to
17 the plans that are under consideration, and that you will
18 have questions for me when I briefly reconclude what I have
19 to say to you in addition. But because you have made a
20 point of saying that those who have submitted information to
21 you are entitled to assume that you have read that
22 information, I'm making that same assumptions with respect
23 to our opinion.

24 But based on your invitation, I would like very
25 briefly to go through our opinion and to provide for you the

1 basic rationale that's sustains what we have said to you by
2 way of legal analysis.

3 And firstly, then if you're following me in the
4 opinion that I provided to you, I'm starting out here with
5 my letter to you, which is the letter of opinion in the
6 analysis section.

7 And the first element that is addressed there is
8 the fourteenth amendment to the United States Constitution,
9 which insists on equal protection of the laws being provided
10 to all our U.S. citizens.

11 That was the provision of law that the State
12 Supreme Court of Idaho found to have been violated in the
13 plan that was presented to them earlier, your plan L66. And
14 there it was challenged very ably by Greg Moeller and the
15 citizens of Madison County and the commissioners from
16 Bingham County. And the supreme court found, based on what
17 was presented to it in those arguments that, in fact, the
18 variations there, statistical deviations were greater than
19 ten percent, hence the plan presented and argued was
20 unconstitutional. That's what brings you back here today.

21 Our review of both plan 76 and plan 69 with that
22 specific criterion in mind, that is to say, that the
23 deviations, the ten percent or less claims that either plan
24 76 or plan 69 passes constitutional muster in that respect.

25 So you have solved the principle problem that

1 impacted you and send you back to the drawing board with
2 plan L66 which was reviewed by the supreme court. So it's
3 our opinion that either of these plans would be adopted by
4 you at this time with the confidence that you satisfied the
5 requirements of the fourteenth amendment and the
6 requirements of the most recent decision of the Idaho
7 Supreme Court.

8 Secondly, we address the issues of the Federal
9 Voting Rights Act. The Federal Voting Rights Act was
10 established to give effect to the fifteenth amendment of the
11 constitution which gives the right to vote to all of us.
12 And in an effort to be sure that right to vote was not
13 deviously denied to persons who may be of different ethnic
14 origin or different color, then the Voting Rights Act was
15 found to be necessary and it seems to protect persons from
16 that kind of discrimination.

17 The concern you had, as we understood it, in
18 presenting this question to us was dealing with the Native
19 American population at Fort Hall. Both your plans have
20 impact on the residents of the Fort Hall Indian Reservation.

21 And the question would be, do the impacts that
22 those plans have violate the provisions of the Federal
23 Voting Rights Act? And the simple answer to that question
24 is that they do not.

25 In the case entitled Ingles versus Thornbird

1 (phonetic) a case decided by the United States Supreme
2 Court, a three-part test was established for determining
3 whether a minority population had been discriminated against
4 as a result of a districting plan of the type that you're
5 designing.

6 That three-part test starts out with a
7 condition, a precondition to consideration of the court of
8 an alleged minority discrimination by saying that minority
9 must demonstrate its population is at least strong enough to
10 influence the vote in that district, that is to say, that if
11 every single member of the minority voted together that they
12 could indeed carry the voting majority in that district.

13 Now your ideal district is made up of 36,700
14 some odd people. And you have made every effort in your
15 districting process to equalize the district with that ideal
16 in mind. This obviously would take considerably more
17 residents of Native Americans in any given district to
18 constitute a majority or fifty-one percent.

19 One of these plans, your plan L69, puts the bulk
20 of the Native American population at Fort Hall in a single
21 district. And that represents roughly 4,075 Native American
22 persons in that district.

23 The plan L76, in fact, divides the Fort Hall
24 population more times. And one of the districts would have
25 approximately 2100 in it and another would have 1700 in it

1 so that they are divided, but it's our opinion that it is
2 not a concern of this commission that it would be violating
3 a Federal Voting Rights Act by adopting either plan L76 or
4 plan L69. I know that's been a concern for you. I think we
5 can put those concerns aside based on our legal analysis.

6 Next we get to the issues that involve Article
7 3, Section 5 of the constitution of the State of Idaho. And
8 there the focus of this consideration gives focus to the
9 tension that has existed in the testimony here this morning,
10 whereas, some people have suggested that particular
11 consideration must be given to county boundaries and they
12 are to be divided as seldomly as is reasonably possible.
13 And other attention has been given to so-called communities
14 of interest to say that it is not realistic to ignore
15 natural communities of interest that exist amongst citizens
16 in regions of the state.

17 But the provision of Article 3, Section 5
18 provide that in the creation of legislative districts a
19 county may be divided only to the extent it is reasonably
20 determined that it must be divided to create districts which
21 comply with the Constitution of the United States.

22 Now in your redistricting process in both of
23 these plans you have been careful in your application of
24 that provision and you have divided counties seldomly, but
25 you have divided counties. You have divided counties

1 considerably fewer times than the current plan that is in
2 place divides counties.

3 If the current plan divides it fifteen times, I
4 think that's the number, then the plans that you have
5 proposed, in our opinion there are different ways to count
6 these divisions you understand, but at least they divide
7 counties considerably fewer times, nine and seven are the
8 numbers that we come up with in either of these plans.

9 So you have been cautious about that, and you
10 have appropriately given great weight to the importance of
11 that constitutional provision that says not that you may not
12 divide counties, but that you may divide counties but in
13 doing so, you must do it reasonably and only for purposes
14 related to equalizing population to satisfy the fourteenth
15 amendment. That's why in our opening comments I suggested
16 to you a deviation of ten percent or less, you have
17 satisfied that requirement in creating equal districts in
18 both plans.

19 That's very important, but that's not where
20 again the tension rises. The tension rises really in
21 putting that provision of our constitution together with
22 Article 3, Section 2 of our constitution, which was passed
23 in 1994 and provided for the creation of the commission that
24 you all are sitting on. The first time an effort in the
25 genesis of the work of this commission and it's history.

1 And that provision of our constitution, which
2 was of course passed initially by the state legislature and
3 then referred to the people and confirmed by the people,
4 provided that rather than having the legislature which had
5 previously been given that responsibility of creating
6 legislative districts, it was the desire of the legislature
7 and of the people of the State of Idaho that that dividing
8 process be given over to a citizen commission made up of
9 folks that look like you, who represent the different
10 regions of this state, who represent its different political
11 interests, and who are people highly motivated to do good
12 work on behalf of the citizens of the State of Idaho in
13 creating legislative districts that will be fairly constant.

14 So the constitution provided specifically for
15 that by amendment of 1994. And in addition to that, that
16 constitutional provision said the legislature must give
17 specific effect to what we say here, that is to say, the
18 legislature must draw rules to govern the activity of the
19 legislative redistricting commission.

20 And that work was taken on by the legislature at
21 this next session in 1996, the provision referred to as
22 Idaho Code 72-1501 and the following sections were created
23 for that purpose. And in those provisions of state statute
24 it specifically directs the work of your commission, tells
25 you how to go about it. And what it does in significant

1 part is repeat the provision of Article 3, Section 5 of the
2 constitution which says, you've got to be careful about
3 dividing counties. You may divide counties, but you've got
4 to be sure it's reasonably necessary to satisfy the
5 requirements of the fourteenth amendment of the United
6 States Constitution.

7 And then it also says that you shall, in the
8 process of your redistricting, give account to communities
9 of interest and traditional neighborhoods, and that you
10 won't be motivated by politics, and that you will try to
11 respect boundaries of existing precincts as best you can.

12 All those considerations are considered in the
13 list of considerations to be given to your job prescribed to
14 you by legislature of the State of Idaho, which prescribed
15 them to you based on direction from the Constitution of the
16 State of Idaho that created the commission in the first
17 place.

18 So I'm getting to my conclusion quickly for you
19 because I'm sure I'm going to have an opportunity to respond
20 to questions. There are some fine lawyers on your
21 commission and I'm sure they're waiting for the opportunity.

22 But what I want to conclude by saying is, that
23 it is that history that has impressed us significantly in
24 trying to be of help to you. Because as a fundamental
25 matter of statutory interpretation, as a fundamental matter

1 of constitutional interpretation, it is that those
2 provisions of law are to be interpreted together, not
3 separately. If possible to give effect to all of those
4 provision of law, not to have one provision of law black out
5 the impacts or the influence or the credit given to another
6 provision of law unless there is no other way to do it.
7 And if there is no other way to do it, maybe that provision
8 of law is unconstitutional.

9 Nobody raised that issue. So it's our opinion
10 that indulging in your work, you have to try to give meaning
11 to our three Section 5, Article 3, Section 2, and the
12 statute that gave details to the work that you do and the
13 standards that you are to apply in accomplishing it. All
14 those things are to be brought into harmony that guides your
15 effort here.

16 It's our opinion that if you do that, then when
17 you consider the plans, L76 and L69, when you get to the
18 issues related to that constitutional provision and analysis
19 as to whether you will follow the statutory provision that
20 relate to community of interest, and the oddly shaped
21 districts which is another thing that's prohibited by that
22 statutory provision, then when you look at 76 and 69,
23 frankly, it gets down to a single issue,

24 What about District 28? Is it oddly shaped?
25 Some might say odd shapes are in the eye of the beholder,

1 but anyone who has been a student of math which creates
2 District 28 in plan L76 would say that at least it's awkward
3 looking because it spans a distance from the City of Idaho
4 Falls to the southeast corner of the state and Bear Lake
5 County and Franklin County and Oneida County and Soda
6 Springs and the area of Caribou County.

7 And frankly, those good folks from eastern Idaho
8 in the most effective way have told you what their
9 preferences are. Frankly, this morning they said you can
10 put us with Bonneville County. We don't mind being with
11 Idaho Falls, but we have very little in common with them.
12 And likewise, people from Bonneville County have said the
13 same thing about that corner of the state.

14 Well, in our opinion in view of testimony
15 similar to that that you have previously heard in other
16 sessions when you invited the public to present themselves
17 to you, it is our opinion that if you are to give effect as
18 best you can to all of the provisions of law and the
19 constitution to control your decision-making, you will take
20 that into account provided you have to divide some county to
21 find enough population to make a district out of those four
22 southeastern Idaho counties.

23 And it's true that you do. Statistical analysis
24 simply is that four by themselves are not enough.
25 Traditionally, they have been joined as you all know, of

1 course, to one or more of those counties have been joined
2 with southern Bannock County to create a legislative
3 district.

4 That's the bottom line in terms of our analysis.
5 If we were to say to you as you asked us to, as I have said
6 to you in our opinion that you have before you, to compare
7 the defensibility from a legal standpoint, assuming you may
8 get challenged again here and may find yourselves and your
9 plan again on the desk of the five members of the Idaho
10 Supreme Court, then it's our opinion, as we have offered you
11 to indulge in this analysis that tries to give effect to all
12 of the law that bears on your work, that the more defensible
13 of the two plans given those tests would be L69.

14 Now, we said a great deal more in here. We have
15 supported that with case law that we have not attempted to
16 overburden you with, but which we have tried to provide you
17 reference to so that there is an authentic professional
18 basis for the opinion I just offered to you. And I would
19 say that I am happy to respond to your questions. I expect
20 there will be some, and take such further steps the
21 commission may want us to assist it in reaching its
22 conclusion.

23 CO-CHAIRMAN SELLERS: Thank you.

24 COMMISSIONER TAYLOR: I live in Burley, and I
25 don't spend a lot of time talking to lawyers. I need to

1 take at least a -- well, as I can -- how's that?

2 In some of the earlier testimony that we had
3 there has been, at least from what I heard, a discussion
4 that the Idaho Constitution mandates or strongly suggests
5 not splitting a county any more than is necessary.
6 Basically, it trumps the approach of communities of
7 interest, that the communities of interest concept to this
8 is less than keeping of counties together.

9 Are you saying then in your opinion that there
10 is no such thing as a trump issue here that there needs to
11 be a, quote/unquote, "common sense approach" to this as long
12 as all of these things are taken into consideration and
13 melded together to come to a reasonable or a common sense
14 approach? Is that what I'm hearing you say?

15 THE WITNESS: The short answer to the question
16 is yes. The extended answer to the question is, there are
17 instances in which a constitution would be treated of
18 greater significance than would be a provision of statutory
19 law, particularly if the statutory law sought to do
20 something in conflict with the constitutional provision.
21 That's the classic conflict that results in the statutes
22 being declared unconstitutional.

23 But unless that suggestion is made, which is as
24 I said earlier, has not been made to my knowledge, then the
25 duty really of the person sitting down with constitutional

1 provisions and statutory provisions, bearing on the same
2 subject, is to give effect as best one can to the provisions
3 of the constitution and the statutes; both of them having
4 legal effect, both of them being expressions of the intent
5 of the people of the State of Idaho and the legislature.

6 COMMISSIONER TAYLOR: Thank you.

7 CO-CHAIRMAN STUART: Tim, thank you very much
8 for you report. I appreciate all the time you spent on
9 this. For the commissioners' information, Mr. Hopkins and I
10 talked about some of the issues I'm going to raise again
11 today in our phone conversation a couple days ago where I
12 addressed some of these same concerns, although, I thank you
13 for addressing some of them in an articulate, thorough
14 fashion and your logic. I still do have some concerns.

15 For the record I'm still very troubled by my
16 perception that, in your analysis, the tension that exists
17 between the constitutional and the statutory provisions are
18 still very gray.

19 I heard an analysis that explains it very
20 clearly to me, in that there is a way that I can look at
21 this where it appears the tail may be wagging the dog. And
22 by that I mean, I'm sure you know exactly what I'm getting
23 at, the dog is, of course, the constitutional constraint
24 against dividing counties, unless it equalizes population as
25 you have said and as we all understand.

1 The tail in this case is, of course, the
2 subordinate statutory provisions vision of 16-1506 of law.
3 And my concern is that may be there is a perception that's
4 very possible that we are in effect using the statutory
5 provisions of 1506 to grant ourselves permission to violate
6 the constitution. I'm very concerned about that still.

7 This is a potential flaw in my view, and I
8 acknowledge it's a gray area and subject to various kinds of
9 interpretation. This is a flaw in my view that it
10 understates the significant legal risk of plans that, like
11 L69, that split counties where it's not necessary to do so.
12 Especially where we have other alternatives on the table,
13 like the L76 and a host of other plans on the wall around
14 here, that do not split Bannock County unnecessarily.

15 So I would be missing you if I told you that I
16 was convinced that looking at these laws in totality gave me
17 a different view. I'm afraid it still does not. I still
18 probably subscribe to the more constructionist view in that
19 the constitutional provision is indeed a higher authority to
20 keep counties whole when it's possible to do so. I think
21 the various plans on the table show that it is possible to
22 keep Bannock County whole, District 28, so I think -- I'm
23 still concerned about that.

24 THE WITNESS: I think your concern is warranted.
25 I wouldn't for a moment diminish the importance of your

1 concern because I think it's inherent trying to interpret
2 both constitutional and statutory provisions bearing on the
3 same subject where there has been an evolution of the
4 constitutional division in Idaho bearing on this subject,
5 and evolution as well of the statutory provisions that bear
6 on the subject in the State of Idaho, but several people
7 this morning mentioned spirit, and they talked about trying
8 to honor what they understood to be the spirit of the law.

9 And I again, you have employed me to provide you
10 with, as best I can, my legal experience and learning on
11 these subjects. So I say to you that those of us who defend
12 the law on a regular basis are frequently said to be
13 defending something that has no reason to it, has no spirit
14 in it, that it is an impersonal kind of line drawing
15 exercise.

16 Well, I don't find that to be the experience
17 I've had to be true. More often than not, the intent that
18 motivates the creation of law, particularly constitutional
19 law and statutory law, dealing with subjects of broad
20 spread public concern of the type we are dealing with here,
21 involve intent.

22 And I think, as I reviewed a moment ago, the
23 history of the development of these constitutional
24 amendments and statutes that governs your work, the intent
25 of the people of Idaho has really been quite clear. Back in

1 1983 and 1984 when redistricting plans prepared by the
2 legislature were challenged, at that time our constitution
3 said, you shall not divide counties. And that was it. It
4 was very clear to understand. There was no different way to
5 interpret that.

6 The Constitution of the United States was the
7 same as it is today, the fourteenth amendment says you've
8 got to treat people equally. And there was a conflict, a
9 head-on conflict, in fact a conflict in which Mr. Givens
10 played a very significant role as counsel on behalf of
11 plaintiff parties in that case.

12 To make a very long story short, it ended up
13 that the Supreme Court of Idaho agreed that there had to be
14 a plan drawn that would leave counties whole, and at the
15 same time honor the one person, one vote, principle.

16 Well, it turned out the legislature wasn't able
17 to do that. It turned out the court did that. Courts
18 weren't supposed to do that. It's the people's work, not
19 the court's work, but at that time in fact a court did that
20 satisfactorily. But then the people of Idaho and the
21 legislature of the State of Idaho recognized the conflict
22 that took place at that time and how awkward it was for our
23 machinery, our process of government to be delayed
24 essentially through that period of time saw fit to amend our
25 constitution to make it possible to divide county lines at

1 that point as may be necessary to satisfy the requirements
2 of the United States Constitution, one person, one vote
3 principle.

4 So in our view the intent of the public and the
5 intent of the legislature was to make possible doing
6 something that was not possible in law to do back in 1983
7 and 1984 when this conflict first developed.

8 So then we went through another process with
9 that amendment to the constitution in place in 1990 as a
10 result of the 1990 census that we again found difficult.

11 Dean Haagenson has told us this morning earlier
12 that he was a part of the process of amending the
13 constitution and creating the statutes I'm making reference
14 to. And I think what he said had much to do with supporting
15 the intent I'm suggesting to you was fundamental to the work
16 that was done at that time.

17 And so we again amended the constitution after
18 the frustration of the '90s, early '90s to provide for the
19 creation of this commission, but we, I mean to say the
20 legislature and the people of Idaho said, there is a better
21 way to do this. We need to take it out of the legislature's
22 hands and give it to a commission constituting all the
23 people.

24 And then we said, through the legislature and
25 through the vehicle of the constitution, Article 3, Section

1 2, the legislature, however, which does these things, must
2 design a way for the commission to do it's work. And it
3 did. And it didn't ignore the provision of Article 3,
4 Section 5. In fact, it repeated it in the statute, and it
5 added things like: You shall respect communities of
6 interest, you shall as best can you respect traditional
7 neighborhoods, you shall as best you can not create odd
8 looking districts, and shouldn't let politics influence your
9 decisions, and the other litany of those rules which you're
10 more than familiar with.

11 And the intent again was to provide a basis for
12 a better system that didn't get locked up on the hard line
13 provision of our constitution that was there back in the
14 '80s that said you can't divide county lines. The idea was
15 to give flexibility so that the collective judgment of a
16 citizen's commission constituted like you are, can be
17 brought to bear on a very difficult subject, and do for the
18 people of Idaho what it was felt the legislature was not
19 able to do well.

20 Now that's the intent that we believe guided
21 that evolution in the constitution and in the creation of
22 the statue. And it is in that spirit, if you will, with
23 that intent in mind that we come to the conclusion we have
24 come to, that is to say, not to honor what you have referred
25 to as a strict constructionist view; that is to say

1 essentially, the plan that divides counties the fewest times
2 is the best plan. It may not be. It may not be. It may
3 not be if communities of interest as strong as you have
4 heard testimony about here this morning exist and, in fact,
5 are being ignored to honor a plan that is respecting county
6 boundaries perhaps more than they deserve to be respected.

7 There was a time when they were not allowed --
8 we were moving -- history tells us, I'm not telling you
9 this, history tells us -- away from that.

10 So that's a very long answer to your question,
11 Mr. Stuart, but nonetheless it provides you with a sense of
12 how we have come to our opinion.

13 CO-CHAIRMAN STUART: I don't know a person that
14 hasn't struggled with this. I'm old military man. And a
15 stop sign means stop, not yield. The speed limits are what
16 they are. I know when I'm breaking them and when I'm not.
17 It's clear to me.

18 I struggle -- I had a conversation with a
19 gentleman this morning about the same topic, and it came
20 down to a discussion of intention between statutory
21 provision on oddly shaped districts and the constitutional
22 splitting of counties.

23 This gentleman said, you know, if we applied our
24 statutory rules on oddly shaped districts, we would have to
25 split Blaine County. There is no odder shape in this state

1 than Blaine County. It has that goofy little tail that
2 hangs down there. And likewise, Jefferson County with that
3 funny wedge shaped foot that slides down there under Madison
4 and Bonneville. Does the statutory prohibition of oddly
5 shaped mean we should cut those counties up?

6 Obviously, I don't think it does. It doesn't
7 mean that at all. In that case the stop sign doesn't really
8 mean stop. That's the basis for my concern.

9 THE WITNESS: I respect your struggle. And
10 these are fair questions.

11 CO-CHAIRMAN SELLERS: Commissioner Shurtliff.

12 COMMISSIONER SHURTLIFF: Thank you, Madam
13 Chairman.

14 Tim, as you know, I preface my remarks by
15 reminding you, and the audience might not know it, I voted
16 against hiring you, not because you went to Stanford, but
17 because I believe that in the final analysis, the decision
18 is ours and not yours.

19 I was not particularly concerned about the
20 impact on our decision of the Federal Voting Rights Act. I
21 suffered six years out of law school enforcing the voting
22 rights act and the justice department, I was confident then
23 and I'm confident now with your opinion that the Fort Hall
24 reservation, that we don't need to be unduly concerned about
25 it in terms of its impact on our work. So I was opposed to

1 hiring of you. I thought it was unnecessary.

2 I should say too, with all due respect, I mean
3 this sincerely, you know, I respect your opinion a great
4 deal and your abilities, but I don't think you were hired to
5 look at oddly shaped districts or communities of interest.
6 My understanding of your agency was that you were asked to
7 look at the question put to you by Commissioner Taylor and
8 discussed with you by Commissioner Stuart, whether the
9 voting rights act would trump, so to speak, in our hierarchy
10 of what's important; whether it would trump the one, the not
11 dividing the counties.

12 The issue of the federal and state
13 constitutions, the federal constitution is preeminent, then
14 the state's federal statutes, then the state's constitution,
15 and then the state statutes. That's generally the remark on
16 hierarchy, and I thought that was your task. And so quite
17 frankly, when I received your opinion as to the
18 defensibility of the plan and you get into these other
19 issues of -- you say comes down to District 28, again I
20 don't think that was what we hired you to do. But you've
21 done it. And I admire your work and I appreciate your work.
22 I don't agree with your work, but I understand it.

23 Let me suggest to you that your focus was too
24 narrow. Because if you look only at District 28, it is an
25 odd, goofy looking thing, but as was pointed out, so is

1 Blaine County, but who among us can look at the state of
2 Idaho, as much as we love it, and say that's not odd and
3 goofy? Who would design a state looking like that?

4 We have it. So I really don't think that's a
5 factor that we need to consider. And then you suggested,
6 and quite properly, that what is a community of interest,
7 what is oddly shaped, and so forth, is in the eye of the
8 beholder.

9 That's one of the reasons that I felt that
10 ultimately the decision would still have been made by us
11 regardless of what opinion you made, and so I suggest to you
12 that you look at District 28 quite appropriately and you
13 considered and have formed an opinion, which is certainly
14 within your right, and you assume to be within your
15 obligation to determine whether it was oddly shaped or
16 whether it consisted of communities of interest, and so
17 forth.

18 I would suggest to you that if you looked at
19 District No. 2, it's oddly shaped. It's goofy. It puts
20 together people who say, my goodness, I've got to drive from
21 the southern end of Bonner County to the northern part of
22 Benewah County and I've got to go through Coeur D'Alene to
23 do it. And by the way, I've got to reach over and go up the
24 interstate there and touch base with the people in Shoshone
25 County. We don't have anything in common with those folks.

1 I think that an awfully strong argument could be made that
2 they don't have a lot of in common, but we didn't look at
3 that district.

4 We didn't look at -- we heard concerns here
5 today and they're good, genuine concerns. I don't discount
6 those concerns about people from Bear Lake County having to
7 travel to Ammon. That's a long and difficult chore, but is
8 it more so than the people in Peck or Headquarters traveling
9 down across the Clearwater River down through Nex Perce or
10 down through Lewis and Idaho County down to Valley County?
11 It's the distance of what we're talking about from the
12 people in Bear Lake to Ammon are only part of that distance.

13 Are we talking about how far it is for the
14 county commissioner in Lemhi County to come to Idaho Falls
15 today to be here with us? Oddly shaped districts, that
16 district is not oddly shaped, but it's bigger than probably
17 four of our states.

18 So it is in the eye of the beholder. I suggest
19 to you that it's an ugly district, I know that, but it's no
20 uglier and it's no less defensible than are some of the
21 others and it's just as necessary.

22 You started out, you said that in your view we
23 look at the federal constitution, one man, one vote. We
24 talked about this morning. There is no argument about that.
25 And the Supreme Court of the State of Idaho reaffirmed that

1 principle in our last exercise with it.

2 Then we look at the state constitutional
3 provisions, and you say that we take a look at the
4 constitutional provisions that set up this commission and
5 the statutory enactments which gave us a road map of what we
6 are supposed to do.

7 And again, with all due respect, I don't think
8 and I don't accept the proposition that the statutory
9 enactment trumps or even has parallel with the
10 constitutional provision that says, you shall not divide
11 counties unless necessary, reasonably necessary to effect
12 the purposes of one man, one vote.

13 It's not, we don't divide counties. The
14 constitution doesn't say, divide counties to effect purposes
15 of people from Bear Lake not having to drive to Ammon to
16 being in the same legislative district. It doesn't say, you
17 can divide counties to make not ugly, odd shaped. It says,
18 you can divide counties to effect the premise of one person
19 one vote.

20 COMMISSIONER HAAGENSON: Madam Chairman, is that
21 a question?

22 COMMISSIONER SHURTLIFF: Yes, it is a question.
23 It may or may not be a question. If I'm boring you, I
24 apologize, but it's an issue I think is important. And it's
25 an issue I think that the supreme court may again think is

1 important.

2 I've been told this morning that regardless of
3 what plan we annunciate or finally come up with, people are
4 going to sue on this hand and on that hand. I want the
5 record to be clear because the criticism last time we went
6 to the supreme court that there was no record. And I want
7 the record to reflect at least what this commissioner's view
8 is what we're dealing with and what the law is. If I bore
9 you, I apologize, but that's what I'm going to do. The
10 issue is whether a difference between debating or lobbying
11 the witness has been going on all day today, statements to
12 questions.

13 If I'm badgering the witness, I apologize to the
14 witness, but I didn't know he was a witness. I thought he
15 was an employee that we're paying \$150 an hour of the
16 taxpayers' money to provide us an opportunity to have an
17 opinion. And I would think that we ought to have an
18 opportunity to examine that. If you don't like it, tough.

19 CO-CHAIRMAN SELLERS: Continue, Please.

20 COMMISSIONER HAAGENSON: I have a proposition --

21 COMMISSIONER SHURTLIFF: The proposition I would
22 suggest to you is that if you're correct that we can only
23 divide counties to effect the purposes of the fourteenth
24 amendment, then I suggest to you that the division of
25 Bannock County is not proper in that respect because, as you

1 put it, unless there is no other way to do it -- and I think
2 you said that, I think I wrote that down -- unless there is
3 no other way to do it, and there is a plethora of maps. And
4 if we give people two more weeks, we'll have another
5 plethora of maps showing other ways to do it.

6 We could take, for District 28, as I said to a
7 witness this morning, there are any number of ways to
8 accomplish the purpose of the fourteenth amendment with that
9 district without dividing Bannock County, any number of
10 ways.

11 I would suggest to you, Mr. Hopkins, I would
12 suggest to the record that the constitutional requirement of
13 not splitting counties unless necessary to achieve the
14 purposes of one person, one vote, was not meant or designed
15 to divide Bannock County which doesn't need to be divided to
16 accomplish one man, one vote.

17 That satisfies the people of other counties.
18 That's not necessity and it isn't required. I would suggest
19 that if you look at that constitutional provision in the
20 vacuum of a county, not in the context of the whole plan, it
21 violates that constitutional provision and I don't believe
22 it's trumped by the statutory provisions of communities of
23 interest or oddly shaped districts, or so forth. Thank you
24 for that. If you care to respond, that is, as it points out
25 -- it may or may not be a question, but if you want to

1 respond, feel free.

2 THE WITNESS: I'll take the opportunity to
3 respond only briefly. The answer to your extended thought
4 on this matter is really in our opinion, we have written to
5 the commission and have specifically addressed that point.

6 And Mr. Shurtliff will be familiar, I'm certain,
7 with our thought about that matter. So I will not elaborate
8 on that. I will say that, of course, the commission must
9 make the decision as with everybody's difference of opinion,
10 you asked for our counsel, we are offering you our counsel
11 for whatever it's worth. And that, you have the
12 responsibility to make your judgment with as you have all
13 heard the other testimony that you have heard here today and
14 heard in past months, all of which serves you simply as an
15 element of process that you must go through in making up
16 your minds.

17 Please don't misunderstand us in that respect.
18 I'm confident you have not. So far as the breadth of our
19 question or the breadth of the question that we answered is
20 concerned, it's specifically related to a letter we have
21 here from your acting chair. We sought to address the
22 questions that were presented to us in writing. We do not
23 believe we exceeded our assignment, and we certainly hope
24 what we provided to the commission may be of some assistance
25 in your decision.

1 COMMISSIONER SHURLIFF: Thank you.

2 THE WITNESS: Thank you.

3 COMMISSIONER GIVENS: Madam Chairman, Mr.
4 Hopkins.

5 As I'm sitting here this last little bit, I've
6 been smiling to myself thinking how truly extraordinary
7 what's going on here is and what an honor it is to be part
8 of this process and to be able to do something that is
9 usually done by the legislature behind closed doors and
10 smoke filled rooms. And we're out here in such a public
11 way. And its very rare that you ever see any government
12 body enter into a public discussion with their legal counsel
13 as to whether something should be done this way or that way,
14 particularly when there has been threatened litigation.

15 The open meeting law specifically allows those
16 kinds of decision to be done in executive section. We,
17 amongst ourselves earlier today and over the last time
18 period, we talked about how we ought to deal with this. And
19 the consensus was we thought to do it out in public. This
20 is the public's business and you can't do public business in
21 private. And I feel strongly about that, so I'm glad we are
22 doing this in an open way.

23 But because there has been threatened
24 litigation, and I'm convinced there still will be no matter
25 what we do, if we adopt plan 76, the people in Bonneville or

1 some other county are going to sue saying this is -- and the
2 district around the corner going up to Bonneville County is
3 the stupidist thing I've ever seen. It's too violates the
4 statute.

5 If we adopt 69, people in Bannock County are
6 going to say we have just exactly the right number of people
7 for two districts and you're chopping us up in violation of
8 both constitution and statute, and the court ought to change
9 that.

10 So since we are talking about the legal
11 justification, and each of the commissioners is, I guess,
12 trying to come to grips with where we each think we need to
13 come down, I think it is important that we talk through
14 these legal issues on all sides of it in public, if we can,
15 to the other members of the commission.

16 I want to make sure this is not just a back and
17 forth bickering between two lawyers with differing opinions.
18 I don't want it to be that, but I think there are a couple
19 of ways of looking at this that says, one side of the story
20 is this. I think it's important for the story to be out in
21 public as well.

22 I was one of the -- as a matter of fact, I
23 probably was the primary commissioner who suggested hiring
24 Mr. Hopkins, and I did that because I felt strongly that the
25 commission needed to adopt specific findings so that there

1 would be a specific record of why we did what we did,
2 whether it be because of the amount of deviation or because
3 of the split of counties, my feeling has been that I thought
4 the transcript was good enough and our prior legal
5 representation got that before the court, but they couldn't
6 find a way to do it. And I wanted to make sure that
7 whatever plan we come up with is well-presented to the
8 court.

9 And Tim, I have great respect for as a lawyer
10 over the years, and I thought you would be probably as good
11 as anybody to do that. That's why I hoped you would do
12 this.

13 I disagree with your legal analysis in part and
14 we talked about that. This is nothing new. It doesn't
15 bother me in the least we end up in a different place than
16 my lawyer does. And I'm probably a somewhat unusual client
17 in that I litigated this issue extensively, and I've thought
18 of it as a lawyer at least as a client.

19 I guess at the heart of it is where you start,
20 and that is the compliance with U.S. Constitution. And I
21 know in your work here you have looked at the specific issue
22 you felt you were asked to look at. You have looked at this
23 whole area, I know.

24 I guess my first question goes to you as to
25 constitutional compliance. If a plan has a deviation in

1 excess of ten percent, but say fifteen percent or under, and
2 that plan is justified by a state policy that is in the
3 constitution like preserving of political boundaries,
4 districts, in this case counties, as the supreme court
5 upheld plans with deviation of fifteen percent or under on
6 the basis on that kind of a justification.

7 THE WITNESS: The answer to that is yes.

8 COMMISSIONER GIVENS: That would be the Mahan
9 (phonetic) case.

10 THE WITNESS: Pardon?

11 COMMISSIONER GIVENS: That would be the Mahan
12 case.

13 THE WITNESS: That would be the Mahan case.
14 There are others.

15 COMMISSIONER GIVENS: In your reading of the
16 Smith decision, that is this latest decision from the Idaho
17 Supreme Court where they said the plan had to be ten
18 percent, do you read that to be a state constitutional
19 requirement that the plan -- only a plan under ten percent
20 would be acceptable, or are they simply saying that there
21 was no justification presented to justify a plan over ten
22 percent so, therefore, the plan has failed?

23 THE WITNESS: I think the answer is closer to
24 the latter of your suggestions. I think its deviation was
25 small, .69 percent over ten. And I think the court must

1 have felt that without some justification for deviation
2 beyond ten that there had to be a rationale, and apparently
3 they found one. And that I know has been thought an
4 inadequacy in the record as you mentioned previously.

5 COMMISSIONER GIVENS: One of the things I was
6 surprised to not find in your opinion was any discussion of
7 the failed constitutional amendment that was proposed, I
8 believe in '84, which would have totally done away with the
9 limitation or on the splitting of counties or the
10 requirement of the counties remain whole.

11 And I guess this isn't so much of a question
12 but, yes, a point of how differing views, given that
13 history, it seems to me that the best interpretation put on
14 the 1986 constitutional amendment that says that counties
15 can be divided only to comply with the United States
16 Constitution, is that amendment really only put in statutory
17 form or in constitutional form what had been common law
18 under supremacy law, one person, one vote, always prevails.
19 And then if that means you've got to split counties, then
20 you've got to split counties. But after that you really
21 can't split counties.

22 That may be just a difference of the way we look
23 at those words and may be departure from that point we
24 depart and end up in a different place. I did want to get
25 that articulated on the record.

1 The part of your opinion that I agree with
2 definitely is that had the courts uniformly said, if there
3 is a way to read constitutional provisions and statutory
4 provisions together, why, we should try to do that. Idaho
5 courts have and United States courts have.

6 I see that as, if I understand your opinion
7 correctly is, kind of the logical tie. Then to get you into
8 the Statute 72-1506, and particularly the provision about
9 maintaining communities of interest.

10 I made this point this morning, and it is a
11 phrase of the statute that seems to get omitted as people
12 discuss it, but that statute about communities of interest
13 says, "To the maximum extent possible, districts should
14 preserve traditional boundaries and local communities of
15 interest."

16 So as I read that, it isn't mandatory. It is to
17 the extent you can, you ought to do it, but then the other
18 -- and this is what really comes into play in my view with
19 the division of Bannock County and with the excessive
20 division of Bonneville County and Bingham County, and of the
21 splits of some of the other counties, it is subparagraph
22 five. And I guess I'm surprised that this was treated as
23 lightly in your opinion as it was.

24 That provision says, "Division of counties
25 should be avoided whenever possible. Counties should be

1 divided in districts not wholly contained within that
2 county. Only to the extent reasonably necessary to meet the
3 requirements of people population principles --" and it
4 doesn't say to meet the requirements of the communities of
5 interest. Maybe it should, but it doesn't.

6 And putting those two together, it looks to me
7 like a plan like 69 violates 72-1506, paragraph five in a
8 couple of ways that 76 does not. And one way is that it
9 takes Bannock County, which is a county that does not have
10 to be divided, and it combines other districts to be solely
11 with the two. And what 69 does, it takes Bannock County and
12 makes one district out of it, and part of it here and part
13 of it there.

14 And Ross, could you turn on that overhead again?

15 We're here this morning with this plan and it's
16 a comparison sheet, and I think Ada County is on it as well.
17 Ada County is divided into eight districts wholly within the
18 county every time so that would be an additional split, but
19 it is possible to draw a plan that has around fourteen
20 percent deviation that doesn't divide any county any more
21 than it absolutely has to be divided.

22 Bingham has to be divided. It has too much for
23 one district and too little for two, and Bonneville the
24 same, too much for two and too little for three. And it's
25 also possible up on the board to draw a plan under ten

1 percent that divides less counties than 69 or 76.

2 And looking at the ones that have two circles on
3 them, I guess in my mind, I put two circles there. It
4 didn't just divide the county more than necessary once. It
5 divided the county more than necessary twice.

6 If you look at it that way, 69, it is more
7 violative of the statute than 76, and both are more
8 violative than either the 65 plans or legislative split
9 plan.

10 One very helpful thing your opinion has done for
11 me, and it has forced me to analyze this issue in a more
12 careful way. I appreciate that.

13 THE WITNESS: I'm pleased to be of help.

14 COMMISSIONER GIVENS: But in doing so, I'm not
15 sure I ended up in a place many of these folks would like.
16 Where I end up is that we shouldn't be splitting any
17 counties we don't absolutely have to split. And with the no
18 split plan, we can do that. What that does that many people
19 here have testified today they don't like, is it takes the
20 counties around the southeast corner and puts them with the
21 very rural part of eastern Bonneville and Teton, which are
22 all rural areas. They have that community of interest
23 concern. Although it's not compact and it's not the best,
24 but I guess -- I appreciate your indulgence of those of you
25 in the audience, and particularly the other commissioners as

1 I've gone through this, because it is a different way of
2 looking at the interplay between the constitution and the
3 statutes.

4 And it may be that the fact that somebody is
5 going to sue us is just fine because if what we should be
6 doing is drawing -- if our goal is just to draw the
7 districts that makes sense, then I would vote in a minute
8 for putting southern Bannock with the counties around the
9 corner.

10 I don't think that's what the law requires, but
11 I'd very much like to be told that by the court so I know
12 which way I've got to jump and so future commissioners that
13 sit in these chairs ten years from now know which way to
14 jump and their job will be a lot easier if they do. Thank
15 you.

16 THE WITNESS: If I may briefly respond to
17 clarify. And I share what I'm sure is your hope,
18 Mr. Givens, that you do not as a commission do something
19 that may be inevitable. I hope it is not.

20 With respect to your reference to subparagraph
21 5 of the statute reflecting the constitutional provision of
22 Article 3, Section 5, just to be certain that you understand
23 or don't misunderstand, we believe we emphasized that. And
24 I don't believe you and I differ with respect to the
25 interpretation of that provision.

1 It is only as may be reasonably necessary to
2 satisfy the fourteenth amendment that counties in Idaho
3 should be divided as a part of this process. The reason
4 that we have taken a view that seems not have agreed with
5 your analysis is that when considering those southeast Idaho
6 counties, there is inadequate population among the four of
7 them to constitute a district, therefore, some population
8 from some other place has to be found; that is to say,
9 another county must be divided to satisfy the fourteenth
10 amendment consistent with this language we just referred to.

11 Since it's necessary to divide some county
12 population, we believe if the statutory and constitutional
13 requirement that you are working with are looked at
14 carefully, then you must also take into account how you
15 divide that county in a way that would be compatible to
16 create a district that does have compatibility and
17 compactness better than the other. That's where we come
18 down on our declaration of opinion of the defensibility of
19 this plan, just to clarify. I appreciate the opportunity.

20 COMMISSIONER GIVENS: If I can interject on that
21 one, of course, would be that Bonneville County is divided
22 because there is excessive population. And so by using that
23 population you don't have to divide another county, but
24 that's just two different views I just, more than anything
25 else, want to get the aspect on the record. I appreciate

1 your good work. It has been of help to the commission.

2 CO-CHAIRMAN SELLERS: Mr. Hopkins, I'm, of
3 course, not an attorney. Thank heavens. I just want to
4 have you clarify in your opinion, Ray's opinion certainly is
5 that there should be as few county divisions as possible,
6 but because we have set a precedent that has been approved
7 and lived with by the supreme court for fifteen county
8 divisions currently, then if we try to be responsible and
9 divide fewer counties than that, then are we not providing
10 something defensible as far as county divisions?

11 THE WITNESS: I think you strike a very obvious
12 basis for the defense of what you have done to date, that
13 is, to provide by several times fewer than has been the case
14 with the plan we have today, to my understanding has not
15 been challenged constitutionally. So we assume it was
16 satisfactory, but it has never been challenged in that
17 respect.

18 So in terms of the numbers of times that a
19 county can be divided, we think it depends principally on
20 what the statute and what the constitution say. And they
21 say "as reasonably necessary." And, you know, all this
22 judgment could be computerized. There is a gentleman who's
23 going to suggest all of this be computerized. But judgment
24 is the factor that commissioners have to add to this. And
25 that's what the legislature gave to me. So there is not a

1 perfect number of divisions.

2 You're not allowed to divide willy-nilly, and
3 you're not prevented from dividing at all. You are asked to
4 exercise your best judgment and reason in dividing as may be
5 necessary to satisfy the requirements of the U.S.
6 Constitution and the provisions of the statutes.

7 CO-CHAIRMAN SELLERS: Thank you.

8 COMMISSIONER GIVENS: Madam Chairman, could I
9 just clarify to make sure I understood the answer to your
10 question?

11 The 1990 apportionment was challenged by
12 Hispanics in Canyon County, as I remember, but the issue of
13 the division of counties has never been whether there were
14 an excessive number of divisions of counties or not was
15 never addressed by the courts in that 1990 challenge, was
16 it?

17 THE WITNESS: Not to my understanding. That's
18 what I said. You misunderstood me.

19 COMMISSIONER GIVENS: I thought you said, and I
20 just wanted to make that crystal clear for the record.
21 Thank you.

22 COMMISSIONER STUART: Madam Chairman, just one
23 brief one. Would it be advisable, prudent in your view to
24 move to plans that split fewer counties in general?

25 THE WITNESS: Well, you asked for our opinion

1 with respect to two plans. We offered that to you. So I
2 think I wouldn't want to offer an opinion about desirability
3 of that as a single element without looking at the other
4 implications which would be consistent with the opinion I've
5 given you.

6 COMMISSIONER TAYLOR: Again, I want to make sure
7 I'm truly clear here. Basically, you're our attorney. And
8 everybody is talking about any number of courts, ending up
9 in court. So Mr. Givens and Mr. Shurtliff have both, unless
10 I heard them incorrectly, said that the bottom line is, in
11 their opinion, that to split Bannock County in favor of
12 reason, common sense doesn't hold any water and that we're
13 not in a position here to use that kind of logic because
14 Bannock County in itself is capable of having two districts,
15 therefore, need not be split.

16 The reason would say otherwise. Are we not on
17 solid legal ground in L69 to make a decision based on a
18 common sense community of interest approach?

19 THE WITNESS: The answer the short answer to
20 that is, yes. And that really is the conclusion of our
21 opinion with respect to the issue of defensibility. We
22 think it would be more defensible. And the basis that I
23 discussed at some length with you is the basis on which it
24 should be defended.

25 CO-CHAIRMAN SELLERS: Anything further?

1 Mr. Hopkins, thank you very much.

2 THE WITNESS: It's been a pleasure to serve you.
3 Thank you very much.

4 CO-CHAIRMAN SELLERS: Let's take a ten minute
5 break before we come back and begin testimony. Please let's
6 come back promptly so we can begin testimony right away.
7 Thank you.

8 (Off the record.)

9 CO-CHAIRMAN SELLERS: All right. Let's begin.
10 We're going to begin inquiring, we've got -- just to give
11 you an idea of where we're at, we finished one page of
12 speakers this morning and we have a page -- about a page and
13 two-thirds yet to go. So please be brief. We are going to
14 hold you to three minutes. And we're asking the commission,
15 please, to be brief in their questioning so that we can get
16 through this. We want to hear what everyone has to say. We
17 know there are a number of people who had to leave because
18 we dragged on through the day, and we apologize for that.

19 CO-CHAIRMAN STUART: Madam Chairman and ladies
20 and gentlemen, I might add to that several folks have come
21 up and expressed concern that they had to leave early. We
22 encouraged them to give us their comments, even if it's in
23 longhand, in writing and leave them with us for the record.

24 Those of you who have time constraints, we
25 encourage you to do that as well. I'd like to reiterate

1 also, if you've already submitted something in writing, be
2 extremely brief and give us your point. Thank you.

3 CO-CHAIRMAN SELLERS: And I apologize again for
4 names, but Clair Cheirrett, Dennis Turner would be the next
5 one but he had to leave and has supplied his testimony in
6 writing. Then we'll have Linda Milam, Roger Christensen,
7 Ron Longmore.

8 MR. TURNER: Dennis Turner is here.

9 CO-CHAIRMAN SELLERS: Oh, okay.
10

11 WITNESS NINETEEN: CLAIR CHEIRRETT.

12 THE WITNESS: Clair Cheirrett from Bear Lake
13 County living in the city of Montpelier. I think it's been
14 made perfectly clear to me today, and that's that you folks
15 on this commission are damned if you do and damned if you
16 don't.

17 Now, the first item on my note was -- can you
18 believe -- the division of counties. I know it's been
19 kicked to death, but I want to say just briefly one thing
20 about it. I'm addressing my comments to only the new
21 Legislative District No. 28, plans 69 and 76. With those in
22 mind, the division of counties should not even be an issue
23 because regardless of what you do to put the right number of
24 people in Legislative District No. 28, you must split a
25 county.

1 So the question is, is it Bonneville County or
2 Bannock County? So then, in my opinion and the opinion of a
3 lot of people here, you need to talk about communities of
4 interest. No matter how you rationalize it, how you cut it,
5 the legislative district, new Legislative District 28,
6 Bannock -- I mean, Bear Lake, Caribou, Oneida and Franklin
7 have a lot more community of interest with Marsh Valley
8 School District than they do with Bonneville County and the
9 people in those counties.

10 I mean in -- the Marsh Valley School District at
11 least know us, know the people in the valley and that end of
12 the state. So again the division of those counties should
13 not be an issue. It should be the communities of interest.

14 Now, I'm the chairman of the planning and zoning
15 in Montpelier, Idaho and I conduct a lot of public hearings.
16 I do so for two reasons. One is because the law says I have
17 to, and the other reason is because I want the public to
18 benefit.

19 Madam Chairman, with your permission to get more
20 public input, I would like everybody in this congregation
21 who is in favor of plan 69 stand up, and then 76, is that
22 all right? That's public input.

23 CO-CHAIRMAN SELLERS: You've got three minutes.

24 THE WITNESS: Would everybody that's in favor of
25 69, please stand. Don't be bashful. If you're in favor of

1 it, stand.

2 Okay, now in favor of 76. I could say thank

3 you to all of those who just don't give a damn, but I won't.

4 UNIDENTIFIED SPEAKER: You can take it one step

5 further and ask for those not in favor of either one.

6 THE WITNESS: That's the same thing.

7 UNIDENTIFIED SPEAKER: No.

8 THE WITNESS: I said I was addressing my remarks

9 only to 76 and 69. Okay?

10 Now I want to make one other comment. I debated

11 whether to do it or not because I don't want to offend, but

12 when I came here today I was in hopes of going home feeling

13 that this was not politically driven. And I'm not there

14 yet.

15 Now it's your fault, my fault, everybody's

16 fault, nobody's fault. The perception on the street from

17 the coffee shop in Montpelier to people I talk to throughout

18 the state, out in this hallway, that it's politically

19 driven.

20 CO-CHAIRMAN SELLERS: It's time.

21 THE WITNESS: Thank you very much.

22 CO-CHAIRMAN SELLERS: Thank you. Any questions?

23 Dennis Turner then. Is he here? Can I give you

24 my comment?

25 CO-CHAIRMAN SELLERS: He gave us written

1 comment. Linda Milam, then Roger Christensen, Ron Longmore.

2

3 WITNESS TWENTY: LINDA MILAM.

4 THE WITNESS: Good afternoon. I thought I might
5 have been saying good morning, but that's long past.

6 COMMISSIONER TAYLOR: You may be saying good
7 night.

8 THE WITNESS: I submitted a letter. In fact, I
9 faxed it so there is the original, so I won't repeat that,
10 but there are a couple of things that I thought I might
11 mention given some of the things I heard here today.

12 It is a political process. We are defining
13 political boundaries. It has been a political process for
14 200 years and it will be as long as this great nation lasts.

15 COMMISSIONER HAAGENSON: Madam Chairman, Ma'am,
16 who are you?

17 THE WITNESS: I'm sorry. Linda Milam, mayor of
18 Idaho Falls, I apologize.

19 COMMISSIONER HAAGENSON: Thank you.

20 THE WITNESS: I don't have any problem with
21 political process. I do, if it becomes colored by efforts
22 to deal more fairly with one area than with another. I'll
23 put it that way.

24 One of my concerns is that once a county is
25 split, it appears as though it's okay to continue to split

1 it rather than splitting a second county even if what you
2 end up with is that the split county being, in fact,
3 splintered. And I think to a great extent that's what L76
4 does.

5 And in my letter to you, and again here now, I
6 express my concern with L76. My friends in Caribou,
7 Franklin, Oneida and Bear Lake don't want us. And with all
8 due respect, we don't want to be a part of their district
9 either.

10 I think once the county is a -- a decision has
11 been made to split a county, that is when the statutory
12 provisions have to come into play. How do you split that
13 county, how often do you split that county, and where do you
14 put those folks? That's when the statutory requirements
15 dealing with things like communities of interest, it seems
16 to me, have to come into play.

17 I would ask that you reconsider your support to
18 the extent that it is there for 76. 69 is not my favorite,
19 but those were the two that we were under the impression
20 were being most considered. So 69 would be preferable to me
21 representing my city than 76 would be.

22 Our historic growth in this city has been to the
23 south. It will continue to be to the south. And while now
24 we would only be about twenty percent of the population of
25 that southeast corner district, in time it will be a lot

1 larger proportion that wouldn't be good for them or for us.
2 Thank you.

3 CO-CHAIRMAN SELLERS: Thank you.

4 CO-CHAIRMAN STUART: Madam Chairman.

5 Mayor Milam, I'm sorry to call you back. Linda,
6 thank you for your testimony. You and I chatted previously.
7 I actually think I want to follow up. You indicated that
8 neither one of these plans works extremely well for
9 Bonneville County, for Idaho Falls. And I asked you in our
10 previous conversation to take a look, if you could, and see
11 if one of the other plans we have works better. I wondered
12 if you were able to do that and to what end?

13 THE WITNESS: I did not look at all of these
14 enough to be able to say I prefer one over the other. I
15 finally decided because 76 and 69 which were the two that
16 you all had listed, that I would limit myself to those two.
17 Thank you. Anyone else?

18 CO-CHAIRMAN SELLERS: Please state your name
19 and, if you have a title, whatever, when you come to the
20 podium.

21 WITNESS TWENTY-ONE: ROGER CHRISTENSEN.

22 THE WITNESS: Roger Christensen, chairman of
23 Bonneville County Commissioners.

24 Madam Chairman, if I may take a slight personal
25 liberty and ask if we could take a moment to recognize one

1 of our long-time community leaders who passed away last
2 night, Commissioner Cliff Long who you spoke with. Our
3 hearts and thoughts and prayers are with his family. And I
4 think the majority of the people in this audience who worked
5 with Cliff found him to be a sensible, hardworking,
6 reasonable man and we would like to express that opinion. I
7 hope that doesn't take up my three minutes.

8 Madam Chairman, coming into this hearing, we
9 were under the impression, I think this was information off
10 your web site, that we were to focus on the two preferred
11 plans, tentatively adopted L76, and the alternate L69.

12 I was little disappointed to hear the invitation
13 to bring other plans into this at the beginning because,
14 frankly, we didn't prepare any other plans coming into this.
15 We operated under the premise that these were the general
16 guidelines that the commission would be looking at adopting
17 and made our best faith efforts to go through those two
18 plans and try to make internal adjustments you can make so
19 we don't blow your whole process out of the water and make
20 the best out of what we didn't consider to be an ideal
21 situation.

22 In trying to tailor these, one of these plans
23 into something that would reflect more of the local
24 communities of interest within the boundaries of our own
25 county.

1 Having said that, let me please address the two
2 plans. And we have submitted our concerns in writing to the
3 commission. I assume you have those. I won't go over those
4 points. We heard most of them time and time again.

5 The plan L76 we sought our own independent legal
6 advice on this and pretty much came up with the same
7 conclusion that Mr. Hopkins came up with that we didn't
8 believe L76 was defensible under the law.

9 L69 was a little bit more defensible. Let me
10 address L69. And our county clerk is going to follow us up
11 immediately afterwards with some suggestions on 69 that make
12 it more palatable. We've gotten together with some of our
13 community leaders and taken a look at lines.

14 I also need to point out it's very difficult for
15 us as counties to operate with the information we can pull
16 off the web site, trying to decipher where a boundary is and
17 how it's going to effect us. We have some plans that
18 actually divided one gentleman's bedroom because it was
19 based on an old map. So part of our request would be to
20 allow the counties a minimal amount of discretion to clean
21 up some of those areas.

22 The plan we would prefer of the two is L69
23 obviously. With L69, I think submitted some testimony on
24 the portion of the map we could get detail on in Idaho falls
25 and ways that we could possibly clean that up.

1 If we're looking outside of those plans, we have
2 seen other plans that were other proposals where we could
3 combine the four splits of Bonneville County into three
4 splits, if we were allowed to work with some of the counties
5 close to us. I think we could do this within the
6 constraints of the overall guidelines the commission has
7 come up on plan L69.

8 CO-CHAIRMAN SELLERS: Time.

9 THE WITNESS: Okay. You feel like a cat in a
10 barn full of mice, which one do you go after?

11 COMMISSIONER HAAGENSON: Madam Chairman.

12 Mr. Christensen, I think your -- I want to
13 clarify. I think your initial understanding that you were
14 to deal with the two choices is still an accurate
15 understanding. That is not to say we're unwilling to look
16 at a totally different approach, but you're aware as any of
17 us the time constraints we're under and the criticism that
18 we had before with respect to public hearings that if we
19 were to come up with something new, we needed to go through
20 this process again. I don't know if some commissioners have
21 got a lot of stomach for that. We don't have time to do it,
22 so I think it's pretty accurate to say those are the
23 choices.

24 THE WITNESS: My position and justification for
25 being here are bringing that up that we are unprepared to

1 discuss other options because we did focus on these two. We
2 are very sensitive of the time constraints and that's why we
3 are doing our best to work within the guidelines to try to
4 work within the spirit of cooperation with this commission
5 to come up with something palatable to our county.

6 I agree with the other leaders that we tried to
7 accommodate their concerns, Mayor Ard, about splitting his
8 city, keeping that whole. And we looked at our own map and
9 found ways that we could adjust within our own county and
10 not throw your deviation out. And that's what we were
11 requesting.

12 COMMISSIONER TAYLOR: Mr. Christensen, have you
13 in fact run the numbers of deviation so we know if they fall
14 within the ten percent guidelines?

15 THE WITNESS: Yes.

16 COMMISSIONER TAYLOR: You've already done that?

17 THE WITNESS: Our clerk got together with Scott
18 Kid, and we'll talk a little bit about some of those minor
19 adjustments that we feel like we can make.

20 COMMISSIONER TAYLOR: That's coming?

21 THE WITNESS: Yes.

22 COMMISSIONER GIVENS: Madam Chairman.

23 Mr. Commissioner, if it's possible to keep two
24 districts wholly within Bonneville County, is that something
25 the commissioner would find preferable?

1 THE WITNESS: I'll answer that with a qualified
2 yes. It's always preferable to have the majority of your
3 county within two districts, but we also recognize the
4 difficulty that this commission has in dealing with other
5 counties. We realize there is going to have to be a spirit
6 of cooperation on our county's part with other counties to
7 make this work.

8 CO-CHAIRMAN SELLERS: Further questions? Thank
9 you.

10 THE WITNESS: Thank you.

11 CO-CHAIRMAN SELLERS: Ron Longmore.

12

13 WITNESS TWENTY-TWO: RON LONGMORE.

14 THE WITNESS: I'm Ron Longmore, Bonneville
15 County clerk. And I appreciate the opportunity to testify
16 today along with others. I'm only addressing issues
17 regarding plans L69 and L76.

18 In our opinion and the opinion of my office,
19 plan 76 is not viable for the reasons that many others have
20 expressed today.

21 Plan 69, while not perfect as far as interior,
22 specifically, we are concerned with part of District 35 to
23 include in Bonneville on the northwest side in plan 69.

24 We already have three districts in our county
25 and with this plan, it would add a fourth district and one

1 that extends clear to Salmon. Nevertheless, trying to
2 exclude this area under plan 69 would require more extensive
3 work than we've been proposed to do at this late date.

4 Our purpose today is to propose that if you do
5 determine to adopt plan 69 that you will clean up the
6 boundary lines of District 32 -- 33, excuse me -- which
7 would be the central Idaho Falls district so that it is
8 basically squared off. This would make it easier for the
9 voters to understand what district they are in and for our
10 office to explain their boundaries.

11 I made my proposals for the specific
12 modifications we would refer in my letter to you and the map
13 which I sent to you last week. After sending my letter, I
14 met with Scott Kid from Rexburg who has incorporated in his
15 proposal, which is separate from this one, our
16 modifications. And he has also included some other changes
17 to plan 69 which would bring this plan into better
18 compliance with the constitution entitled 72, Chapter 15 of
19 the Idaho Code, keeping all eastern Bonneville County in one
20 district, plus providing some buffer area for Ammon to grow
21 to the south.

22 One other item that I wanted to bring up as far
23 as the deadline of January 15. That's been a matter of
24 concern to several other clerks who've talked about that.
25 I'm not sure exactly on that either, but I will read to you

1 what the code says, entitled 34-301 in regards to this.

2 It begins by mentioning county commissioners
3 establish precincts, and so forth. And then it says, "This
4 board action shall be done no later than January 15 in a
5 general election year. The January 15 deadline shall be
6 waived during a general election year in which a legislative
7 or court ordered redistricting plan is adopted. In such
8 cases any precinct boundary adjustments shall be
9 accomplished by the county commissioners as soon as is
10 practical."

11 CO-CHAIRMAN SELLERS: It's time.

12 THE WITNESS: Thank you for the opportunity to
13 speak to you today. I urge your support of plan 69 with the
14 adjustments that we're proposing.

15 CO-CHAIRMAN SELLERS: Any questions of
16 Mr. Longmore?

17 COMMISSIONER SHURTLIFF: Is that a portion of
18 Bonneville County that's proposed to be in L69 is north
19 where we are here today and west; right?

20 THE WITNESS: Yes.

21 COMMISSIONER SHURTLIFF: And that portion -- but
22 that's still leaves in 69, as you understand it, Island Park
23 precinct to Fremont County.

24 THE WITNESS: That would still -- I basically
25 just addressed it as I think effects Bonneville County. I

1 sympathize and understand what Fremont County is having to
2 say, but I'm basically here today on Bonneville County.

3 COMMISSIONER SHURTLIFF: You're not scratching
4 that?

5 THE WITNESS: In a way I guess you'd say that I
6 do sympathize with them. I'm not adverse to having the
7 opportunity to maybe looking at some other plans here in the
8 near future.

9 COMMISSIONER SHURTLIFF: If you just took the
10 number of people that are proposed to be in L69 out of
11 Bonneville County and put them back someplace else in
12 Bonneville County, what will that do to District 35?

13 THE WITNESS: District 35, my understanding is
14 that there is somewhere around 1200 people living in that
15 area in Bonneville County. I could be wrong, but that's my
16 understanding.

17 COMMISSIONER SHURTLIFF: I'll look. I didn't
18 think it was that many.

19 THE WITNESS: It could be fewer. I thought it
20 was fewer. I think I heard someone tell me it was about
21 that many during the break.

22 COMMISSIONER SHURTLIFF: Thank you.

23 CO-CHAIRMAN SELLERS: Thank you. I apologize.
24 I can't read this. Janice "Mc" something, McHeadin from
25 Idaho Falls, R.E. Cope -- did Holly and Trish both leave --

1 and then Reed Sommer.

2 Janice, could you spell your last name?

3 MS. McGEACHIN: It's M-C-G-E-A-C-H-I-N.

4

5 WITNESS TWENTY-THREE: JANICE McGEACHIN.

6 THE WITNESS: Madam Chairman and members of the
7 Redistricting Commission. My comments today will be very
8 brief. I have no expert testimony on this issue, but I am
9 here as a concerned citizen of my community. My name is
10 Janice McGeachin and I have lived, worked and been actively
11 involved in the city of Idaho Falls for twenty-six years of
12 my life.

13 My husband and I own and operate three
14 businesses in Idaho Falls. I have two children who attend
15 the Idaho Falls school District 91. I'm an active member of
16 my church in Idaho Falls. I am a member of the Idaho Falls
17 Rotary Club, the Idaho Falls Chamber of Commerce, and a few
18 others that I won't bore you to mention today.

19 I would like to ask you as a commission to
20 please consider adopting legislative plan district L69.
21 Speaking on behalf of myself, but also for confidently for
22 several hundred of my neighbors who live north of town, I
23 believe that L69 is a good plan which takes into
24 consideration the very important aspect of keeping
25 communities of interest intact.

1 Encompassing L69 are all the buildings here in
2 this area which house the many offices for the INEEL, which
3 is a major employer of many of the people in Idaho Falls.
4 Also encompassed in this plan or the current as well as the
5 future plans for the university center where literally
6 thousands of students from Idaho Falls go to school. And,
7 of course, there is an Idaho Falls municipal golf course up
8 the road which would also be encompassed in the plan.

9 So I believe L69 is a good plan. If L69 were
10 adopted, then I would be able to vote for representatives
11 who will be making decisions that will effect my whole life,
12 including my livelihood, the well-being of my family, and
13 the community that is very important to the well-being of
14 the community of Idaho Falls. And that is very important to
15 me.

16 CO-CHAIRMAN SELLERS: Thank you. Any questions?

17 COMMISSIONER SHURTLIFF: Ma'am, where is it you
18 live?

19 THE WITNESS: I live approximately two miles
20 north of town up on East River Road.

21 COMMISSIONER SHURTLIFF: So you think it would
22 serve your interest to be joined with Clark, Jefferson,
23 Lemhi and Custer Counties?

24 THE WITNESS: I don't live that far up north.
25 Where I live I would be included in the district of Idaho

1 Falls under L69.

2 COMMISSIONER SHURTLIFF: In the city?

3 THE WITNESS: Yes.

4 COMMISSIONER SHURTLIFF: Okay. Thank you.

5 THE WITNESS: District 33.

6 CO-CHAIRMAN SELLERS: Thank you. R.E. Cope and

7 Reed Sommer, and Wendell Winegar, Lee Radford.

8

9 WITNESS TWENTY-FOUR: REED SOMMER.

10 THE WITNESS: I'm Reed Sommer of Madison

11 County. I'm one of the bad guys. You folks know what I'm

12 talking about. I appreciate the citizens of Madison County,

13 citizens on the committee that realized that maybe there was

14 something wrong with the decision that had been made before.

15 I appreciate them and the commission from Bingham County in

16 what they did.

17 I also want to express thanks to you folks for

18 what you've done. I wouldn't have wanted to have been

19 sitting in your place. It's a thankless job and I

20 appreciate very much what you have done and wish you well

21 finishing this. What did you say, it was a ninety day job

22 you were going to do?

23 CO-CHAIRMAN STUART: The project was ninety

24 days.

25 THE WITNESS: Appreciate what you're doing, you

1 have a letter signed by me from Madison County. I am
2 representing the county commission of Madison County being
3 here today, and I appreciate that opportunity to do that.

4 We do prefer the L69 plan. There is no need of
5 going into things that's been pretty well stirred up today,
6 and I appreciate those things that have been said, but we do
7 prefer the L69.

8 I'm not sure if that's what it said on my
9 letter. It may have said 76, but at this point, we prefer
10 69. I see the counties did split, and we feel for our
11 neighbor to the north, Fremont County. I hate to see them
12 be split, but better them than us is well enough said.

13 We do appreciate those folks and speak on a
14 daily basis with those folks. And we hope that things can
15 be worked out to be good for them as well as us and all the
16 other counties in Idaho.

17 You talked about the ugliness of Idaho and the
18 ugliness of different counties and the way they are, but you
19 know that map of Idaho. And I think it's beautiful. Where
20 else could we go and find a place with all the things that
21 we have in our state. We're lucky to be where we are, and I
22 hope we don't get divided over such a thing as legislative
23 districts. I hope we can keep a good working relationship
24 with all of the citizens we have here.

25 One thing I would like to add in here. If there

1 was any other plan brought up that brought without a
2 division between Madison and Fremont County, that was
3 suggested once here today to take Egin away from Fremont
4 County and put them out with Lemhi instead of northern
5 Fremont County; I would hate to see that. Because Fremont
6 County and Madison County in that particular area are really
7 a common interest area because of the irrigation district
8 they work with, the agricultural economy of the area, and
9 all of the canals that run through there are all tied
10 together in both counties. Thank you very much. I
11 appreciate it. Good luck to you.

12 CO-CHAIRMAN SELLERS: Time.

13 COMMISSIONER HAAGENSON: Mr. Sommer.

14 THE WITNESS: Gosh, I didn't think I said
15 anything anyone would want to question.

16 COMMISSIONER HAAGENSON: Madam Chairman. I just
17 wanted to clarify that we don't think you're the bad guy.
18 In as much as we probably didn't want to come back and do
19 this, I feel that whatever we come up, 69 or 76 or some
20 variation, it's going to be better than the plan we had in
21 L66. So you, plaintiffs have done a service to the state of
22 Idaho. Having said that, I hope some other county doesn't
23 help us out similarly again. Thank you.

24 THE WITNESS: Well, we realize that what you're
25 doing somebody is going to get hurt, somebody gets the bite,

1 no matter what. We appreciate what you're doing and good
2 luck.

3 COMMISSIONER GIVENS: Mr. Sommer.

4 THE WITNESS: I'm trying to get away from here.

5 CO-CHAIRMAN STUART: So are we.

6 COMMISSIONER GIVENS: Is this thing on?

7 As you know there have been a number of folks
8 from Fremont County that have said, no, don't put Island
9 Park with the area to the west. And I appreciate the
10 concern of the way we divided Madison County in the past,
11 and my doing -- had there been more time been, more
12 circumspect, it probably would have been done differently
13 and not gotten too close to Rexburg. That was not a good
14 thing to do.

15 The population of the northwestern most precinct
16 in Madison County that area just west of the river --

17 THE WITNESS: That would be Plano.

18 COMMISSIONER GIVENS: Plano?

19 THE WITNESS: Uh-huh.

20 COMMISSIONER GIVENS: It is a little more, but
21 roughly the same as Island Park's population. If the
22 commission were to feel compelled to adjust 69 in accordance
23 with the desire of the people in Fremont County, would that
24 be a division of Madison County that you could live with,
25 take that one district there and maybe a little block of a

1 couple hundred people on the south end, move that to the
2 District 35 to the west?

3 THE WITNESS: I would hope you won't have to do
4 that. That's the one I was just referring to where Fremont
5 and Madison come together. And that is all in the Fremont
6 Madison Irrigation District. Their canals run through from
7 Fremont County to Madison County ag area. Fremont County
8 area is in that area also. So yes, it would be a division
9 we would hope never happens. That would be a bad one as we
10 are concerned.

11 COMMISSIONER GIVENS: So do I take it in your
12 opinion it makes more sense to keep that district and
13 Madison, and the district in Fremont on the north together,
14 put Island Park with 35?

15 THE WITNESS: That would be putting them with
16 Lemhi and Custer?

17 COMMISSIONER GIVENS: Yes.

18 THE WITNESS: As I look at the map, that
19 northern part of Fremont County, I don't want to make
20 enemies with my friends from Fremont County, I enjoy Fremont
21 County too. That's a beautiful area you can go fishing, and
22 whatever. In fact, I own property in Fremont County. I
23 wouldn't want them to be waiting at the borders for me.

24 COMMISSIONER SHURTLIFF: I'm trying real hard to
25 get you in trouble.

1 THE WITNESS: And in my looking at the map,
2 there has to be a division there in Fremont or Madison, that
3 northern part of Fremont County would be the logical one.
4 It ties right in with the industry, with the tourism. It is
5 a long ways from part of Fremont County out to Custer
6 County. There is no question about it.

7 I realize that is a big area and that creates
8 problems, but if it was left to me, I would have to say,
9 yes, that would be the one to split.

10 COMMISSIONER SHURTLIFF: Would you rather have
11 Fremont whole, even if it has a little more people in it
12 than it ought to?

13 THE WITNESS: Fremont and Madison would be a
14 good combination. We've always had closeness in the working
15 relationship in two counties that would be very positive.

16 COMMISSIONER SHURTLIFF: If you put those two
17 together in a district, it probably has the highest number
18 of people in that district, which means looking at it the
19 other way, that each individual would be the most
20 underrepresented, but that would be preferable in your
21 opinion?

22 THE WITNESS: It would be preferable to combine
23 the two and have them intact if it would be possible.

24 COMMISSIONER SHURTLIFF: Thank you.

25 THE WITNESS: Thank you.

1 CO-CHAIRMAN SELLERS: Thank you, new.

2 THE WITNESS: Wendell Winegar, Lee Radford, Ray
3 Stratford, Gordon Polatis.

4

5 WITNESS TWENTY-FIVE: WENDELL WINEGAR.

6 THE WITNESS: I'm Wendell Winegar from Park.
7 I just have a question. I appreciate the opportunity to be
8 able to speak, Madam Chairman, and to the commission.

9 As addressed, as 76 and 69 hasn't been predominantly
10 noticed to address here today, I would like to take one step
11 further as we take a moment along the way and ask those that
12 are not in favor of either one to stand.

13 (Audience participated.)

14 THE WITNESS: Thank you at least it gives the
15 commission some idea that there is not a uniform area in one
16 of the plans that you have.

17 One of the things I think you need to take into
18 consideration from the standpoint that there are very few
19 registered voters and very few census people, in fact 828
20 was the census in the Island Park area with 769 registered
21 voters. We're a large geographic area from the Teton
22 Mountain to Ashton hills all the way to Montana border.

23 So when you divide this and take this out of a
24 volume area that we have a hard time communicating our
25 legislators. I think that it should be not considered as a

1 point of 69. Give other plans that effect us less and you
2 have others that keep it intact, one of them, which I just
3 reviewed here today during our lunch hour, if I read it
4 correctly, plan number 75 keeps District 35 intact and would
5 also give less hatcheting than some of the others.

6 I think you should seriously consider that.
7 Additionally, if you're going to make a division, try not to
8 divide off the top end of Fremont County because if you
9 decide to divide off the top of Fremont County, why not form
10 another county? Then you don't have another problem.
11 You're not dividing counties then.

12 I would implore you to look at District 35,
13 program thirty-five if, and you look at this and realize
14 that legislative action or a legislator can have some clout
15 by representing an area that is totally rural, forested in
16 most of it, highly recreational, and also has some negative
17 impact from the standpoint of farming areas and recreation.

18 So I think we have a district, when you get to
19 form a new district and put that 35, as you have it outlined
20 on that map, you would have somebody who could represent all
21 of that and not be influenced politically by large cities,
22 small cities. I shouldn't say large cities, but large areas
23 that would in fact represent the small cities and large
24 geographic area.

25 You have other counties that have several areas

1 of division that can be divided, Bingham could have two
2 divisions, as well as Bonneville.

3 CO-CHAIRMAN SELLERS: Time. Thank you.

4 THE WITNESS: Thank you. Questions?

5 COMMISSIONER GIVENS: Mr. Winegar, I believe 75,
6 that plan, the third one down from the top over there, and
7 as I pull it up on my computer, what that does is put
8 Fremont County with 35. That's the district of the big
9 counties to the north. And it divides three and four, then
10 that's different than Madison and the southeastern corner of
11 -- and it divides Jefferson into three districts.

12 And if I understand what you're saying, you
13 prefer Jefferson to be divided into those three districts
14 than having Fremont divided into two?

15 THE WITNESS: That's correct. Because you have
16 a lesser amount of personnel or registered voters or people
17 from a larger graphic area than Fremont County.

18 COMMISSIONER GIVENS: I raise that point just to
19 -- let me ask you the same question I asked a previous
20 commissioner. Some of the plans put Fremont and Madison
21 together in one district and don't divide them. They're the
22 heaviest district in the state, that is, there are more
23 people in that district than any other districts, which
24 means each individual vote in a sense is underrepresented.

25 THE WITNESS: Correct.

1 COMMISSIONER GIVENS: Which way would you rather
2 have it? Would you rather have it that each individual be
3 just that little bit underrepresented and no splits in
4 either county, or would you rather have one or the other
5 counties split, or do you have no idea?

6 THE WITNESS: Fremont County split or other
7 county split, I'm sorry?

8 COMMISSIONER GIVENS: Yes.

9 THE WITNESS: Other county.

10 COMMISSIONER GIVENS: I guess you'd rather have
11 some other county split than Fremont, wouldn't you?

12 THE WITNESS: As I mentioned before we have a
13 hard time trying to contact our legislators already, in
14 fact, but if the division is going to take place in a larger
15 area that in fact represents the same geographical and same
16 lifestyle as we have, so I really don't know which way to
17 answer your question. It's kind of a double-edged sword in
18 that respect.

19 COMMISSIONER GIVENS: It doesn't have to be any
20 -- if you put Fremont and Madison together with no split.

21 THE WITNESS: Fremont and Madison together, that
22 would be more advantageous even being underrepresented to a
23 certain extent but have closer contact.

24 COMMISSIONER GIVENS: You'd still rather have
25 that?

1 THE WITNESS: Yes.

2 CO-CHAIRMAN SELLERS: Thank you.

3 Lee Radford, Ray Stratford, Gordon Polatis,
4 Wayne Brower.

5 Are you Mr. Brower? Come on up.

6

7 WITNESS TWENTY-SIX: RAY STRATFORD.

8 THE WITNESS: I'm Ray Stratford of island Park.

9 I'm the chairman of the planning and zoning board in the
10 City of Island Park. I'm also a chair in the committee --
11 Island Park. When I was born in Pocatello, I don't know
12 whether the doctor or my mother inserted a homing device in
13 me so that by the time I hit sixty-five, I had to come back
14 to Idaho, but I'm glad to be back.

15 I wanted to endorse a letter that the county
16 commissioner from Fremont County wrote to you, which I
17 think, I wanted to maintain the county as a wholly
18 integrated part and not split Island Park off into either
19 the counties to the west or to the east. I think that I
20 endorse that very strongly.

21 Island Park School District is part of Ashton,
22 and we don't like to see that split up. I also think there
23 is an advantage of being part of the Fremont, Madison County
24 districts because it's easier for the legislators from
25 Madison County to come up to the Island Park area than it

1 would be from one of the other counties.

2 And so even though we're underrepresented it's
3 still going to be out-voted by Madison County, but I think
4 it would be easier to have access to the legislators, if it
5 is Madison County or from Fremont County.

6 I think that's about all I have. I just wanted
7 -- my wife told me I shouldn't mention this, but West
8 Yellowstone Chamber of Commerce put out a publication last
9 year that was promoting West Yellowstone, this area. On the
10 cover of that was Mesa Falls and inside it had a section on
11 Island Park, Montana.

12 COMMISSIONER TAYLOR: So you don't know where
13 you are.

14 THE WITNESS: They retracted that. They pointed
15 out Island Park is a real great place to live.

16 COMMISSIONER GIVENS: Do I understand you to be
17 saying that it is your preference to be -- to have Fremont
18 and Madison together and have no split off, either one of
19 them, even though it might be too many people for an ideal
20 district?

21 THE WITNESS: Right. Because I think we would
22 have more access to the legislators in Island Park even
23 though Madison is going to out-vote us all the time.

24 COMMISSIONER GIVENS: Thank you.

25 CO-CHAIRMAN SELLERS: Okay. Gordon Polatis,

1 Wayne Brower, Robert Buell.

2

3 WITNESS TWENTY-SEVEN: WAYNE BROWER.

4 THE WITNESS: Madam Chairman, I don't see
5 Gordon Polatis here. I appreciate the opportunity to
6 respond. I am Wayne Brower, Bingham County Commissioner.

7 Previous testimony was given to you by
8 Commissioner Shipley. I would like to simply refer to most
9 of that for your information. As far as our county, just
10 let me reaffirm that on both L69 and L76, it makes it
11 difficult for Bingham County to accept either of those plans
12 without modification. And that is to try to bring the
13 community of interest of Moreland, Pingree and Rockford back
14 into district -- it depends on which plan you look at --
15 into a common plan.

16 In order to accomplish that in those -- only
17 plan 76 would be able to shift the precincts on the
18 reservation to Power County area and allow that portion of
19 Bingham County to be brought back in to the -- as far as
20 population to shift the reservation precinct with Moreland,
21 Rockford, Pingree.

22 As an alternative, Madam Chairman, look at the
23 plan here on the left. You have one with ten percent or
24 less deviation. We would offer that as an alternative plan
25 with the same modification we talked about shifting

1 population from the reservation and allowing Pingree,
2 Rockford and Moreland area to be brought back in on that
3 plan. That would be District 28. Yes, that would be
4 District 28.

5 CO-CHAIRMAN SELLERS: Okay.

6 COMMISSIONER TAYLOR: I have a question
7 Mr. Brower, on one of our breaks we took a look at adding
8 those areas into Bingham County. Bingham County is fairly
9 top heavy anyway. Are you certain that by moving that Fort
10 Hall precinct that you would keep this in the --

11 THE WITNESS: Should be.

12 COMMISSIONER TAYLOR: Because even we played
13 with this. We could only move a small portion of this back
14 into Lincoln County without jumping you guys into the eleven
15 and twelve percent heavy side. I'm concerned that the Fort
16 Hall precinct you're talking about won't be enough to
17 outweigh that. I'd be interested in seeing those numbers if
18 you have that.

19 THE WITNESS: If I recall as we ran those
20 numbers, we were looking at 2800 people and that may be part
21 of the confusion, Mr. Taylor, is that you're looking at is
22 you may be thinking we're wanting to shift all of the rest
23 of Bingham County, those precincts in Aberdeen and
24 Springfield would have to stay within the --

25 COMMISSIONER TAYLOR: You're talking three

1 precincts that are the most north and west -- or north and
2 east in 27, which would be the southwest of Bingham County;
3 right?

4 THE WITNESS: Yes, and there should be a close
5 shift of about 2800 people if you do that.

6 COMMISSIONER TAYLOR: What you're saying is that
7 would require additional split of the reservation?

8 THE WITNESS: What?

9 COMMISSIONER TAYLOR: An additional split of
10 the reservation?

11 THE WITNESS: No, the reservation precinct in
12 the reservation would shift from 31 under Legislative
13 District 76, and which shifts it to 27 along with Power
14 County. Part of the reservation is in Power County at this
15 time.

16 COMMISSIONER TAYLOR: I understand. Any other
17 questions?

18 COMMISSIONER SHURTLIFF: There was an earlier
19 plan. It's not -- I don't think it's on the board here, but
20 concept that kept Caribou, Bear Lake, Franklin and Oneida
21 Counties and reached up to get the population being extended
22 to the boundary of Caribou County and Bingham County, and
23 ran over and gathered up a few folk there in Bingham County.

24 I asked -- I don't suppose the people of south
25 Bingham County would be desirous of going south any more

1 than the people in south Bonneville County seem to be, would
2 they?

3 THE WITNESS: Are you speaking south or east?

4 COMMISSIONER SHURTLIFF: South and east.

5 THE WITNESS: Well, being practical, we
6 understand as you try to shift population, what we're doing
7 is shifting counties on the eastern boundary of Idaho and
8 it's going to shift them around Pocatello, Blackfoot and
9 Idaho Falls. We understand that's a given for you. And
10 we're going to get caught up in that split on the eastern
11 portion of Bingham County.

12 There are areas of interest in that area of the
13 county that is similar to other counties on the east of us,
14 not that that's our preference.

15 COMMISSIONER SHURTLIFF: Not that you're
16 endorsing that plan?

17 THE WITNESS: Not necessarily.

18 COMMISSIONER SHURTLIFF: Thank you,
19 Commissioner.

20 THE WITNESS: Thank you.

21 CO-CHAIRMAN SELLERS: Robert Buell, Trish Oak,
22 Trent Clark, Mark Balzer.

23

24 WITNESS TWENTY-EIGHT: TRENT CLARK.

25 THE WITNESS: Members of the Commission, my name

1 is Trent Clark and I am here representing the Idaho
2 Republican party. This is my first appearance before the
3 commission, in part because I respect what Justice Kidwell
4 said in the supreme court's recent decision on L66, and that
5 is the current process adopted by the voters of Idaho was
6 designed in fact to, quote, "Prevent those having stake in
7 the legislature's composition from being a part of the
8 entity responsible for reapportionment of Idaho."

9 Unquestionably, the Idaho Republican party has
10 such a stake in seeing that the adage of limited government,
11 but accountable government, are elected to the Idaho
12 legislature.

13 Current constitutional structure clearly limits
14 the party's role in making redistricting decisions, which is
15 why I am not here today to testify for any measure designed
16 to tip the scales toward the election of Republicans.

17 In fact, officials of the Republican National
18 Committee have reviewed what I'm about to support and
19 determines that it may well lead to the election of more
20 Democrats. All the same, the issue on which I speak
21 represents the unique consensus position, and believe me in
22 the Idaho Republican party consensus is unique within the
23 Idaho Republican party.

24 Without commenting on the relative merit of
25 plans L69 and L76 on which we do not have consensus within

1 the Republican party, we do ask that whatever plan you
2 finally endorse maintain the unity of the single largest
3 Native American community in the State of Idaho, the city
4 and residential area surrounding Fort Hall.

5 I would call your attention and attach to the
6 written comments that you have, are the statistical reports
7 on plans L69 and 76 as posted on the redistricting
8 commission's official web site, pulled from those
9 statistical reports note the following: First of all, and
10 this is an issue that you already addressed, the Idaho
11 Hispanic community is its single largest protected
12 population under the Civil Rights Act.

13 I commend this commission for how it has acted
14 to ensuring Hispanic communities are not unnecessarily
15 diluted or divided.

16 Secondly, the second largest community protected
17 under the Civil Rights Act is Idaho Native American
18 population, and the single largest Native American
19 population in Idaho, single largest community in Idaho can
20 be found in your statistical report on plan 69, District 29,
21 the city of Fort Hall.

22 This community represents 4,075 Native American
23 voters, or roughly eleven percent of an ideal sized
24 legislative district. Before you dismiss eleven percent, I
25 would point out that it's seven percent of the contested

1 legislative district -- in last year's legislative
2 elections. Eleven percent swinging in a different direction
3 than they did would have resulted in a different person
4 being elected to the Idaho legislature. So eleven percent
5 is not an insignificant number of voters.

6 Lastly, and most important, this community has
7 been united under common representation in the Idaho
8 legislature for the past ten years. To split this community
9 in half as some plans both adopted and proposed by this
10 commission do, it an unconscionable dilution or backsliding
11 of the voting power of this community.

12 One of the most recent pronouncements of the
13 U.S. Supreme Court on redistricting law embodied in the last
14 Media (phonetic) versus Bosia Terry (phonetic) school board
15 decision controversially suggested that Section 6 of the
16 Federal Voting Rights Act, quote, "Prohibits nothing but
17 back sliding on the prevention of -- on the representation
18 of racial and ethnic minorities. Clearly to diminish a
19 protected community's voting power is the one act where
20 conservative and liberal justices agree. It is wrong."

21 Idaho is -- time? Idaho is not a voting right's
22 act state, but that is irrelevant to this discussion. If
23 it's wrong, it is wrong. Thank you for considering my
24 comments.

25 CO-CHAIRMAN SELLERS: Any questions?

1 COMMISSIONER TAYLOR: I have a question. You
2 said that 69 and 76 both impacts the Indian reservation; is
3 that what you're saying?

4 THE WITNESS: Actually, what I said about 69 and
5 76 is, as chairman of the Republican party I have three
6 county central committees who oppose both 69 and 76, so
7 therefore, I'm unable to testify in favor of either of
8 those.

9 COMMISSIONER TAYLOR: Do you have a proposal
10 that keeps the reservation more intact?

11 THE WITNESS: There are actually several
12 proposals that have been presented to the commission that
13 does keep the reservation intact.

14 COMMISSIONER TAYLOR: Do you have them on paper?

15 THE WITNESS: The Republican party did not
16 submit as a party a plan, no.

17 COMMISSIONER TAYLOR: Okay.

18 CO-CHAIRMAN STUART: Madam Chairman, Mr. Clark.
19 I appreciate your comments today. I might point out for the
20 record that the only legislative plan that I'm aware of that
21 keeps the entire Shoshone-Bannock reservation intact was one
22 that was developed and presented by Commissioner Givens at
23 our commission meeting in Boise on December 12. I don't
24 recall what the number of that one was.

25 Commissioner Givens, I'll ask you to clarify

1 that.

2 COMMISSIONER GIVENS: I think that's L68. I
3 think it's set up on a computer.

4 Would you put that up, Ross?

5 THE WITNESS: Madam Chairman, in response to
6 Mr. Stuart's comment, I would point out that the Republican
7 party does distinguish between people who do have a vote and
8 acres who only voted in the early years of this constitution
9 democracy of ours.

10 We believe that having acres vote is the wrong
11 direction to move. And in effect having people vote is the
12 right direction. So whether or not the actual acres are
13 included within the legislative district is not as relevant
14 as whether the main community of population is included.

15 CO-CHAIRMAN SELLERS: I'd like to indicate that
16 there have been several plans presented that take into
17 account every citizen of the reservation, if not every acre.

18 THE WITNESS: Thank you for your time.

19 COMMISSIONER GIVENS: Sir, I'd like you to take
20 a look that is slowly coming up there, if you would. And
21 this is largely a plan that it's a plan that is a
22 modification of 69. As you look at southern Bannock County
23 it goes, with 28 the counties around the southeast corner,
24 then the district in northern non-Pocatello district, if you
25 will, okay, which is I believe --

1 THE WITNESS: Twenty 29.

2 COMMISSIONER GIVENS: I think it's 29, is the
3 portion of the Fort Hall Reservation in Bannock County. And
4 I guess if I understand your testimony, there is a little
5 portion of the Fort Hall Reservation in Caribou County.

6 THE WITNESS: I'm very familiar by the way with
7 that corner of the reservation. No one lives there which is
8 exactly why I say keeping the reservation boundary intact is
9 not as relevant to us at the party as keeping the community
10 together.

11 COMMISSIONER GIVENS: Let's set that aside. I
12 appreciate your comment there and I concur with it. There
13 is a portion of the Fort Hall Reservation that dips down in
14 a long rectangle and in Power County where there are -- I
15 think there are little over 1000 people living in there. A
16 couple hundred of them are Native American, I believe.

17 THE WITNESS: Right.

18 COMMISSIONER GIVENS: Those three areas that,
19 we're forgetting about Caribou County, that is the north
20 Bannock County area, I believe includes Chubbuck, not only
21 the town of Fort Hall but that entire Fort Hall precinct and
22 Bingham County, and the portion of the reservation in Power
23 County would be combined under this plan. Would that be
24 something the Republican party could support?

25 THE WITNESS: I cannot speak to the other

1 aspects of this plan in and around the area around Fort
2 Hall, but from plan that I see here, it does accomplish what
3 we are asking for, and that is, it does unify the bulk of
4 the Fort Hall population which is what we are asking for.

5 COMMISSIONER GIVENS: Of course, the devil in
6 all of this is how it effects the counties around.

7 THE WITNESS: It is. And I would point out the
8 tail of the reservation, you yourself pointed out are quite
9 familiar with the demographics of the tail that sticks in
10 Power County. And you correctly pointed out that a lot of
11 that land is actually leased by Non-Native American farmers
12 who farm that, who live and farm in that area.

13 And we would point out that it is not as
14 critical, a part of the community, the common interest as
15 the main area around Fort Hall. And I'm not saying that
16 would necessarily be the wrong way to draw this plan. I'm
17 just saying that at that point you would consider other
18 things like the interests, for instance, of Power County.
19 How is Power County effected having a portion of the
20 legislative district covered out of the middle of it. Those
21 would be other considerations you would want to take into
22 account before I can necessarily say I like this plan. But
23 with those considerations aside, what this plan here does is
24 what we're asking for so, yes, I would support that aspect.

25 COMMISSIONER GIVENS: Let me take it one step

1 further. If we keep the portion of -- if you keep Fort Hall
2 precinct and Bingham County together with the portion of the
3 Fort Hall Reservation with Bannock County by Chubbuck.

4 THE WITNESS: And I would point out that that is
5 exactly what the Republican National Committee looked really
6 strange at me for wanting to do because it does, as you're
7 probably aware, the demographics there it creates in fact a
8 leading Democrat district in the plan that otherwise didn't
9 have one. And they wondered why I, as a Republican, would
10 want to do that. The answer is purely because we believe
11 it's the right thing to do.

12 COMMISSIONER GIVENS: Then I guess if we do that
13 it would make it impossible, would it not, to accommodate
14 the concerns of Bingham County commissioners who were up
15 here just a moment ago trying to take Fort Hall and put it
16 with Power and Cassia County?

17 THE WITNESS: Putting Fort Hall with Power and
18 Cassia Counties is one option. It does create, as you point
19 out, problems in making the numbers meet up on the other
20 side of Bingham County. I understand that. Which is why
21 you're being paid the big bucks, I understand.

22 COMMISSIONER GIVENS: Thank you.

23 THE WITNESS: Thank you for the time. Thank you
24 very much.

25 CO-CHAIRMAN SELLERS: Mark Balzer, Paul Zelus,

1 Jeanette Wolfley, Tom Holm.

2

3 WITNESS TWENTY-NINE: MARK BALZER.

4 THE WITNESS: Good afternoon, Commission. My
5 name is Mark Balzer, Oneida County. Most of the comments I
6 had prepared have already been addressed with this committee
7 several times.

8 One of the things that I have done is spent
9 some time going over some statistics which were published on
10 your web page. Some people were concerned about some of the
11 numbers. And my analysis is the plans are virtually
12 identical. I'm sure you're aware of. And I really didn't
13 envy you all on the effort. They are all so close, it's
14 unbelievable. I know that took quite a lot of effort on
15 your part.

16 We are concerned in the community of interest
17 standard in the way plan L76 is drawn. It's been addressed
18 by people from Bonneville County. We share those concerns
19 with them. I have lived in Idaho Falls. I've worked out of
20 INEEL. I presently live in Malad and work for the
21 University at Custer (phonetic).

22 We do feel that our interests are better served
23 by joining us with southern Bannock County than they are
24 with joining us with Bonneville County. We are also
25 concerned, as Mr. Clark has raised the issue, with dividing

1 of the Fort Hall reservation.

2 We, in Oneida County, feel that is not a good
3 thing to do to that population. We feel that population
4 deserves to be left intact. It deserves representation
5 that they have enjoyed in the last ten years. Thank you for
6 your time.

7 CO-CHAIRMAN SELLERS: Any questions?

8 Paul?

9

10 WITNESS THIRTY: PAUL ZELUS.

11 THE WITNESS: Madam Chairman and Commissioners,
12 it's nice to see you again. My name is Paul Zelus. I work
13 at Idaho State University and am a resident of Bannock
14 County.

15 On recent weeks I've been involved in assisting
16 the various counties and cities in other areas with
17 technical assistance in helping them prepare for the January
18 15 deadline, which requires them to equalize the commission
19 precinct, commission districts.

20 My request is that the commission reconvene in a
21 week and allow for the conduct of a technical review session
22 that would involve the input of various county officials,
23 most of whom who have spoken here today but have not had the
24 opportunity to compare notes, quite simply.

25 And I wrote these remarks prior to -- wrote them

1 last night and a lot of water is over the dam. I'm asking
2 for this extra time so that a session could be conducted
3 that would have the capability of collaborating on the two
4 plans, 69 and 76, as proposed, with the single intent of
5 moving them toward one another so that perhaps, and I think
6 the chance of it is possible, that we could look carefully
7 and collectively, look carefully at the weaknesses of each
8 of these two plans as they have been expressed all day long
9 and move toward a plan that could be recommended to you.

10 If that's possible, I'd like to ask that if we
11 have the opportunity to host such a meeting, several of the
12 counties have used technical consultants because they just
13 don't have the capacity internally to take close looks at
14 these precinct level data.

15 And the counties that have less capability have
16 not seen these plans nor their ramifications until very,
17 very recently. And it's been very, very hard for them to
18 prepare for January 15 deadline when it appears that the
19 redistricting commission is no closer to a recommendation
20 than they were some months ago.

21 The issues that faces the county officials, as I
22 say, is that in March it's their job to qualify voters for
23 the upcoming 2002 election. They must do so with precision,
24 accuracy. It's going to be very difficult to qualify voters
25 if you don't know where the legislative lines are.

1 So the local county officials, I think many of
2 them have left, hopefully all the support is not gone, but I
3 believe that there is some support for a technical
4 assistance meeting that could run several hours that would
5 allow various scenarios, Scott Kid has mentioned some,
6 Mr. Christensen from Bonneville County. There has been
7 discussion from Bingham County and Fremont County, Madison
8 County, none collectively of those competing proposals have
9 not have had a chance to reconcile.

10 I believe under a guided, facilitated session,
11 perhaps we could move toward a reconciliation of 76 and 69.
12 I think it's time that the southeast Idaho take some of the
13 burden here and take stock of what we have to do.

14 You, commissioners, have done your work up to a
15 point. All the focus is on southeast Idaho. You've got to
16 give us all a chance to collectively compromise and knock
17 heads. I think one day will tell whether this is possible
18 or not. I'm not saying it can be done. If I were a betting
19 man, I'd say it's one out of ten, but I'd like the
20 opportunity to.

21 And Mr. Scott Kid -- is he still here -- there
22 are other technical consultants that have tried to help
23 counties work with these data. If we could make ourselves
24 available in a session that would allow this precinct data
25 to be generated on the spot and for scenarios to be

1 developed, not to develop new plans. You've got all kinds
2 of them here, but to reconcile 69 and 76, which I understand
3 are the two on the table.

4 I don't believe that's been done, and I think
5 there are opportunities to do so. My testimony then is to
6 request an opportunity to pull together twenty or thirty
7 people to talk about what hope there is for reconciliation.

8 CO-CHAIRMAN SELLERS: It's time.

9 THE WITNESS: Thank you.

10 CO-CHAIRMAN SELLERS: Questions?

11 Thank you very much. Jeanette Wolfley and Tom
12 Holm.

13

14 WITNESS THIRTY-ONE: JEANETTE WOLFLEY.

15 THE WITNESS: Good afternoon, Madam Chairman and
16 MemberS of the Commission. My name is Jeanette Wolfley.
17 I'm here on behalf of the Shoshone-Bannock Tribes, counsel
18 to Fort Hall government body for the Tribe, and I have been
19 asked to present testimony on behalf of the Tribe with
20 regard to L69 and L76.

21 I'd like to begin by first saying that I heard a
22 couple of comments here made by Mr. Clark and by the
23 attorney representing the commission stating that the
24 reservation is not a cover for the State of Idaho -- is not
25 covered under the Voting Rights Act.

1 I want to clarify that by saying certainly the
2 State of Idaho itself is not covered under, say, Section 5
3 of the Voting Rights Act for clearance purposes, but it is
4 -- Bingham County is covered under the Voting Rights Act
5 with regard to a language provision of the Voting Rights
6 Act, Section 203, and I pointed that out in my comment,
7 basically, you know, to correct it to say, yes, the Voting
8 Rights Act is 65, does apply here with regard to language
9 requirements.

10 The Shoshone-Bannock Tribes are the only tribe
11 in the State of Idaho that is actually covered under Section
12 203. And what that means is that under Section 203, it
13 requires this certain jurisdictions provide language
14 assistance in the electoral process to members of a
15 particular minority language group.

16 And in this instance Bingham County is the
17 covered jurisdiction. That requires them to provide
18 language assistance to tribal members in the voting process,
19 either through bilingual materials or in -- our preference
20 was that they did, for instance, some announcements over the
21 radio in the Shoshone language with regard to the elections,
22 county and federal and state and federal, and also to
23 provide interpreters at the precincts that are covered under
24 that particular jurisdiction.

25 We want to -- our comments with regard to L69

1 and L76. We were not with any of the people who stood up
2 when people asked who favored one plan or the other. And
3 that is because the tribal council on behalf of the
4 Shoshone-Bannock tribes is taking the position that neither
5 plan is satisfactory in their eyes.

6 We think there can be some changes made to the
7 plans that would meet the proposal that the Tribe would like
8 to recommend to you today. And that is to draw
9 redistricting plan that creates a legislative district that
10 includes the whole Fort Hall Reservation.

11 When we looked at the L69 and L76, each of those
12 plans contain a part of the reservation but split it either
13 in three districts or four districts.

14 I don't know if you know, but the Fort Hall
15 reservation is divided actually into four counties, Bingham
16 County, Caribou County, Bannock County and Power County. If
17 we look at L69, our comments on that are that it's split in
18 to three districts, but the big chunk of the reservation
19 that is left out is the southern half of the reservation
20 which dips down over into Power County. The southern half
21 of the reservation that is placed into a separate district
22 which is unacceptable to the Tribe, that district includes
23 about 400. If you're looking at the numbers that were
24 produced by the commission, it includes 467 Indian voters.
25 That would be brought into either, I think it's District 29,

1 of the L69 plan that would include then the entire
2 reservation.

3 The L69 includes voters, however, Chubbuck and
4 eastern Pocatello proper that perhaps maybe don't have the
5 same common interests as the Tribe may have noticed over the
6 years with regard to alliances and different issues that
7 have been faced in the state legislature.

8 On the other hand, L76 splits the reservation
9 into four districts. The main split is along the Bannock,
10 Bingham County line. And it actually breaks up a large
11 chunk of Indian voters on the reservation.

12 CO-CHAIRMAN SELLERS: It's time.

13 THE WITNESS: So we would just propose at this
14 time we would be willing to work with the commission that we
15 believe a plan could be devised to include the whole
16 reservation in one district or another. Thank you.

17 CO-CHAIRMAN STUART: Madam Chairman.

18 I want to thank you for your input. We are
19 looking for input from Fort Hall.

20 COMMISSIONER GIVENS: Mrs. Wolfley, the plan up
21 on the screen I believe was identified as L78. That's the
22 plan that I just spoke with Mr. Clark a moment ago. And
23 from here I can't tell whether it's 29 or 30. One of those
24 two districts is really just the portion of the city of
25 Pocatello south and west of the freeway. And the other is

1 the portion of Fort Hall that is within Bannock County. The
2 Fort Hall precinct, Bingham County, and the portion of Fort
3 Hall in Caribou and Power Counties, so that the entire Fort
4 Hall reservation is in one district and combined with the
5 city of Chubbuck and the other portions were northern
6 Bannock County.

7 Is that a district that the tribal council of
8 the Shoshone-Bannock Tribes could support?

9 THE WITNESS: Well, in looking at this on here,
10 part of the whole problem with looking at these on the
11 Internet is that they're not to the map and it's very
12 difficult to look at the actual boundaries. But in looking
13 at this, it seems as if it follows the northern boundaries
14 of the reservation, which is the Blackfoot River. I don't
15 know if that's correct.

16 COMMISSIONER GIVENS: Yes, it does.

17 THE WITNESS: If that's how you come down, it
18 looks like it includes most of the reservation.

19 COMMISSIONER GIVENS: It includes all the
20 reservation.

21 THE WITNESS: That is actually the first and
22 foremost desire of the business council is that the
23 reservation be kept intact as a whole instead of splitting
24 into many districts.

25 COMMISSIONER GIVENS: Let me take it one step

1 further. From my design, it looks to me like there are no
2 people in the portion of the Fort Hall Reservation in
3 Caribou County. And from everything I'm familiar with
4 redistricting is about people, not about areas.

5 Ultimately, if the plan excluded the portion of
6 the reservation in Caribou County but otherwise remained as
7 you see it there in plan L78, would that be something that
8 would be in the business council's eyes preferable to the
9 other districts you looked at?

10 THE WITNESS: Let me ask you, this is your
11 proposal of 29 here. Does that mean it would be
12 District 29?

13 COMMISSIONER GIVENS: Let me -- I'm not sure
14 which district it is. Let me play with this computer and
15 see if we can answer that question better.

16 Yes, 29 is the district. And it does include --
17 let me just stick the reservation boundaries on there. I
18 guess the way this one works, there. So you can see the
19 entire reservation is in that district. You can see where
20 it is.

21 THE WITNESS: It looks to me this particular
22 plan is very similar to L69 except for bringing in that
23 southern half.

24 COMMISSIONER GIVENS: Yes, it is largely drawn
25 off L69 with that one exception of the Caribou County

1 portion. Would that be a plan the business council could
2 live with?

3 THE WITNESS: It's something I think they would
4 be willing to closely look at and consider. I know they
5 would not want to agree to the proposal Bingham County
6 Commissioner Wayne Brower made to move the Bingham County
7 section of the reservation over into Power County.

8 COMMISSIONER GIVENS: So that you know, and as
9 you advised the council, the difficulty that this plan
10 presents to the commission is that it requires the division
11 of another county which would leave -- and the commission
12 feels is a violation of the state constitution; and that is
13 the division of Power County, which has not otherwise been
14 divided.

15 THE WITNESS: We're aware of that.

16 COMMISSIONER GIVENS: Thank you very much, Madam
17 Chairman.

18 CO-CHAIRMAN SELLERS: Tom Holm. Elliott Larsen
19 turned in written testimony to me that hopefully has been
20 handed out to everyone. He did ask me to indicate on the
21 record for him that he is opting to keep south Bannock
22 County south. Edith Stanger.

23 We're going to take about a five minute break
24 and we'll begin with Chick.

25 (Off the record.)

1 (Break from 4:30 to 4:45 p.m.)

2

3 WITNESS THIRTY-TWO: CHICK BILYEU.

4 THE WITNESS: Madam Chairman, Members of the
5 Reapportionment Committee, my name is Chick Bilyeu. I'm a
6 rural resident of Bannock County. I want you to know that I
7 have slashed my testimony down to the point that I think I'm
8 only three minutes. I'm the fourth person in this
9 testifying commission to be from Bannock County.

10 The gentleman who asked people to stand would
11 have received a greatly different count had this meeting
12 been at the ISU campus in Pocatello.

13 I speak not as an expert on the various plans,
14 but as one who was affected by reapportionment in 1972, 1982
15 and 1992. And just barely survived the 1992 and was taken
16 out of office in 1994.

17 I along with others were very pleased that your
18 original deliberations resulted in keeping Bannock County
19 intact. I know it's sensitive to talk about politics here.
20 I have heard that mentioned several times, but I cannot
21 restrain because in my opinion, this is a political arena.
22 And you can no longer talk about this item and not talk
23 about politics than you can talk about American sports and
24 forget football.

25 Idaho's recognized in the nation as the most

1 Republican state of all. The majority party in Idaho holds
2 all but one of the several state elected officials. The
3 Idaho senate has thirty-two members of the majority party
4 and only three members of the minority party. The house
5 count is sixty-one to nine.

6 The danger I see for this commission is that if
7 you adopt plan number 69, your deliberations and your
8 results will be perceived as a power play to eliminate the
9 minor party completely.

10 Congressman Mike Simpson stated when he was the
11 speaker of the house, and I can't quote him absolutely
12 correctly, but the gist of it I have, that one party rule
13 does not bring about the best government. The partition of
14 Bannock County might be perceived as a move toward one party
15 government.

16 I appeal to you to keep Bannock County intact.
17 It almost has the ideal number for two legislative
18 districts.

19 In closing, I request your consideration of Dr.
20 Paul Zelus' proposal which I was totally unaware of until a
21 few minutes ago. I learned years ago politics is known as
22 the art of compromise. Thank you. If we can meet as he
23 suggests with you and compromise, then the people might
24 truly be considered included in this process.

25 CO-CHAIRMAN SELLERS: Any questions? Thank you

1 very much.

2 Larry Jones, Harvey Walker, Scott Kid.

3

4 WITNESS THIRTY-THREE: HARVEY WALKER.

5 THE WITNESS: Madam Chairman, Members of the
6 Committee, I'd like to thank you for this opportunity to
7 speak with you. First of all, I'd like to compliment you.
8 I'm from Butte County, Idaho.

9 First of all, I'd like to thank everyone who
10 submitted his maps keeping Butte County within the
11 boundaries of the state of Idaho. We feel very left out and
12 it's unfortunate about being used as a pawn in
13 reapportionment.

14 At one time we were with District 35. We went
15 to District 31. You went to put us back in District 35.
16 It's been twenty years since Butte County has had an elected
17 official, appointed official that lived in that county to
18 represent us in Boise. That happened this last fall because
19 we were part of Bingham County. We would like you to go
20 back to some of the drawings on map 66 and put us back in
21 Bingham County. We'll not tolerate or would not like to
22 tolerate 69 or 76. Thank you.

23 CO-CHAIRMAN SELLERS: Any questions?

24 THE WITNESS: I think if you take and move us
25 back over there, you won't have any trouble rearranging some

1 of those areas you're having conflicts with the Indian
2 Nation and Power and Bannock and Bonneville County.

3 COMMISSIONER SHURTLIFF: How would you help us
4 resolve the Bannock County problem?

5 THE WITNESS: Excuse me. I didn't mean that.
6 Bingham -- Blaine County, Blackfoot area. I just think
7 those things can be cut up a little smoother. If you really
8 want to square your map up, since we don't like these jagged
9 edges, let's take Butte County, Custer, Lemhi, Clark, and
10 let's take the sacrificial lamb, Blaine County, put us
11 together and let us be and I think we'll have a hell of a
12 time.

13 CO-CHAIRMAN SELLERS: Thank you.

14 Scott Kid, Wayne Hearst.

15

16 WITNESS THIRTY-FOUR: SCOTT KID.

17 THE WITNESS: Madam Chairman, to clear up -- I'm
18 not sure if the representative from -- the attorney for the
19 reservation is here. We need to clear up a number. That
20 was stated there were 400 American Indians in that portion
21 of the reservation and that is not correct, it's 200.

22 CO-CHAIRMAN STUART: Jeanette left.

23 THE WITNESS: Just so if that's a decision maker
24 for any of the commission, that should be noted. I have for
25 the record submitted a plan that modifies L69. In fact, let

1 me -- just how L69 came about, I was under some really tough
2 time constraints. We were filing for the court L69. I
3 simply didn't have time to meet with any of the county
4 commissioners to address the community of interest concerns.
5 As I've gone back with the Bonneville County
6 Commissioners --

7 COMMISSIONER GIVENS: Madam Chairman, will you
8 ask this gentleman who he represents for the record?

9 CO-CHAIRMAN SELLERS: Yes, thank you.

10 THE WITNESS: Should I start over.

11 COMMISSIONER GIVENS: I just want to know who
12 you are and who you represent.

13 THE WITNESS: My name is Scott Kid, Commissioner
14 Givens. I think we met before.

15 COMMISSIONER GIVENS: The record wasn't there.
16 The record is here today, sir.

17 THE WITNESS: Thank you.

18 Maybe what I'll do for the record, the map, what
19 has happened is, I was under very tight time constraints
20 when we were filing with the supreme court. The map, I did
21 not have an opportunity to speak with county commissioners
22 and resolve any community of interest problems that they
23 foresaw.

24 So I went back and I've spoken with the
25 Bonneville County commissioners. We looked at the map.

1 There were some very obvious community of interest concerns.

2 We resolved that. And that is on that computer R1.

3 I won't take any time unless you have got any
4 questions on that. I did want to answer one question
5 Commissioner Givens has raised to several individuals. What
6 would happen if we put Madison and Fremont Counties together
7 with the 6.26 deviation?

8 The reason that I don't have a problem with that
9 is we had precinct ten in the center of the city of Rexburg
10 has never had more than 1500 registered voters in any recent
11 history we have been able to find. But in the census
12 numbers, the numbers come out at 9,548.

13 Okay. We have -- that's where the college
14 housing is. The reality of it is those students will not
15 vote in Idaho. They would lose their residency. They come
16 from all over the nation, all over the world. So that's one
17 of the reasons why I have no problem 400 -- or 600 people
18 reduces that number down to where we are with everybody
19 else.

20 COMMISSIONER SHURTLIFF: How come you didn't
21 make that -- Mr. Moeller didn't make that argument with the
22 supreme court?

23 THE WITNESS: What was that?

24 COMMISSIONER SHURTLIFF: I don't remember
25 Mr. Moeller making that argument with the supreme court. We

1 don't need to worry about the deviation because 9000 people
2 don't count?

3 THE WITNESS: That wasn't his point to make that
4 argument. I'm answering a question, Mr. Shurtliff.

5 COMMISSIONER SHURTLIFF: I see.

6 THE WITNESS: Thank you.

7 Also as far as communities of interest, if I
8 could, for those who are concerned, if you would look at
9 Madison County, the question has come up whether or not if
10 we would be in favor of splitting Madison County.

11 If you look at the data there, there is -- what
12 I've done is drawn a circle around the city of Rexburg with
13 a seven and a half mile radius, fifteen miles across,
14 ninety-six percent of all of the population in Madison
15 County resides within that circle.

16 Madison County is the fourth smallest county in
17 the state. That is why the community of interest argument
18 is so strong.

19 CO-CHAIRMAN SELLERS: Scott, it's time. I'm
20 going to have you come back up when testimony is over to put
21 that plan up on the screen since it's one that has been
22 commented on several times today from the county
23 commissioners and the county clerk.

24 COMMISSIONER HAAGENSON: It appears it's
25 available now.

1 CO-CHAIRMAN SELLERS: Do we want to take the
2 time now?

3 THE WITNESS: I'd be happy to sit down here
4 and --

5 CO-CHAIRMAN SELLERS: I think we'll go ahead, we
6 have very few people left for testimony, and give them the
7 opportunity to be finished while we are getting this hooked
8 up and then we'll let Scott show it.

9 Wayne Hearst, J.O. Cotant, Doug Nelson left, and
10 Harry Welzo (phonetic).
11

12 WITNESS THIRTY-FIVE: WAYNE HEARST.

13 THE WITNESS: Madam Chairman, Commissioners,
14 it's a pleasure to be here today. You probably recognize
15 me. I have probably been to all the voting meetings. I've
16 been in the audience and listened probably to eighty,
17 perhaps ninety percent of the time through all the meetings
18 that were had in Boise, and I recognize frustrations you've
19 gone through and the struggles. I also recognize your
20 sensitivity and your citizenship. I appreciate your sincere
21 effort to do what is right for Idaho.

22 I also recognize that differing views, what's
23 best for Idaho, with myself and yourself.

24 My name is Wayne Hearst. I live in Cassia
25 County. I serve in the community. I happen to be the

1 county chairman Republican Central Committee. That is part
2 of the reason why I've been so interested.

3 And the reason I would like to comment today is
4 we're concentrating mostly on eastern Idaho, Cassia County,
5 District 27, and both plans extends into Bingham County.
6 And Bingham County is one of the counties that was all
7 involved in the lawsuit.

8 From our perspective and my personal
9 perspective, counties are an important community of
10 interest. through county government, central committees you
11 have, it's an important community of interest. I appreciate
12 the concept of keeping counties whole, but sometimes there
13 are exceptions.

14 It would be possible to extend District 27 and
15 follow the guidelines of the river over to north Burley,
16 pick up about 2000 people or so. There's one precinct. In
17 doing so, 27 would not have to invade Bingham County so
18 much. I believe the Moreland precinct could be kept with
19 the rest of Bingham County.

20 Now whether that would make Bingham County
21 district heavy, that would have to be looked at. That would
22 be a natural extension of the Cassia County and Burley. It
23 would, of course, require dividing another county line.

24 Now as far as Cassia County, we speak frankly,
25 go to the west to Twin Falls into Buhl. That would also, of

1 course, enter into another county. But I just would like to
2 throw that out. Cassia County, we're still a doughnut
3 county no matter how you slice it. So I guess your ox
4 hasn't been gored the way we see it.

5 If there is a way to not intrude so much in
6 Bingham County, that would be fine with us. Also, I would
7 just like to say that people of Idaho respect reasonableness
8 and common sense. And county lines make a lot of sense, but
9 there are times when it falls that, you know, you can go
10 across county lines if there is significant interests,
11 Cassia County or Bannock County.

12 CO-CHAIRMAN SELLERS: It's time. Thank you. Is
13 there any questions?

14 Harry Welzo, I'm sure I'm saying that wrong.

15

16 WITNESS THIRTY-SIX: J. O. COTANT.

17 THE WITNESS: Madam Chairman, Members of the
18 Committee for Redistricting, I'm a Bannock County
19 commissioner and have been a Bannock County commissioner for
20 almost nine years. I think a week from tomorrow I'll be
21 there nine years, and I've lived in Bannock County all my
22 life with the exception of about four areas. I lived in
23 Madison County, Rexburg in the early seventies.

24 I come before you today to express a couple of
25 ideas maybe you haven't heard before and to clarify a couple

1 of things. I'll quickly say that I think that Dr.
2 Goodenough, the commissioner from Oneida County explained
3 real well what I've felt and what the two commissioners I
4 serve with have felt about the southern part of Bannock
5 County being part of the community of interest in the corner
6 of the state of Idaho with Caribou County, Bear Lake County,
7 Franklin County and Oneida County.

8 And for that reason I won't elaborate further on
9 that. Quickly, on the south county cessation issue just to
10 clarify, that was an issue that was started by an individual
11 that got three or four or five, maybe, people behind him,
12 got a lot of news media gas out of it. It was never
13 anything that was particularly followed or supported by the
14 bulk of the people in the south end of the county as they
15 have all told us.

16 Mr. Ghan made a couple of comments and said he
17 polled the board. I don't know what he was talking about
18 there. Just for the record, I have no idea what he was
19 talking about. As I reviewed with the other commissioners,
20 maybe I didn't hear him right or something, but his remarks
21 weren't representative of our feelings and those feelings of
22 the people in the south end of Bannock County that I've
23 talked to.

24 It's important to think of this community of
25 interest and keep that intact. The area in Bonneville

1 County, as others have said, don't have any interest or
2 situations that are in common hardly at all with this area,
3 the corner of the state of Idaho as have already explained.
4 And so I won't go any further into that other than to say as
5 a 5th district a part of the Idaho Association of Counties,
6 all of those counties, including Bannock County work closely
7 together on many issues, jails, juvenile center, on and on.
8 And so that community of interest in the south end of the
9 state should stay together.

10 And so for those reasons I support the L69 plan
11 as do the other two commissioners and I speak on their
12 behalf and have been given their permission to do so. If
13 you have any questions, I'd be glad to answer them,
14 otherwise, I thank you very much for your attention.

15 COMMISSIONER TAYLOR: Madam Chairman.
16 Mr. Cotant, have you Spoken with many residents of south
17 Bannock County as it relates to this issue; and if so, what
18 is your opinion of their consensus?

19 THE WITNESS: Directly about this issue at this
20 time in preparation for today, I haven't. During the time
21 this has gone on, those that I have seen traveling in that
22 area, doing things in the area, seeing them in the Pocatello
23 area here, in town and from working on the fair board on
24 issues with south Bannock County versus north county
25 fairgrounds, and all those issues, I've gotten to know a lot

1 of those people and have continuous contact with them from
2 time to time.

3 But specifically in preparation for today, I
4 haven't contacted a lot of those people. But a lot have
5 contacted me over the past six months, or however long this
6 has been going on. And generally speaking, I don't think
7 there has been -- I can't remember anybody that was really
8 that excited about being, you know -- they'd rather be a
9 part of that community that they were used to being within
10 as much as the school district, the teams they play are in
11 that corner of the state, for the most part the interest
12 they have in agriculture in that corner of the state, that's
13 what they all illustrated to me.

14 COMMISSIONER TAYLOR: Thank you.

15 THE WITNESS: Thank you very much.

16 CO-CHAIRMAN SELLERS: I believe we have
17 completed testimony. Then I'd like to thank you all for
18 your patience. And we'll go ahead.

19 And if you could assist Scott, we'll have him
20 put his plan up quickly for us.

21

22 WITNESS THIRTY-SEVEN: Scott Kid.

23 (Mr. Kid showing his materials on screen.)

24 CO-CHAIRMAN SELLERS: So we can understand, this
25 is --

1 THE WITNESS: This is a modification of L69.

2 CO-CHAIRMAN SELLERS: It was modified because of

3 a meeting with county commissioners and county clerks, et

4 cetera?

5 THE WITNESS: Correct.

6 COMMISSIONER GIVENS: If it can be pulled out a

7 little bit so we can see what all is.

8 CO-CHAIRMAN SELLERS: Back out.

9 THE WITNESS: Yes, back out. Is that enough?

10 COMMISSIONER GIVENS: One more spot.

11 THE WITNESS: If you recall in L69 the obvious

12 problem in eastern Bonneville County, they have been united

13 in every redistricting apportionment plan. The problem with

14 L69, I had several constraints on me that were not on that.

15 One of our causes of action was that seven of fourteen

16 precincts of Madison County had been divided. It would have

17 been inconsistent had I come in with a plan that then

18 divided precincts.

19 So as far as the number game, L69 took this

20 precinct, (indicating) this precinct, and this precinct to

21 come up with the numbers. They were in District 31 there,

22 Bingham County.

23 COMMISSIONER TAYLOR: Scott, I have L69. Does

24 that show -- is that eastern precinct as part of Bingham

25 County?

1 THE WITNESS: This one (Indicating)?

2 COMMISSIONER TAYLOR: Yes.

3 THE WITNESS: That's right. Excuse me. We had

4 two communities here ten miles apart divided in L69 which

5 really made no sense.

6 COMMISSIONER TAYLOR: To make sure we're on the

7 same wavelength.

8 THE WITNESS: So what I did, I looked through

9 all of the redistricting plans from 1966, '72, '82 and '92.

10 Eastern Bonneville County has really been whole. And so it

11 made no sense to divide that community of interest. So as I

12 met with the county commission, can I enlarge that? Is

13 there any questions there?

14 As we look at it, it was just cleaner lines. I

15 need to -- you will notice we have made some changes. I've

16 got another disk, but we just did not have the time to get

17 it up and loaded. This incorporates that change which was

18 preferable to taking this community of interest down to it's

19 traditional community of interest rather than District 35.

20 We can go ahead and ignore that. In fact,

21 that's the purpose of the paper match there to show you the

22 difference is what I did.

23 COMMISSIONER TAYLOR: Let's focus on one area at

24 a time. Can we do that?

25 THE WITNESS: I needed to show you, so nobody

1 would nail me on the changes in Fremont County, I needed to
2 explain that up-front.

3 Basically, what it does, it outlines, Sunnyside
4 Road up St. Claire, up to 17th, and down I believe Cliff
5 Road, and then the Ammon Road there (indicating). It
6 squares it out a little more.

7 CO-CHAIRMAN SELLERS: City limits?

8 THE WITNESS: Yes, also the city limits are
9 squared out.

10 COMMISSIONER GIVENS: Could you click the city
11 limit, it's button, please?

12 THE WITNESS: Yes.

13 The other positive aspect of it we do not split
14 Ammon. Most of the growth is south and east of Ammon. And
15 so this area's growth will stay within the same legislative
16 district. Is that enough of the city limits? Okay.

17 School district. The Shelley School District,
18 Idaho Falls, really that is a main thing that's happened,
19 just realigning, squaring out some of those district lines.
20 And I simply wasn't qualified to speak to the community of
21 interest in Bonneville County.

22 COMMISSIONER HAAGENSON: Excuse me. Madam
23 Chairman, and Scott, what road is the western boundary,
24 District 33 or do you know?

25 THE WITNESS: 33, western side.

1 COMMISSIONER HAAGENSON: That is the western
2 side.

3 THE WITNESS: That is --

4 COMMISSIONER HAAGENSON: Scott, the other west.

5 THE WITNESS: I'm directionally challenged, it
6 looks like 33.

7 CO-CHAIRMAN SELLERS: It's 35th Street.

8 COMMISSIONER HAAGENSON: 35th, is that what you
9 said?

10 THE WITNESS: 35th west.

11 COMMISSIONER GIVENS: This plan would not -- can
12 you go back out a little bit further so you can see this
13 plan would not accommodate the concerns of the mayor of
14 Ammon that spoke earlier about having portions of Ammon or
15 Idaho Falls with those districts that are largely rural,
16 would it?

17 THE WITNESS: He was one of them that sat down
18 with me on this. We spent some time yesterday.

19 COMMISSIONER GIVENS: That's not my question,
20 sir, whether he sat down with you. It does not accommodate
21 the concerns he expressed to the commission, does it?

22 THE WITNESS: I wouldn't be qualified to answer
23 for him, sir.

24 CO-CHAIRMAN SELLERS: He did indicate, if my
25 memory serves me correctly, that all of that would not

1 necessarily be the preference if the city of Ammon could be
2 kept entirely intact, but that was all right with them.

3 COMMISSIONER GIVENS: Could you put on -- that
4 city limits boundary again -- take it off again.

5 THE WITNESS: (Witness complies.)

6 COMMISSIONER GIVENS: So put it on again, so the
7 city limit is not kept intact here.

8 CO-CHAIRMAN SELLERS: Yes, it is.

9 THE WITNESS: I'm having a hard time hearing
10 you.

11 CO-CHAIRMAN SELLERS: You need to talk into your
12 mike.

13 COMMISSIONER GIVENS: Could you take off the
14 city limit again?

15 THE WITNESS: Yes.

16 COMMISSIONER GIVENS: That area where the "A" of
17 Ammon is, what city is that in?

18 THE WITNESS: Yes, Idaho Falls, that section.
19 That was purposely to accommodate a traditional community of
20 interest.

21 COMMISSIONER GIVENS: I guess, sir -- Madam
22 Chairman, this plan, as I understood the mayor of Ammon's
23 comment, the plan is directly contrary to what he said. So
24 I guess if anyone intends to influence this commissioner, if
25 this is a plan that makes sense to the mayor of Ammon, why,

1 we should get the mayor of Ammon back here to say so. I
2 think this is directly -- it's precisely what he said he did
3 not want to have done.

4 THE WITNESS: Well, I don't know what the
5 implication is. I certainly --

6 MR. BLAKE HALL: I think I can answer that if I
7 may be allowed, please, Madam Chairman.

8 My lawfirm represents the City of Ammon. This
9 plan is the preferred plan by the City of Ammon. It meets
10 the interest of the City of Ammon because it keeps the
11 entire City of Ammon within one district. And the area that
12 would potentially grow in Ammon is also kept within that one
13 district.

14 So this meets not only the current boundaries of
15 the City of Ammon, but also the impact under the impact zone
16 under of the City of Ammon would remain -- this is the
17 preferred plan by the City of Ammon.

18 THE WITNESS: This is how the '90 plan, that
19 same area we're looking at. It's not a significant
20 departure from how the '92 plan effected it.

21 CO-CHAIRMAN SELLERS: Is it my understanding
22 that the Bonneville County commissioners support this plan?

23 THE WITNESS: Yes. It's the work -- the best of
24 two worsts, in their words. It certainly was preferable to
25 them over 76.

1 MR. CHRISTENSEN: (Speaking from the audience.)
2 Is it proper for us to speak from here?
3 CO-CHAIRMAN SELLERS: Go ahead.
4 THE REPORTER: What is your name, sir?
5 MR. CHRISTENSEN: Roger Christensen, Chairman of
6 the Bonneville County commissioners.
7 The purpose in our written testimony that we
8 submitted, we had some concerns about the way the line
9 wandered back and forth across Sunnyside Road all the way up
10 there. We submitted a plan that cleaned up the lines on
11 Sunnyside and went up Hitt.
12 The mayor of Ammon approached us and requested
13 that the community of interest be kept intact. A portion of
14 that area north of Sunnyside goes up to 17th Street was
15 already included in the southern district. So by extending
16 that on a clean line boundary down 17th Street, our goal on
17 this whole thing was to try to get good, clean, straight
18 boundary lines and accommodate what the mayor of Ammon did
19 express to us was an effort to keep his city in one
20 district. And I think the mayor met with Mr. Kid prior to
21 his bringing this plan down and showing us. We concurred
22 with it.
23 CO-CHAIRMAN SELLERS: Thank you.
24 MR. KID: There were changes up here to
25 accommodate Fremont moving that Fremont County community

1 that was down.

2 CO-CHAIRMAN SELLERS: Those are not reflected in
3 this on this map.

4 THE WITNESS: Yes, they are. This is included
5 in this map.

6 CO-CHAIRMAN SELLERS: The changes in 35 I
7 thought you said are not.

8 THE WITNESS: This is as is right now, but it
9 includes the changes in Fremont County to accommodate that
10 community of interest movement down to 32 rather than over
11 to 35.

12 COMMISSIONER HAAGENSON: Excuse me, Madam
13 Chairman, Mr. Kid. Where did you make up the population in
14 35?

15 THE WITNESS: What we did?

16 COMMISSIONER HAAGENSON: If you took northern
17 Fremont out, you had to find some other.

18 COMMISSIONER TAYLOR: Teton County.

19 MR. KID: You had approximately, I think, 1170
20 people in these three precincts and Island Park precinct.
21 And then we changed the numbers over in here (indicating).
22 I believe it went along this road down in those areas and
23 would approximately make up the 1170. It is some change
24 again. If you want to take the time, we can demo the other
25 one or you can look at it at your convenience.

1 COMMISSIONER SHURTLIFF: I'm getting tired. I'm
2 reminded I started out the day -- and I assure you I end up
3 that way too. So to satisfy the concerns of people of
4 Fremont County who are concerned that they're losing Island
5 Park precinct in L69 or L76, we have eliminated that problem
6 and we've added two other precincts to Fremont County and
7 run them around Teton County and back into Bonneville
8 County.

9 And then we have taken some folks of Bonneville
10 County and said, you belong with the people in Clayton,
11 Stanley, North Fork, salmon right down to where we sit.

12 Is that my understanding?

13 MR. KID: That was not my testimony certainly.

14 COMMISSIONER SHURTLIFF: No, I didn't hear what
15 you said, Mr. Kid.

16 THE WITNESS: That was not my testimony.

17 COMMISSIONER SHURTLIFF: Sorry?

18 MR. KID: That was not my testimony.

19 COMMISSIONER SHURTLIFF: I said, that's how we
20 are addressing the concerns of the people from Fremont
21 County?

22 MR. KID: The thing that -- the concern
23 associated with Stanley and Lemhi and Custer Counties is
24 misleading because the vast majority of the competition is
25 in this area of the state.

1 COMMISSIONER SHURTLIFF: Why were they
2 complaining about it then in Island Park? It's closer to
3 Rigby from Island Park than it is to Utah, I can tell you
4 that. Been there, done that.

5 MR. KID: I grew up there.

6 COMMISSIONER GIVENS: Let me ask it this way,
7 Madam Chairman.

8 Mr. Kid, you're not suggesting, sir, are you,
9 that this plan satisfies the concerns of the witnesses from
10 Fremont County that testified here today?

11 MR. KID: Certainly not. They have brought --
12 their clerk had said that if there were a split in Fremont
13 County if that were required, then they would prefer, and
14 you have a historical community of interest between this
15 section of Fremont County in the 90 plan. If you look
16 there, there is some community of interest there.

17 COMMISSIONER SHURTLIFF: I'm sorry. I don't
18 understand what you mean by community of interest. You mean,
19 a community that was established in 1990 to create a
20 legislative district?

21 MR. KID: In their opinion, and I don't wish to
22 speak for them. If you would like to call them up, they
23 explained, as I understand it, in our conversations they
24 explained they would prefer that the section of Fremont
25 County, go south to Teton where they -- in the 90

1 redistricting plan rather than west into District 35 where
2 there are no roads that join Island Park to that area that
3 are open during the winter. It was those kinds of things
4 they were addressing.

5 COMMISSIONER SHURTLIFF: People in Squirrel and
6 Drummond said they would rather go to Ucon than they would
7 to St. Anthony.

8 MR. KID: Well, from a legal standpoint is there
9 a community of interest there? Has there been? Is there
10 any -- I think a lot of times we've had -- we've treated the
11 community of interest as purely subjective. I don't believe
12 that's quite the case. In fact, the statute does not
13 empower the commission to create communities of interest.
14 It requires they recognize them.

15 COMMISSIONER SHURTLIFF: I would submit to you,
16 Mr. Kid, that district was created, when it was created by a
17 desire to protect incumbent legislators. It had nothing to
18 do with the fact that the people in Island Park and Ucon
19 were joined at the hip in communities of interest. It was
20 designed to create a district with the population numbers,
21 and also to take care of some incumbent's problems.

22 MS. ABBIE MACE: Madam Chairman, may I speak.
23 I'm the clerk from Fremont County. We presented this this
24 morning.

25 If I may remind you, our initial testimony was

1 that if any way possible, we would like to stay whole as a
2 county with Madison County. And the only reason we
3 submitted this plan was that in the past we have been
4 combined with these areas. We have established good
5 communications with the legislators that we have in that
6 area.

7 To take a portion of Fremont County and put with
8 a new district, we would then have to start over again. And
9 it wasn't anything to protect incumbents by any means. It
10 was just that we had established those lines previously in
11 the last ten years.

12 COMMISSIONER SHURTLIFF: And I appreciate that.
13 I do, but I also appreciate that by making this shift,
14 you're going to ask people in Colton to go make some new
15 friends.

16 MS. ABBIE MACE: I understand that.

17 COMMISSIONER HAAGENSON: Madam Chairman.

18 CO-CHAIRMAN SELLERS: Dean.

19 COMMISSIONER HAAGENSON: Madam Chairman and
20 Members of the Commission, I feel compelled to once again,
21 and this time maybe more directly, Mr. Kid is here
22 representing himself as a concerned citizen. He's done good
23 work. It's in our best interest to listen to what he has to
24 say and understand it.

25 But the cross-examination of people today and

1 the argumentative approach I think is counterproductive and
2 a waste of our time and it discourages people. I would not
3 blame Mr. Kid if he got up and walked out. I think he
4 should be allowed to submit his plan and have a chance to
5 explain it and answer our questions. And that's the end of
6 it.

7 MR. KID: Thank you, Commissioner Haagenson.

8 CO-CHAIRMAN SELLERS: Any further questions? Is
9 there any additional area you'd like to --

10 CO-CHAIRMAN STUART: Madam Chairman, can you
11 back out to the county and see the eastern end of the state
12 there more?

13 MR. KID: (Witness complies.)

14 CO-CHAIRMAN STUART: Just an observation, I
15 don't mean this to be critical, but the oddly-shaped notion
16 has come up more than once today. I have to observe that
17 what we've done -- there's compromising to do in District
18 32, Fremont and eastern Bonneville, although I understand
19 your argument from a community of interest perspective. The
20 geographic contiguity there is a bit of a stretch.

21 THE WITNESS: Understand I have no personal
22 interest. That's why I did the easiest thing in L69. I
23 simply lopped off Island Park. It needs to be clear. I'm
24 not suggesting this needs to be done. And as far as
25 previous to this is concerned, the shepherd's crook in 76

1 that surrounds Bonneville County, I mean, or the horseshoe
2 up north, I mean, it doesn't fall or doesn't win any awards
3 for beauty.

4 CO-CHAIRMAN STUART: Of course not,
5 acknowledged.

6 CO-CHAIRMAN SELLERS: There doesn't seem to be
7 any question in this following the will of the community
8 leaders. So it needs to be looked at in that way as well.

9 MR. KID: This being said, again, L69 was our
10 third preference by far, but since our scope is limited to
11 eastern Idaho, L69, this IS really what we've got to work
12 with.

13 CO-CHAIRMAN SELLERS: Leave that up.

14 CO-CHAIRMAN STUART: Before you leave I was
15 going to ask for the basis for squaring off boundaries here
16 in Idaho Falls. I understand Mr. Kid spoke to that
17 rationale was just for simplicity.

18 MR. KID: Simply as I understand it was by the
19 county commissioners, the odd-shaped precincts there were an
20 incorporated attempt to stay within other district
21 boundaries.

22 CO-CHAIRMAN STUART: I assume that those
23 precincts were made for other reasons during annexation and
24 all the obvious events that happened. That's an area of
25 rapid growth within the City of Idaho Falls.

1 Precincts were made to stay within the confines
2 of the original legislative districts. We had a situation
3 where along Sunnyside Road, which was going to be a major
4 arterial for our area, that residents would be asked, okay,
5 which side of Sunnyside Road do you live on? Okay, if you
6 live south of Sunnyside, which street do you live on in that
7 subdivision, and what's your address in that subdivision?

8 Because you could have gone down one street and
9 your neighbors would have automatically gone on the same
10 street in the same subdivision, technically, in the same
11 subdivision. Names are given in the side-by-side
12 subdivisions.

13 On the same street could conceivably have been
14 in separate districts. This is a very clean geographical
15 line. It's our desire, since we're going to have to rework
16 that whole area, we've been anticipating the census to be
17 able to go in and clean up and try to equalize those
18 precincts to have one good clean identifiable boundary so a
19 voter calls in and says, where do you live, south of
20 Sunnyside. Okay, you're in this district.
21 Thank you.

22 MR. CLARK: Madam Chairman, how does that effect
23 Bingham County because looking from here, it doesn't seem
24 like it addresses any of the county commissioners' desires
25 as far as District 31 goes on the western border.

1 MR. KID: In fact, the changes in this plan were
2 in Bonneville County and Fremont County. It doesn't address
3 Bingham County. For the record in the past, in '62, '72 and
4 '82 -- excuse me -- in '66, '72 and '82's reapportionment
5 plan, Bingham County was split four times. It was -- excuse
6 me -- three times in four different districts.

7 MR. CLARK: Yes, I realize that. We accepted
8 that. I mean, you've got Idaho Falls and Pocatello and
9 they're both good neighbors. We realize that. And We've
10 got communities of interest there so, you know, we don't
11 have a problem with being split, but still we need our
12 issues addressed as far as the Pingree, Rockford and
13 Moreland areas that was talked about earlier as being our
14 core areas of Bingham County, and this plan doesn't do it as
15 proposed and wasn't supposed to because it's only Bonneville
16 County.

17 COMMISSIONER TAYLOR: Just on the positive side
18 of that, however, if we culled the Bonneville County
19 precincts from District 31, that makes District 31 or
20 Bingham County less heavy than it is now which may then
21 allow us to go into the Moreland, Pingree area and add
22 population easier. So I think it does have a positive twist
23 for Bingham Company if it's utilized that way.

24 MR. CLARK: Yes, I just want to point out that
25 we didn't see the lines.

1 COMMISSIONER TAYLOR: It's not in there now, but
2 you see the potential there of going into the area that
3 concerns you. The problem we have with that, of course, is
4 it's heavy population now. It's hard to add more to it
5 without throwing it way out of bounds. By eliminating the
6 precincts in Bonneville County, it may allow that to happen.

7 THE REPORTER: You're name, sir?

8 MR. CLARK: My name is Paul Clark.

9 CO-CHAIRMAN SELLERS: Well, do you know where we
10 are?

11 (Off the record.)

12 COMMISSIONER GIVENS: Madam Chairman, this has
13 been identified as plan L79. It is one that in my view
14 strictly complies with the Idaho Constitution of the
15 elimination on splitting counties.

16 In the pulled up deviation sheet, the lightest
17 district is District 9 which is minus 7.95. The heaviest
18 district is District 35 with a plus 6.35. That's a total of
19 14.30 and that was this column up on the sheet, second
20 column. Let me go through the districts quickly.

21 CO-CHAIRMAN SELLERS: I'm sorry. This is your
22 plan number --

23 COMMISSIONER GIVENS: 79. District 1 is, of
24 course, Bonner and parts of -- boundary and parts of Bonner
25 County. The area in the Clark Fork area is over here

1 (indicating,) is as Mr. Haagenson and I have reworked it
2 trying to accommodate concerns of the people in that area,
3 that is south of the Clark Fork River we put in District 1

4 These are two precincts here, (indicating), there's a
5 lot of petitions that we've had compacted that want those in
6 District 1. The trade off is this area here north of the
7 river (indicating) north of old town, including the town of
8 Priest Rivers is District 2.

9 We don't have to do that in other plans that
10 split Kootenai County and take the reservation out of the
11 southern part of District 5 and put it in District 2, but
12 this plan doesn't do that.

13 District 2 is not the best for the reason of
14 putting Priest River in District 2. I'm sure we'll hear
15 about that. I want to make sure we get this out in the
16 public so people sure can be considering this and people
17 have a chance to voice their concerns.

18 District 4 is roughly the same as we had it. So
19 is District 5. District 3 on this map shown is all of
20 southern Kootenai County including a portion of the Coeur
21 D'Alene reservation that is in Kootenai County.

22 The District 5 or District 6 is just like it
23 was. District 7 is Nez Perce, and 8 is the same. The big
24 counties Valley County, 9 is the one that is minus. And its
25 Adams, Washington and Payette, and it includes -- it does

1 not include the little portion of Canyon that in later plans
2 we went to, that's the difference there. That's why it's so
3 light. That's why it's a light county, but it doesn't split
4 it. District 11 is Gem and northern Kootenai,

5 COMMISSIONER HAAGENSON: Canyon.

6 COMMISSIONER GIVENS: Canyon, I'm sorry. It's
7 getting late. The rest of the county is pretty much the
8 same, 10 being Caldwell, 12 being Nampa, 13 being the rest
9 of Nampa and the southern part of the county. The Ada
10 County portion is identical. It hasn't changed.

11 Back down a little bit 22 is the same as in the
12 other plans, that is, Boise and Elmore. And 23 is the same
13 in other plans, that is, Owyhee and rural, southwestern
14 rural Twin Falls County, and a little bit in the City of
15 Twin Falls as a result of what they did prior at the request
16 of the people from that area.

17 District 25 is the Blaine, Camas, Gooding,
18 Lincoln County. District 26 is the Jerome, Minidoka.
19 District 27 is really about the same as the one's we have
20 been dealing with, Cassia, Power, in that portion of Bingham
21 County east of the river that has been discussed today does
22 not accommodate any of those concerns, Pingree and that area
23 is still in 27.

24 District 28 is all of the rest of Bingham
25 County. Now, we're getting into the areas where the

1 constitutional issues come into play. 28 is wholly
2 contained within Bingham County, unlike any of the other
3 plans. And 29 and 30 are wholly contained within Bannock
4 County, 30 being the City of Pocatello, 29 being rural area.

5 CO-CHAIRMAN SELLERS: City of Fort Hall is
6 divided in half.

7 COMMISSIONER GIVENS: The City of Fort Hall,
8 reservation is divided. This plan strictly complies with
9 the Idaho Constitution. It does not accommodate Fort Hall
10 boundaries. It does not accommodate the concerns of the
11 tribes.

12 31 is a district that maybe is worse, maybe it's
13 better than the one in 76. It is the same in that it
14 combines counties around the corner with the eastern more
15 portion of Bonneville County.

16 It is different and, as I understood the
17 testimony, somewhat better than 79 or 76, because it does
18 not come so close to Idaho Falls, therefore, it doesn't put
19 those urban people in the area of Idaho Falls south and west
20 in 31. What it does do though is it puts Teton County in
21 31, of course, we discussed this earlier, concerns about
22 that. The plus is that it's rural. The minus is it's a big
23 cumbersome district.

24 35 does not split either Madison or Fremont. It
25 keeps them whole. That's the plus. The negative is that

1 there's a lot of people in there. I'll scroll down here at
2 the end. You can see all those districts at the end, 33 --
3 32, 33 and 35 are all real heavy. But as I understood the
4 testimony of the people from Fremont, and I believe even the
5 Madison County commissioners as I remember, but I'm not
6 certain. They would rather be heavy and whole than have an
7 ideal population and not.

8 34 conversely is kind of light because we
9 haven't added population from either Fremont or Madison, so
10 that's where that goes. But what it does is the counties
11 that don't have to be split, let me put it this way. Only
12 the largest counties that absolutely have to be split.
13 Bannock County is wholly contained, two districts, wholly
14 contained. Bingham is one district wholly within Bingham
15 and the remainder combined elsewhere.

16 Bonneville is two districts, 32 and 33 wholly
17 within Bonneville and the remainder combined elsewhere.
18 There are other splits of Custer, Fremont, Jefferson,
19 Madison.

20 Canyon is two districts -- 3 districts wholly
21 within Canyon, and only one portion of Canyon combined
22 elsewhere where some of these plans combined two portions of
23 Canyon.

24 And Kootenai is three districts wholly within
25 Kootenai, and 9 is split off where the other plans split

1 off. So the southern portion of the rez.

2 Of course, Ada is split into 8, but they're
3 wholly within Ada. So in my view, plan 79 is one that
4 strictly complies with the constitution that counties do not
5 have to be split, other than ones that have been to comply
6 with the one person, one vote requirement.

7 And if that is the guiding principle, then it
8 looks to me like the law requires us to adopt a plan like
9 79. We do not reach the community of interest argument in
10 the statute.

11 I know it's not a perfect plan, and there are
12 obvious areas we would all like to see different and are
13 different in some of the other plans. But I did want to get
14 this plan on the record and get it numbered. We can edit
15 the one you're discussing and vote on it.

16 CO-CHAIRMAN STUART: Commissioner Givens, stay
17 here. On the left here, this can be L80.

18 This plan on the left simply takes Commissioner
19 Givens maximum counties whole plan with it's 14.3 deviation,
20 makes four changes and drops the deviation below ten
21 percent, which I think is an important plan to also have on
22 the record.

23 The details on this one are displayed here in
24 the 65-1 which will be L80. I'll run through it. The
25 differences, briefly, just to show you what they are and so

1 you understand the impact.

2 There are some minor differences in the
3 boundaries between District 1 and District 2. As you can
4 see all these equalize the deviation to bring, as you can
5 see on the left here, minus two percent to a minus four
6 percent range, rather than a larger deviation that existed
7 on the plan on the right.

8 The next significant change is a cut in Kootenai
9 County right here (indicating) to both improve, and equalize
10 the population in District 2 that was quite light prior.
11 They accomplished at the same time a unification of the
12 Coeur D'Alene tribal reservation.

13 That is an additional unnecessary county split
14 interpreting the constitution at its most rigid way.

15 COMMISSIONER TAYLOR: 80 is on the left; is that
16 correct?

17 CO-CHAIRMAN STUART: 80 is on the left, 79's on
18 the right. The right is the 14.3 deviation, less than ten
19 or about 9.9 is here on the left.

20 Okay. Now, I'll move down to Canyon County
21 which is the only other change, District 9 here
22 (indicating). District 9 there in the pink as you recall
23 from Commissioner Givens was very light. Okay?

24 And what we've done here is add a small rural
25 area, contiguous area in Canyon County to 9, so an

1 additional county, an additional county cut of 10.

2 COMMISSIONER TAYLOR: Is that the same as in 69
3 and 76 now?

4 CO-CHAIRMAN STUART: Yes, all this does is
5 equalizes population between 9 and 11 to reduce the overall
6 plan deviation. The rest of Canyon County and the rest of
7 Ada County and the rest of southern Idaho, Magic Valley is
8 identical.

9 COMMISSIONER HAAGENSON: Madam Chairman,
10 Mr. Stuart, you said there are four differences and you have
11 shown us three.

12 CO-CHAIRMAN STUART: The equalization between 1
13 and 2 will be one. The county split of Kootenai is number
14 two. The additional county cut in Canyon is three. There
15 is actually two more. I wasn't counting the difference
16 between 1 and 2. That's an equalization. It's not a
17 constitutional issue. It's an adjustment of the districts.
18 There's four constitutional issues and four different county
19 splits. Thank you for the clarification there. The four
20 county splits plus the equalization, so it's actually five
21 changes needed, Dean. Thank you.

22 I'll move east. And the only other changes are
23 in this part of the world, Bonneville, Madison and Fremont.
24 Everything else across the state is the same.

25 There is two ways to approach this. This is the

1 map, by the way, that's number two here on the right closest
2 to the stage. We can discuss this with the Madison County
3 folks and the Fremont County folks.

4 What this plan does is -- the issue here is 35
5 is just too large as we've all -- and this has come out in
6 various testimony today. 35 is just too large. So to
7 address that and lower the total plan deviations, we have a
8 couple choices to make.

9 One possibility is, of course, to take a little
10 slice of this precinct right here (indicating), that's the
11 Plano precinct down in Madison County, plus a little tiny
12 bit of block work in adjacent precincts here (indicating) --

13 CO-CHAIRMAN SELLERS: Do you want to zoom in on
14 that tiny bit?

15 CO-CHAIRMAN STUART: I certainly can,
16 Commissioner Sellers.

17 This is one approach to this. In fact, I'll do
18 this. I'll do an experiment right here on the screen. The
19 other alternative seems to be the lesser evil is to go back
20 and make Madison County whole again and add the Island Park
21 precinct to Pingree, or 34 which accomplishes the same
22 statistical goal of deviation.

23 COMMISSIONER TAYLOR: Plano or Island Park?

24 CO-CHAIRMAN STUART: Right. Or we could have to
25 take about 800 voters from someplace in Madison or Fremont

1 County.

2 COMMISSIONER TAYLOR: If you didn't do that, you

3 said we're at 9.9 now; right?

4 CO-CHAIRMAN STUART: Right.

5 COMMISSIONER TAYLOR: If you left Plano in,

6 where does that put us? 10.2, 10.3?

7 COMMISSIONER GIVENS: Let me run that on mine.

8 I can back out of it easier.

9 COMMISSIONER TAYLOR: Okay.

10 COMMISSIONER GIVENS: But that's a --

11 CO-CHAIRMAN STUART: That's a good question.

12 COMMISSIONER GIVENS: So we've got a district

13 down there at the bottom, let's see what happens. Put the

14 county boundaries on. If we move Island Park into

15 (indicating) --

16 COMMISSIONER TAYLOR: Leave Fremont County

17 intact and take Plano and put it back in that district.

18 That's going to make that a little stronger and I'm curious

19 what --

20 COMMISSIONER GIVENS: That's the same as my

21 plan.

22 COMMISSIONER TAYLOR: In other words, you don't

23 have the other changes that he's got. Your 14.1 in your

24 plan --

25 CO-CHAIRMAN STUART: What's your deviation on

1 35?

2 COMMISSIONER GIVENS: What that -- I guess the
3 question I have is if you go 800 strong in that, is it 33 on
4 your plan, Tom?

5 CO-CHAIRMAN STUART: Yes.

6 COMMISSIONER GIVENS: Here's the point. You're
7 probably at just this one right here, (indicating), so
8 you're going to have a heavy deviation of 6.26. And there
9 is a negative deviation of 5.52 up in Kootenai County, which
10 is the lightest. So you're at 11, about 11.7.

11 CO-CHAIRMAN STUART: The difference here,
12 Mr. Taylor, is about 4.4 percent deviation with that
13 reduction of the Fremont/Madison combination in whichever
14 way you chose to do that, as opposed to a 6.26 heavy if we
15 leave them intact.

16 COMMISSIONER TAYLOR: Okay.

17 CO-CHAIRMAN STUART: So with that, with
18 acknowledging we need to make an adjustment as deemed most
19 appropriate in the Madison/Fremont district there, I'll
20 submit this one as a strong plan and a good plan for the
21 record to show how they achieved 10 percent deviation with
22 the fewest number of county splits.

23 CO-CHAIRMAN SELLERS: Okay.

24 CO-CHAIRMAN STUART: There's an impact here
25 between the two in Bonneville. In Commissioner Givens' plan

1 on the right, Bonneville is in three districts to those
2 deviations of 10 percent to equalize those. Part of
3 Bonneville has to be in a fourth. So that would be where we
4 get to the four county splits which are Kootenai, Canyon,
5 Bonneville, and either Fremont or Madison to get us below
6 the 10 percent.

7 So I'd like to enter this for the record if
8 there is any other questions.

9 CO-CHAIRMAN SELLERS: I'm happy for you to put
10 them on the record. I want to comment for the record that
11 we came in here today, I believe, acting in good faith for
12 people to comment on two plans we had settled on as a
13 primary and alternate plan.

14 And I believe if we were going to put new plans
15 on the table and not do minor modification to the plans that
16 are already there, we need to begin the public comment all
17 over again and begin our process over again statewide. And
18 I have no interest in looking seriously at any more plans.

19 COMMISSIONER SHURTLIFF: Madam Chairman, if I
20 might.

21 CO-CHAIRMAN SELLERS: Yes.

22 COMMISSIONER SHURTLIFF: I think we've heard
23 from people from Butte County, Bear Lake, Franklin, Caribou,
24 Bannock, Bingham, Bonneville, Madison and Fremont. So I
25 think that's who we've heard from. And that's by my

1 calculation thirty-four counties left to hear from. So I
2 would suggest, as much as fun as we've had here today, we
3 just do this three or four more times. And I'm going to
4 call my good friend John Hepworth and say that he had a hell
5 of an idea.

6 CO-CHAIRMAN SELLERS: Susan is starting to get a
7 twitch in her eye.

8 COMMISSIONER SHURLIFF: I concur with Madam
9 Chairman. I think we've moved beyond what I came prepared
10 to do and we've moved well beyond what I want to do. And I
11 wasn't really tweaking you, Kim, earlier. I apologize, but
12 for the big bucks I've made, I've made all the money I want
13 to make today. I've done all I want to do. I've said all I
14 want to say. I want to get out of here. I move we adjourn.

15 COMMISSIONER TAYLOR: Madam Chairman, it seems
16 to me --

17 COMMISSIONER HAAGENSON: Madam Chairman, it's
18 nondebatable.

19 CO-CHAIRMAN SELLERS: Is there a second? We
20 need to have a second and then we can have discussion.

21 CO-CHAIRMAN STUART: I'll second for purposes of
22 discussion.

23 COMMISSIONER HAAGENSON: Madam CHairman, this is
24 a nondebatable motion. We've got to vote on the motion.

25 CO-CHAIRMAN SELLERS: All vote, Ray?

1 COMMISSIONER GIVENS: No.

2 COMMISSIONER SHURTLIFF: Aye

3 CO-CHAIRMAN STUART: No, at this point.

4 CO-CHAIRMAN SELLERS: No.

5 COMMISSIONER TAYLOR: No.

6 COMMISSIONER HAAGENSON: No.

7 CO-CHAIRMAN SELLERS: Motion fails.

8 CO-CHAIRMAN STUART: Go ahead, Mr. Taylor.

9 COMMISSIONER TAYLOR: My point is that I would

10 very much like to -- even though I think I know what

11 everybody's position is here. I still think it would be

12 worthwhile for the record that each of us have an

13 opportunity to summarize our own personal conclusions as it

14 relates to all of the testimony we've already heard.

15 And when I say summarize, I mean that. So we

16 can -- maybe that will start a meaningful debate, but in any

17 case, each one of us will know where each of the others

18 stands definitely. We won't have to assume anything.

19 So I would suggest that Madam Chairman start on

20 one end of the table or the other, alternating back and

21 forth from Mr. Haagenson first, and then Mr. Givens, then

22 me, Mr. Shurtliff. I hope this doesn't become the debate

23 portion, but simply a comment portion. That is my

24 suggestion.

25 COMMISSIONER HAAGENSON: Madam Chairman, I think

1 that's a good suggestion, but I'm wondering if prior to
2 that, I think there is some clerical matter changes I'd like
3 to see made. I think Commissioner Givens and I -- I believe
4 our agreement on a couple of changes on boundary lines in
5 Districts 1 and 2, I'm wondering if we ought to take a few
6 minutes and take plan 76, and I guess they've now become 81
7 and 82 with those changes and then talk about that.

8 COMMISSIONER TAYLOR: I agree with that. I
9 forgot about that and agree there are housekeeping items I
10 think are fairly minor and we can maybe get those out of the
11 way. And then we can move on. Do you want me to go first
12 on my issues?

13 COMMISSIONER HAAGENSON: Don't we need to get
14 one of the plans up there and talk about it?

15 COMMISSIONER TAYLOR: If you could load up 69
16 and 76, I can get mine out of the way real quick.

17 Put them side by side. Do we have that pointer,
18 that laser? I love that. All we really need to do today is
19 focus in on the area around 29, Bingham County, 29, 31, and
20 the north part of 27.

21 I might add this is the same as it was in 66,
22 and I think it was just inadvertently left off. That's why
23 I need to go back so it equals that precinct, these people
24 in this little neck here are not.

25 COMMISSIONER GIVENS: Down to 31 and 27, and 31

1 are two numbers we need.

2 The one on the right, we need both 27 and 31 up
3 on the screen.

4 CO-CHAIRMAN SELLERS: Shrink it back down.

5 COMMISSIONER GIVENS: We need to see it at the
6 same time, 27 and 31. There you go. Not that. Down one.

7 So Derlin, your desire is to the make the one on
8 the right like the one on the left?

9 COMMISSIONER TAYLOR: That's correct.

10 COMMISSIONER GIVENS: What we need to do is add
11 some block work from 27 through 31?

12 COMMISSIONER TAYLOR: That's correct.

13 COMMISSIONER GIVENS: Okay. Why don't you go
14 ahead and try that and make sure it works.

15 COMMISSIONER TAYLOR: I want the one on the
16 right to look like the one on the left.

17 COMMISSIONER GIVENS: Just go up from --

18 CO-CHAIRMAN STUART: Go up on the left so we can
19 compare. Thank you.

20 COMMISSIONER GIVENS: That's correct.

21 Derlin, that's the difficulty of doing that. It
22 makes 31 so big. That was not -- I don't think -- an
23 inadvertent thing. 31 now is about the largest district.
24 And when that's combined with the 5.5 something of Latah and
25 one of the Kootenai deviations of 11, and the only way to

1 get it under 10 percent was to reduce the population of
2 District 31. So there may be another way of doing that.

3 COMMISSIONER TAYLOR: We need to find another
4 way because these people in the City of Blackfoot certainly
5 don't want to be -- it's one thing to put rural people out
6 there, but it's quite another thing to chop apart the City
7 of Blackfoot.

8 COMMISSIONER GIVENS: It's not certainly part of
9 the area.

10 CO-CHAIRMAN SELLERS: Part of their impact area.

11 COMMISSIONER HAAGENSON: Madam Chairman and
12 Mr. Givens, what am I missing here is how many -- we don't
13 have a big deviation of the plan on the left and something
14 else must be different in 31.

15 CO-CHAIRMAN SELLERS: There is lots of things
16 different.

17 COMMISSIONER HAAGENSON: And 27 is the same.

18 COMMISSIONER GIVENS: Could we go out with both
19 of them so we can see what is different?

20 CO-CHAIRMAN STUART: District 31, that's the
21 heavy one. There's a 2 percent difference probably up in
22 southern Bonneville County. That's what happens. No.

23 What you can do is, do you recall sometime back
24 you requested the boundary between Districts 27 and 31, the
25 highway west of INEEL, a suggestion that might help is go

1 back and add that prior precinct minus the block work. You
2 can add that back to 27 with very little or no significant
3 impact that I'm aware of, acreage and small population.

4 COMMISSIONER TAYLOR: Let's take a look at that,
5 the whole section.

6 CO-CHAIRMAN STUART: I'm not sure that would be
7 sufficient to drop you back down to -- now you have to go
8 back and redo the block work -- excuse me.

9 Madam Chairman, Charlotte, what I want to look
10 at is that block work you did before. Back it out a bit.
11 Why don't I just -- what I did, and it's what Commissioner
12 Givens is talking about in that area northwest of the City
13 of Blackfoot, where it's 31 on the left. We're trying to
14 get it back in. We have to make a population adjustment to
15 make 27 straight and I thought we already had that.

16 (Off the record.)

17 MR. BLAKE HALL: I'm going to get close enough
18 to where I can see it. Yeah, right here, that road
19 (indicating). Can you blow that up, Charlotte?

20 Yeah, that road right there (indicating)
21 actually goes through the bedroom of one of my law partners.

22 COMMISSIONER TAYLOR: That's okay, heck, he's in
23 one half and his wife is in the other half and they wouldn't
24 have to cancel each other's votes.

25 MR. BLAKE HALL: The city has put in a new road

1 which is the extension of Pancheri. It comes up here and
2 comes out right in here (indicating). So if you make that
3 kind of a change, you'd solve this problem. This is an old,
4 old ditch that you used here as a line, and that ditch has
5 long since been abandoned, filled in, and homes have been
6 built over the top of it. And so what you're dealing with
7 now is literally a line that runs through the middle of
8 people's homes.

9 So it seems to me it would make sense rather
10 than following an old ditch line, to at least follow the
11 road. And there has been, and correct me, that's where that
12 new road comes in.

13 COMMISSIONER HAAGENSON: Square that up.

14 CO-CHAIRMAN STUART: You ought to see what the
15 options are. Can you just block --

16 CO-CHAIRMAN SELLERS: There isn't a block.

17 CO-CHAIRMAN STUART: Go ahead and just try
18 blocking where that district -- just a block 33. I hope
19 that helps Mr. Hall.

20 COMMISSIONER GIVENS: Can you back those out so
21 the one on the right is the same as the one on the left?

22 CO-CHAIRMAN SELLERS: Okay. That's all we
23 needed to deal with.

24 COMMISSIONER TAYLOR: On the eastern side? I
25 think so. Do we need a motion to make 76 look like that?

1 We're going north next.

2 CO-CHAIRMAN STUART: Yes, make it simple.

3 COMMISSIONER TAYLOR: Sure.

4 COMMISSIONER GIVENS: Ready the packet of

5 petitions and letters and correspondence from the Clark Fork

6 area, just a general point to start with. We're going to

7 come again to the area of Bonner from which Shoshone, you've

8 got to be contiguous. This really is mountain top and not a

9 lot of people. You've got to have some people to have a

10 district or a precinct.

11 What we tried to do was to accommodate the

12 concerns as best we could in the Clark Fork area by adding

13 these blocks that are in pink south of the Clark Fork River

14 to District 1. That doesn't give them everything they want,

15 but it gives them a lot. I think it's the best we could do

16 as we worked that.

17 COMMISSIONER TAYLOR: One of the letters said

18 300 people. Does that address 2 or 300 or 100 or do you

19 know what is number?

20 COMMISSIONER HAAGENSON: The resident's letter

21 is 200, I think about 100.

22 COMMISSIONER GIVENS: I think so. Moving right

23 along.

24 COMMISSIONER TAYLOR: So some will be happy and

25 the rest won't.

1 COMMISSIONER GIVENS: Right. These two areas
2 right here are the Sagle, Algoma (phonetic), I can't
3 remember what this precinct is called, but if you're going
4 to deal with this, you have to add this one with it. This
5 one is pretty big. It's about 3,000 people.

6 That's about 500. So there is about 3600 people
7 involved in this deal. And they very much want to be with
8 Sandpoint. I had, I think, one of the more interesting
9 conversations with a legislators, one of the most productive
10 ones that had this whole process with representative --
11 what's his name?

12 COMMISSIONER HAAGENSON: Estridge (phonetic).

13 COMMISSIONER GIVENS: And he made some very good
14 points about the community of interest here and what their
15 concerns were, and how they really are diametrically opposed
16 to the way people think about things in the county.

17 I guess the classic example is, I'll point out
18 here just a second. There is a new mine that Sarco is
19 building right about near the Montana border just next to
20 Clark Fork. And a lot of these folks are concerned they're
21 polluting the lake. So they're very much in favor of
22 opposing this mine to protect lake water quality which is
23 180 degrees from the folks from Shoshone County are with the
24 super fund clean up, smoke issues. I guess it has
25 inconvenienced me is what I'm saying.

1 The one concern though is you've got to have --
2 you can't have too much population in one. You've got to
3 have some population in two to make the numbers work. And
4 they're both light, but you still have to have population in
5 two. And it seemed to be prudent to keep the town of Priest
6 River in one simply because if we don't, there is going to
7 be another fire storm with Priest river being in two.

8 So his thought of community of interest and I am
9 for is if you're going to put something with two, it's best
10 to put these areas right along the border. It gets the
11 numbers so they work. They're still lower than the highest
12 deviation right there. The changes, and Dean and I went
13 through them. I think we're -- there is no good way to
14 satisfy everybody up there, but this is the best that I know
15 we can come up with. Dean, I guess --

16 COMMISSIONER HAAGENSEN: I would concur with
17 Commissioner Givens that this work is an improvement, as he
18 said. Not everybody is happy given all though the western
19 precincts across the fringe to Sandpoint and back to
20 District 1. It addresses two-thirds of those folks over
21 Clark Fork is significant improvement. I would hope we make
22 that change to both plans 69 and 76.

23 CO-CHAIRMAN STUART: I'll make a motion we adopt
24 these northern changes to Districts 1 and 2 as outlined by
25 Commissioner Givens for both the L76 and the L69 plans; in

1 addition, adopt the other two changes, the minor, clerical
2 changes to L76 in the Blackfoot area and in the one boundary
3 of western Idaho Falls.

4 COMMISSIONER HAAGENSON: Second the motion.

5 COMMISSIONER SHURTLIFF: Madam Chairman, I vote
6 for the motion. I just want the record to reflect we spent
7 more time worrying about which side of the river the people
8 in Priest River and Sagle are on than we have on four
9 sisters down there in the corners. It's about eighteen
10 times we've visited this, maybe we'll get it right. I'm
11 sure if we don't adopt something tonight, we'll hear about
12 it again.

13 COMMISSIONER HAAGENSON: Mr. Shurtliff I would
14 say that the total time we've spent is less than one of your
15 cross-examinations.

16 COMMISSIONER SHURTLIFF: Well, that very well
17 might be. And maybe if we'd cross-examined more carefully
18 the first time, we'd have got it right and we wouldn't have
19 to get back up there 92 times. These people have been back
20 and forth across this river more than the people in Butte
21 County.

22 COMMISSIONER SELLERS: Just for my
23 clarification, will these plans remain with these changes as
24 81 and 82 or will they have new numbers?

25 CO-CHAIRMAN STUART: Keep 81 and 82 designations

1 with the changes.

2 COMMISSIONER HAAGENSON: Which is going to be
3 which?

4 COMMISSIONER TAYLOR: Let me make sure I
5 understand. The 69 will become 81, and the only change with
6 that will happen to 81 will be the change up north. The
7 southern changes will not happen in 81 because they remain
8 the way they are in 69; correct?

9 The 76 which will become 82 will incorporate all
10 three changes.

11 CO-CHAIRMAN STUART: Plus Blackfoot, plus Idaho
12 Falls.

13 COMMISSIONER SELLERS: All right. We've got a
14 motion. Is there a second? Vote has been qualified for,
15 Ray.

16 COMMISSIONER GIVENS: Yes.

17 COMMISSIONER SHURTLIFF: Aye.

18 CO-CHAIRMAN STUART: Aye.

19 COMMISSIONER SELLERS: Aye.

20 COMMISSIONER TAYLOR: Aye.

21 COMMISSIONER HAAGENSON: Aye.

22 COMMISSIONER SELLERS: Those changes are in
23 effect. Are we ready then to do discussion as we talked
24 about earlier about our stand on the plans? It was
25 recommended by Dean earlier that we -- or by Derlin, that we

1 just simply give a short discussion on where we each stand
2 so that there is no question.

3 Ray, do you want to begin that?

4 COMMISSIONER GIVENS: Not really.

5 COMMISSIONER HAAGENSON: Dean, would you like
6 to?

7 COMMISSIONER HAAGENSON: Fine with me.

8 I think though we have -- Mr. Shurtliff is
9 correct, District 1 and 2 -- finally all of these changes
10 have been an improvement to the plan. I was sincere when I
11 mentioned to the folks from Madison County that I although I
12 was really disappointed in the fact that the supreme court
13 overturned the plan, but under the circumstances the plan
14 will turn out and is going to be a better and the people are
15 going to be better served by it.

16 As to the remaining differences between what's
17 now 81 and 82, they center primarily around how we will
18 treat the south, extreme southeastern corner of the state.
19 Franklin, Bear Lake, Caribou, and either Bannock or
20 Bonneville Counties, and it probably comes as no surprise I
21 strongly favor 69 which became 81 -- right -- the plan 81.

22 And, I mean, we engaged legal counsel to advise
23 us. And his advice is more sustainable. It's clearly a
24 more compact district. The historical president for them
25 being together, with a couple exceptions that we heard from

1 here today, the people in the affected area want to be down
2 there. The thread that those who continue to support 82
3 hang from is getting thinner and thinner. It's really
4 pretty clear that it's a preferable plan so I'm going to be
5 supporting 81.

6 COMMISSIONER GIVENS: Madam Chairman, I know
7 that we talked to folks about primarily 69 and 76 as we come
8 into this meeting, but what our job really is, is not to
9 decide between those two plans, but to decide upon the best
10 plan for Idaho that meets the applicable legal standards.

11 And as I've thought through this in the last two
12 weeks, my thinking has, I guess you could say, evolved.
13 Maybe you could say it receded, I don't know, but I
14 mentioned earlier today I've come to the conclusion that in
15 my mind we were legally required to do is to adopt plan 79,
16 (sic). The deviation is within that which the U.S. Supreme
17 Court has ruled as acceptable for good reason, like
18 splitting counties or not splitting counties as state
19 policy. That's what we're doing. Legal counsel has
20 commented on that and has agreed on the deviation issue.

21 The if we -- and I think I really understand
22 where the votes seem to lie on the commission. There may
23 not be the votes for that. I think if we don't do it, what
24 we're going to be looking at is someone suing no matter what
25 the commission's decision is.

1 If it is to adopt 81, it would probably be
2 people from Bannock County suing us saying we shouldn't
3 split the county. What I'd end up with is plan 79 as a
4 result of that litigation if it's brought that way because I
5 think that is what the constitution requires may not be
6 brought, but that would be my concerns with 79.

7 The 80, I guess would be my second choice
8 because it gets the population deviation under ten percent.
9 Personally, I guess it's probably my first choice really. I
10 don't think -- it's not the legally required to do. I like
11 the way it addresses the Kootenai County area in all its
12 aspects. The change in the little bit of split of Canyon
13 County is a reasonable one.

14 I still don't like the big district around the
15 corner, that is, because it goes with rural Bonneville and
16 Teton, but it is, I think, better than 76 or the new 82,
17 because it doesn't -- in Bonneville County, it doesn't get
18 too close to Idaho Falls.

19 Of the other two plans 81 and 82, my preference
20 continues to be 81 because of the division of counties as is
21 plan comparison.

22 COMMISSIONER HAAGENSON: Excuse me. I hope you
23 meant that.

24 COMMISSIONER TAYLOR: I hope you meant that too,
25 but I assume you meant 82.

1 COMMISSIONER GIVENS: I'm not sure what I
2 stated. Let me restate it to make sure it's closer to what
3 I believe. I think I like 82 better than 81 because it
4 splits less counties.

5 COMMISSIONER TAYLOR: I thought that's what you
6 meant.

7 COMMISSIONER GIVENS: Thank you for the
8 correction.

9 And I think that statutory requirement that is
10 supplied in the statute says you've got to keep them at a
11 minimum, I think choosing 82 over -- excuse me -- choosing
12 81 over 82 runs straight up a foul of that statutory
13 provision.

14 There is no question in my mind that the -- if
15 our choice is just to put together districts that are more
16 -- work better on the ground and have good communities of
17 interest, that 81 is better than 82. I think it is. But I
18 don't think that's the legal requirement as I read the
19 statutes in the constitution.

20 There is one hype word that is -- I'm kind of
21 intrigued with. It gets us back over ten percent again with
22 either 81 or 82, but that would be keeping Madison and
23 Fremont whole. And we had pretty uniform testimony that
24 that's what the people want and that was everybody's first
25 choice up there. And I guess maybe I did cross-examine him

1 a little bit, but I wanted to make sure what they felt. And
2 they would rather be underrepresented, if you will, a little
3 bit and have those counties whole than have this one person,
4 one vote.

5 And boy, that's pretty solid testimony to
6 support a deviation over ten percent, so I don't know what
7 the rest of the commissioners' thoughts on that would be. I
8 would be comfortable modifying either 81 or 82 in that
9 regard with, of course, a couple good, solid findings to
10 show why we're doing it.

11 So to summarize I think that legally we're
12 required it do 79, but my personal choice is 80. And then
13 82. And the bottom of the line is 81 simply because of the
14 way I think the law breaks down, but if you believe the law
15 really does settle out the way legal counsel said, I think
16 in that event, 81 then would be preferable to 82. Thank
17 you.

18 CO-CHAIRMAN SELLERS: Derlin.

19 COMMISSIONER TAYLOR: I have a great deal of
20 appreciation and respect for the two legal minds on this
21 commission. I mean that sincerely. I appreciate listening
22 to those arguments. I understand, I think I understand your
23 rationale and your reasoning.

24 My bottom line goal is the other way. In that
25 as long as there is some legal opinion, and Mr. Hopkins

1 verifies that, that communities of interest is arguable, it
2 seems to me that this whole debate is coming down to what is
3 the argument between the counties staying whole versus
4 community of interest approach, two approaches, which
5 basically is identified as 81 and 82.

6 In my mind as this goes together, what is most
7 important to me are the people. What's most important are
8 those who will actually be living in these districts, those
9 who have to live with this for the next ten years. And
10 while the law, and I respect the fact that the law states
11 what it states as it relates to the counties, I believe I
12 respect more; however, those people who live together and
13 work together and play together, and do all of the things
14 they do together which binds those people closer.

15 So my tendency is toward the people's side of
16 this as long as our paid counsel has said -- and that's why
17 I asked the question twice -- that there is a legal counsel
18 is saying, "Yes, you do have a legal stand by using the
19 community of interest approach to this issue versus the
20 Idaho Constitution of keeping counties together as much as
21 possible." That's where I lay my support.

22 We paid counsel to give us his opinion. I
23 recognize that that's subjective; nevertheless, it also just
24 happens to fall in line with my thinking. So I think it's
25 important that the counsel -- that the commission pays

1 attention to that.

2 On 79 and 80, I guess I would be open minded to
3 79 and 80 two months ago, of course, I wasn't here two
4 months ago. But if there were more time for public comment
5 and for people to look at this and to examine it, then
6 maybe, you know, maybe. But to me it's late in the game and
7 so I would dismiss that.

8 And to bring Fremont County and Madison County
9 together, I would like that also, but it seems to me from my
10 novice reading of the supreme court's decision that the
11 basis for that decision was the ten percent rule. And so if
12 we put together any plan, in my mind, that violates the ten
13 percent rule, whoever is going to sue us, whether it's
14 Bonneville County or whether it's Bannock County, depending
15 on what happens here, all they have to do, basically, is use
16 the supreme court as their own witness if we vary from the
17 ten percent rule. So I think it makes sense to stay
18 underneath the deviation rule. So I clearly support 81 on
19 the reason of communities of interest. Thank you.

20 COMMISSIONER SHURTLIFF: When we started this
21 process, we were halfway through the state. My recollection
22 is we had an epiphany that said that we should keep counties
23 whole and not be driven, as much as we had been, with
24 communities of interest. So we reshaped a great portion of
25 the north.

1 And that's why, to my recollection, why the
2 people in Clearwater County who have as much in common as
3 fairies and the people in Marsing have with the people in
4 Twin Falls. That's why we decided that was the methodology
5 we should employ.

6 I started out believing as Commissioner Taylor
7 who said a great deal and what he said I agree with, except
8 however, it seems to me that we did make that shift in that
9 methodology. And if we followed it, and that consistency
10 may be the hobgoblin, in small, means I do believe we should
11 be at least consistent. I would like to try to internally
12 be consistent with what I view is important.

13 If I can do what I consider a real disservice,
14 frankly, in the plan we have adopted so far which effects
15 people in Clearwater County, Lewis County, Idaho County,
16 Valley County, people that I apologize for repeating this
17 notion. The notion that somebody from Marsing is going to
18 drive to Twin Falls, in a district that makes any sense
19 other than the fact we keep counties together has certainly
20 no community of interest.

21 If we look at all the arguments, good arguments,
22 I have no criticism with the people that testified here from
23 Bear Lake, Caribou, Franklin, Oneida Counties, and the
24 people from Bonneville. They're good arguments as to what
25 the community of interest ought to be and what should be

1 recognized. They don't have the same needs. They don't go
2 to the same schools. They don't have the same centers of
3 population as the commerce, and so forth.

4 And neither do the people in Marsing have with
5 Twin Falls, and neither do the people in Peck and
6 Headquarters and Smiths Ferry. So we started down that path
7 and that's the path we went down.

8 And I say When we get to what's being suggested
9 to me, and with all due respect, seems to me is that --
10 well, when it suits our fancy, we'll have one theory of how
11 we should proceed. And it's good enough for the people in
12 Clearwater County. They're not here to complain, but if it
13 hits a part of the state where they are organized and
14 structured where it makes sense to complain, we hear the
15 complaints and the commission is expected to bow to them.

16 Frankly, I think that's inconsistent. And
17 again, I would rather error on the side of consistency. I
18 think what you said, if this were three months ago, if we
19 were three months ago, I would look at 78, 85, 88 and 200,
20 but we're not several months ago. We're here.

21 And as much as I've enjoyed the process, I don't
22 want, and I don't think the people need, and I don't think
23 the county clerks ought to have the extrication over them
24 from many more months or weeks or days. So we don't have
25 time to reshape and reargue that.

1 So I suggest to you that, with all due respect
2 for your position, and what you would have us do for
3 Bonneville County and Bannock County, and in the name of
4 Bear Lake, Caribou, Franklin and Oneida Counties is
5 something that we decline to do for the people in
6 Clearwater, Idaho County and Valley County and Owyee County
7 and Elmore County and Boise County to a significant extent,
8 I am frankly going to decline to do so.

9 COMMISSIONER SELLERS: Okay, I'd like to comment
10 first, that we all, in coming here, we did not have an
11 opinion on county splits. Some members of the commission
12 did but others, of course, did not. And I have not ever
13 followed that as a rule and have voted consistently against
14 it.

15 I agree fully with the things that Dean and
16 Derlin have brought up. I want to say additionally that
17 against my vote, we brought in outside counsel and it was at
18 essentially Ray's choosing. And, you know, I feel like at
19 this point it wouldn't matter what counsel we brought in, if
20 he didn't have Ray's opinion, then it would be the wrong
21 opinion. But I was very concerned about what we would end
22 up with bringing outside counsel in.

23 And I must say I feel like what was dealt with,
24 what was given from Tim Hopkins and his office was entirely
25 fair and accurate for what the demand and the requests are

1 from this side of the state.

2 I would like to see plan L81 instituted, but
3 with the changes that have been requested and looked at
4 today from the county commissioners and the county clerks
5 that met and made changes with Scott Kid. Those changes all
6 seem to be very effectual and within the range of what we
7 have the ability to do. And so that's where I'm at.

8 I'd like to see L81 with the addition for
9 Bonneville County, for the City of Ammon, for the City of
10 Idaho Falls, specifically those things that we looked at.

11 CO-CHAIRMAN STUART: Madam Chairman,
12 Commissioners, I agree with much of what's been said on both
13 sides here. However, something that I perceive differently
14 than anyone else has been expressed here, and a lot of it
15 we're talking about is apparent conflict in some people's
16 minds between the notion of community of interest and
17 keeping counties whole. I don't have that conflict.

18 I see the expression of the various political
19 boundaries we are all aware of as a very concrete expression
20 of community of interest. Whether that's the State of Idaho
21 or the county you live in, or the city you live in, or
22 whatever. That's what I would assert that one of a primary
23 communities of interest that are examples of shared
24 socioeconomic values and political values involved in our
25 state and our cities and counties. I don't view this as a

1 conflict at all between communities of interest.

2 So I find that observing loyalty to communities
3 of interest for me translates in very palpable way to a
4 loyalty to the political boundaries in counties is a big
5 one.

6 I also share some of the observations that Ray
7 and Carl made about the consistency of our thinking. I
8 think that certainly entered my thought. I think the
9 consistency that it's been my impression has dominated our
10 plans since we adopted the counties -- has something that's
11 important.

12 So based on that, I'm still very much committed
13 to a county whole concept. And with that said, I share some
14 of Commissioner Givens' thoughts that rather than bringing
15 me closer to declaring a full loyalty to 81 -- or 81 or 82,
16 excuse me, I actually have swung back just a bit more toward
17 the L80.

18 I do agree with you, Derlin. I think it's
19 important for us to adopt a plan with deviation less than
20 ten percent. I do agree with that.

21 So I have a lot of -- 80 makes a lot of sense to
22 me as the one that seems to observe those political
23 communities of interest in this case, knowledge, other
24 things, and the best with the deviation that reaches that
25 ten percent threshold. If I had to chose today between 81

1 and 82, because of my loyalty remains to this point for the
2 counties' whole concept, I'd have to go with the keeping
3 Bannock whole.

4 We all listened to testimony and certainly hear
5 different things. Now, the testimony from Bonneville and
6 from up the river is consistent in one direction of what I
7 hear from Bannock. Partly from this testimony and from
8 other conversations that I have is frankly quite mixed. So
9 I have not observed, you know, a uniform wish from folks in
10 south Bannock. There community of interest is absolutely
11 tied with southeast counties as opposed to Pocatello.

12 And larger Bannock County communicates it's
13 mixed. And with that said, I still have the loyalty to the
14 counties' whole notion. If I were to vote today, it would
15 have to be for 82 because it keeps Bannock whole.

16 I guess with that said, I'll close. I think
17 we're all too tired to make our decision tonight.

18 COMMISSIONER SELLERS: Well, I think and feel
19 like while we're here, we ought to work.

20 COMMISSIONER TAYLOR: Can I respond?

21 CO-CHAIRMAN STUART: Please.

22 COMMISSIONER TAYLOR: I'd like to keep the
23 debate going at least, I know it's not going to make any
24 difference, but for us to express any thought, I think
25 that's what we came to do.

1 Carl, I appreciate what you're saying. Not
2 having been there before, obviously, I don't have the
3 history. My only reaction to that is that if mistakes were
4 made, and I agree with you that they probably have been; in
5 my mind that's not enough justification to continue those
6 mistakes over.

7 We can still change and make it right, at least
8 in part, so if mistakes have been made, in my mind it
9 doesn't mean we can't correct them. Even if we don't get
10 around to correcting them, that may be somewhat
11 controversial history. I appreciate that.

12 Mr. Stuart, I appreciate that your desire is to
13 keep Bannock County whole. In my mind I say, at what cost?
14 I recognize the numbers. I haven't forgotten Bannock has
15 the perfect set of numbers for what you're doing, but in
16 spite of that to keep Bannock County whole, we have to split
17 Bonneville County.

18 So we're slicing counties even though -- I just
19 keep coming back to the same thing, that it's the people.
20 That this is a government of the people. And it seems
21 overwhelming to me the desires of these people is that they
22 stay that way, particularly, the Bonneville County people
23 not wanting to head south.

24 And so we talk about not splitting counties and
25 yet we're splitting Bonneville County. So I'm having a hard

1 time reconciling that. I'm open to conversation.

2 CO-CHAIRMAN STUART: Mr. Taylor, that's why I
3 share your concerns about Bonneville because in every plan
4 we've created, mostly in every plan we've created, there is
5 at least one ugly district frankly, of course, depending on
6 which plan you look at, the ugliest one varies, but there is
7 always one.

8 My preference, I agree with your observation
9 about that problem of reaching into Bonneville, and the
10 inconvenience of reaching from the Bear Lake, Caribou area
11 up to Bonneville is real. That's why I suggested maybe we
12 take a harder look at L80 which takes a different approach.

13 COMMISSIONER TAYLOR: L80 goes clear up into
14 Teton County.

15 CO-CHAIRMAN STUART: It does.

16 COMMISSIONER TAYLOR: That makes the ugliest one
17 even uglier.

18 CO-CHAIRMAN STUART: In some eyes.

19 COMMISSIONER HAAGENSON: Madam Chairman, Members
20 of the Commission, I probably should say that I think
21 Commissioner Taylor has said about as well as you could his
22 concerns of keeping of the people first. I think that
23 obviously I prefer 81, over -- 81 over 82, but in each of
24 those plans, we as a commission have been faithful as we
25 reasonably can be to the constitution in terms of county

1 splits.

2 Now, we've tried to recognize communities of
3 interest and we've done a pretty good job of that. I think
4 we've struck a pretty good balance there. If we were to go
5 to the other plans, 79 and 80, I guess I would prefer
6 risking being overturned by the supreme court to being
7 lynched by the people in southeastern Idaho.

8 If we go clear up to Teton County and Bonneville
9 County with counties around the corner, we're going to have
10 a civil war. And I think we have to only look at how does
11 it look on the ground. That has to be very, very high on
12 our priorities that we try to be faithful as we can
13 reasonably can be to the constitutional policies.

14 We try to consider communities of interest then,
15 how are the people going to be served by this? I don't
16 think there is any question that they're served better by
17 both 81 and 82 than on 79 and 80. And I clearly believe
18 that they're served better with 81 for the reasons we
19 already stated ad nauseum in terms of the communities of
20 interest, and so on.

21 Furthermore, 79 and 80 are a pretty big
22 departure from where we've been. If we head that direction,
23 we are going to need to have significant time to deal with
24 them. And, you know, I've enjoyed about all this I can
25 stand and I'd like to see us get the job done. And I

1 believe our choices are reasonable. The choices are 81 and
2 82, and they do serve the people better.

3 I don't think, frankly, we can achieve that
4 result this evening. And so we can try it, I hope I'd be
5 proven wrong. If we can't, I think we should set a date
6 very soon to meet again, perhaps consider the changes that
7 Mr. Kid is suggesting at the same time, but that would be my
8 thought, maybe early next week because I think this evening,
9 I doubt if we can get the consensus.

10 CO-CHAIRMAN STUART: Madam Chairman.

11 I share your view there is a lot of input today,
12 a lot of stuff to think over and mull over. I agree the
13 odds of reaching a successful conclusion tonight are
14 probably diminished. I didn't mean --

15 COMMISSIONER SELLERS: I think we're aware that
16 we have no place -- essentially have no place to meet in
17 Boise.

18 CO-CHAIRMAN STUART: Obviously not downtown.

19 COMMISSIONER SELLERS: Right, but for so many
20 reasons we've got some time constraints on us. I just want
21 to reiterate that we've had the testimony of our paid
22 counsel and we've got the ability with plan 81 to put
23 together the testimony of the bulk of the people who have
24 been here today to correct the wrongs that could possibly be
25 done and has been done in the past to the City of Fort Hall

1 and to take care of a lot of issues. And I would certainly
2 like to see that happen.

3 Do we want to discuss calendaring then?

4 COMMISSIONER TAYLOR: Unless you want to take a
5 vote.

6 CO-CHAIRMAN STUART: I think Commissioner
7 Givens, did you mention you have a conflict Thursday and
8 Friday next week?

9 COMMISSIONER GIVENS: I'm unavailable Wednesday,
10 Thursday, Friday.

11 COMMISSIONER TAYLOR: Monday would be better.

12 COMMISSIONER SELLERS: Monday is a good day for
13 me.

14 COMMISSIONER HAAGENSON: Monday or Tuesday.
15 Tuesday works the best.

16 COMMISSIONER SHURTLIFF: Monday afternoon I can
17 do it.

18 CO-CHAIRMAN SELLERS: But not Tuesday?

19 COMMISSIONER SHURTLIFF: With a little
20 shuffling.

21 CO-CHAIRMAN STUART: Tuesday the 8th?

22 COMMISSIONER TAYLOR: Where and what time?

23 COMMISSIONER HAAGENSON: Madam Chairman, I would
24 suggest that we take all the measures together and consider.
25 I would suggest our next meeting be in Boise, and probably

1 can't be -- but we can BSU or in a hotel meeting room.

2 CO-CHAIRMAN SELLERS: Well, the staff will

3 figure that out.

4 CO-CHAIRMAN STUART: State agencies, maybe

5 Linda's office at the Department of Water Resources, there

6 is a lot of potential meeting sites.

7 COMMISSIONER TAYLOR: Hillcrest Country Club.

8 CO-CHAIRMAN STUART: Tuesday, the 8th of

9 January. Is there a time that works for folks who want to

10 travel that morning?

11 COMMISSIONER HAAGENSON: I can meet unless the

12 fog comes in, I can be there by nine o'clock. Ten o'clock

13 is easier.

14 COMMISSIONER SELLERS: I recommend we start as

15 early as possible and get done.

16 CO-CHAIRMAN STUART: Nine?

17 COMMISSIONER SELLERS: Nine is fine.

18 CO-CHAIRMAN STUART: Nine o'clock.

19 COMMISSIONER SELLERS: Okay. Anything further

20 we need to deal with tonight staff?

21 All right. We're adjourned.

22 (The public hearing of the Commission for

23 Redistricting the State of Idaho was adjourned

24 at 7:35 p.m., January 4, 2002.)

25 (Off the record.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

STATE OF IDAHO)
)
County of Bonneville)

I, Katherine McCoy, Certified Court
Reporter and Notary Public, hereby certify that the
foregoing transcript consisting of the foregoing pages
numbered 1 through 268 is a true and correct transcript and
record of the proceedings of the Public Hearing held on
January 4, 2002, before the Commission on Redistricting the
State of Idaho held at University Place Auditorium, 1776
Science Center Drive, Idaho Falls, Idaho.

Dated this 18th day of January, 2002.

Katherine McCoy
Certified Court Reporter
Notary Public
Commission Expires 3/12/2002

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 BOISE, IDAHO

2 Tuesday, January 8, 2002, 10:00 a.m.

3

4 MR. STUART: I call the meeting to order.

5 I'd like to welcome all of you and welcome the
6 Commissioners back to Boise for what I hope is a
7 chance to close this process up.

8 For those of you in the audience who
9 don't know us, I'm Commissioner Tom Stuart from
10 Boise and Stanley and cochair; Commissioner Kristi
11 Sellers from Pocatello, cochair; on the end,
12 Commissioner Dean Haagenson, Commissioner Derlin
13 Taylor, Commissioner Karl Shurtliff, and
14 Commissioner Ray Givens, so I'll try to move
15 through this today.

16 A couple of remarks to preface this.
17 All of us up here, I know, would really like to
18 finish this process up. I've gotten input from
19 commissioners and from legislators and lots of
20 other folks that everybody would like to see some
21 closure on this process.

22 So we're very much interested in moving
23 this process to an efficient conclusion. To that
24 end, of course, we need to reach a majority
25 consensus on a plan sometime today, I hope, and we

1 need to adopt findings that articulate our
2 rationale of arriving at that decision, whatever it
3 is.

4 It's been suggested that we get a couple
5 of plans that have been discussed and passed out
6 there on the table for the Commissioners' review.
7 If it makes sense to the Commission, I will do that
8 now, and then we'll kind of move forward.

9 Commissioner Givens, you had talked
10 about a couple of concepts. I'll lead with you.
11 If you would like to go ahead, that's great.

12 MR. GIVENS: That would be fine,
13 Mr. Chairman. As I'm reviewing the papers that the
14 staff placed here and the various letters, I
15 noticed a letter from Bingham County that makes a
16 proposal of a plan that we really haven't talked
17 about, and it has a map, but the map's in black and
18 white, and it's hard to really see, but looking at
19 it, it looks like what they propose is to put
20 Oneida County with Cassia County.

21 And I wonder if there's anyone in the
22 audience or if the staff has this plan that we
23 could put it up on the board and look at it. Do
24 we?

25 MR. STUART: I don't know. Commissioner --

1 I see some of the Bingham County folks here.

2 Did I not? I thought I did.

3 MR. SHIPLEY: Yes. That was the plan that
4 was actually proposed at the time that the -- that
5 it was brought to the Supreme Court by
6 Bingham County. I -- it was actually put together
7 by our prosecuting attorney.

8 We thought that you already had that.

9 MR. STUART: Right. And I'm sure we do,
10 Mr. Commissioner. Do we understand the black and
11 white graph correctly, in that Oneida County is,
12 indeed, attached to Cassia, Power, and part of
13 Bingham in this draft.

14 MR. SHIPLEY: Yes.

15 MR. STUART: Do we understand that correctly?

16 MR. SHIPLEY: Correct.

17 MR. GIVENS: Mr. Chairman, Mr. Commissioner,
18 I'm just trying to understand how this works. In
19 District 28 is where you have Franklin, Bear Lake,
20 Caribou, then where does the rest of it go? Does
21 it go up into Bonneville and Teton Counties.

22 MR. SHIPLEY: Yes, it does.

23 MR. GIVENS: And what does it do to
24 Bannock County? Does it leave Bannock County whole
25 or... Well, it looks like this goes in and takes a

1 little bit of Madison County.

2 MR. SHIPLEY: It does. It takes one precinct
3 in Madison County, as well.

4 MR. TAYLOR: We don't have it loaded up
5 anywhere?

6 MS. SELLERS: I don't think we do.

7 MR. STUART: I don't think we do. It's hard
8 to see.

9 MS. SELLERS: Has Ray got a copy of it?

10 MR. GIVENS: I've got a hard copy of it.
11 Mr. Chairman, did you do any block work, or is this
12 just all with precincts, if you know.

13 MR. SHIPLEY: If I understand what you mean,
14 did we -- did we determine --

15 MR GIVENS: Split precincts.

16 MR. SHIPLEY: No, I don't believe it's got
17 any precincts split on that, no.

18 MR. GIVENS: That would be easy to load up.

19 MR. BORDEN: Mr. Chairman.

20 MR. STUART: Go ahead, Mr. Borden.

21 MR. BORDEN: Is that one of the plans
22 submitted by the Madison County people?

23 MR. STUART: I don't think so. It's
24 submitted by Bingham County, and Mr. Scott Andrews,
25 I believe, from Bingham County put it together.

1 MR. SHIPLEY: Yes, it was Scott. I do have
2 another colored copy, if you would like to refer to
3 that.

4 MS. SELLERS: If we could share it up here
5 for just a minute, that would be great.

6 MR. STUART: Commissioner Givens and members
7 of the Commission, we could -- if it's useful to
8 display this -- we have one hard copy, we could
9 pass around or two hard copies -- to the
10 Commissioners here, if it's useful to -- if anyone
11 wants to pursue this option, I'm sure we could do a
12 -- maybe, ask the staff or someone to project it,
13 if it's useful.

14 MR. GIVENS: Mr. Chairman.

15 MR. STUART: Commissioner Givens.

16 MR. GIVENS: What -- let me just suggest a
17 way to proceed today, and if we have, I guess, you
18 can phrase the question any number of ways, but you
19 can phrase it in terms of division of
20 Bannock County, or you can phrase it in terms of
21 finding additional population for the counties
22 around the southeast corner of the state, and what
23 district they're going to be in.

24 And it looks to me like there are,
25 including this option, about four basic options.

1 You can keep those four counties together, Oneida,
2 Franklin, Bear Lake, and Caribou, and then you can
3 get additional population for them from southern
4 Bannock County, which some members of the
5 Commission have suggested for some time.

6 You can get additional population
7 entirely from Bonneville or from Bonneville and
8 Teton Counties, which we've talked about. You can
9 get that additional population from eastern
10 Bingham County, and, I guess, this proposal is a
11 different way of looking at it.

12 Moving Oneida west, you can find the
13 population that way, and there would be -- if you
14 split Bannock County there's -- we've talked about
15 a bunch of ways of doing that, and over the
16 weekend, some folks talked about a little different
17 approach of splitting Bannock County.

18 I'd like to just get them all up on the
19 board, and then just start going through them and
20 seeing if we can get to a result today.

21 Who's going to aggregate it?

22 MR. TAYLOR: That's a great idea.

23 MR. GIVENS: This applies to a plan with new
24 numbers, so if you folks are comfortable doing
25 that, why I think it makes sense.

1 MR. STUART: Commissioner Givens, I think
2 that makes sense.

3 MR. TAYLOR: I do better seeing than hearing.

4 MR. STUART: That's where I think we all are.

5 MR. GIVENS: Well, I think they've hooked up
6 my computer to one of these things, so what's the
7 next number we're dealing with?

8 MR. STUART: Commissioner Givens, I think --
9 I've worked with Linda a little bit -- Linda Davis
10 -- yesterday. We have L-86, if I remember
11 correctly, is the next number. We had an L-84,
12 Custer County's whole with Fremont County split,
13 Island Park precinct moved west with a 9.79
14 deviation.

15 We had an L-85 in the system. It's
16 counties whole including Fremont whole, length and
17 width, Madison with a slightly higher deviation,
18 about 11.8.

19 MR. GIVENS: Well, then --

20 MR. STUART: The next number would be 86, I
21 believe.

22 MR. GIVENS: Ross, can you turn up the juice?
23 Can you folks hear me? I'll move this a little
24 bit. I have a tendency to mumble sometimes. If I
25 do why... Are you sure this is 86?

1 MR. STUART: Yes.

2 MR. HAAGENSON: Ross, can we dim these a
3 little bit or not?

4 MR. GIVENS: This is 86.

5 MR. STUART: Commissioner Givens.

6 MR. GIVENS: Two things led to my thinking
7 about this: One was a field trip, you might say,
8 that Commissioner Haagenson and I took last
9 weekend. We went skiing after the meetings, and
10 because we thought that we knew enough we didn't
11 have to ask for directions, we ended up taking,
12 kind of, a great circle route to get from
13 Idaho Falls to the Grand Tetons.

14 It was great. We went down to
15 Swan Falls or Swan Valley and then went up
16 to Grand Teton and came back through Rexburg,
17 Sugar City area.

18 What struck me, as I rode through there,
19 was that's the same country as Caribou County.
20 That country's just like where my granddad used to
21 graze sheep around Paradise, and where my cousins
22 grazed their sheep around Sheep Mountain.

23 I was impressed with the testimony of
24 the folks from Idaho Falls about how you get too
25 far into Ammon, and it's a different world. That's

1 true. But in that eastern Bonneville County and
2 Teton County that's the same country as
3 Caribou County.

4 Now, I realize that transportation is
5 difficult, but transportation is difficult in a lot
6 of other districts. It's difficult in District 34;
7 its difficult in, I believe, it's District 8 or 9,
8 the Idaho County district.

9 So what this plan does -- and the other
10 thing is -- that struck me is that Mr. Taylor was
11 not on the Commission when we considered a prior
12 version of this, so I thought it made sense to
13 bring it out again.

14 The four counties around the corner,
15 eastern Bonneville County and Teton County, it does
16 one very nice thing. It, well, I guess, this
17 doesn't do that. Never mind.

18 Bingham County is -- the majority of
19 Bingham County is in 28. We've got to go up in to
20 Idaho Falls a little bit and pick up additional
21 population. But that does a good thing. This area
22 right here in Bonneville County, that is with
23 Bingham it doesn't go into 34 all the way up to
24 Challis and Salmon, which I think is a good change.

25 The Cassia, Power, eastern

1 Bingham district remains about the same. It
2 doesn't -- there are still areas over here where
3 the Bingham County Commissioner has testified they
4 would like to have the rest of Bingham. This does
5 not accommodate that. That's the -- I wish it
6 would, but the numbers just don't work.

7 The -- in District 35, if the
8 Island Park area is put with 34, it gets the
9 deviation under 10 percent. If it's not, the
10 deviation is in the 12 areas, and I think that's
11 probably a separate consideration of whatever plan
12 we draw up. I think the Commission ought to look
13 at.

14 So, anyway, that's -- that is Plan 86,
15 and the deviations go from -- this says 5.52, I
16 think. This was an older iteration, so that's
17 changed with it. 5.53 is the minus, and I propose
18 that this be a -- hang the southeast corner on the
19 eastern part of the state, or whatever we've
20 previously approved.

21 The high is 4.22, if the division is
22 made in Fremont County, otherwise, the high is
23 6.26.

24 MR. HAAGENSON: 6.26. What does that equal?

25 MR. STUART: That's 11.79,

1 Commissioner Haagenson. With Madison and

2 Fremont County whole and attached with --

3 MR. GIVENS: And if you divide it in the
4 heavy districts 4.42 that would be -- 4.22 that
5 would be --

6 MR. STUART: -- 9.75.

7 MR. GIVENS: Unless anyone has any questions
8 about it.

9 MR. SHURTLIFF: Mr. Chairman.

10 MR. STUART: Mr. Shurtliff, go ahead.

11 MR. SHURTLIFF: The Bonneville County portion
12 that goes into 28, can you focus in a little more
13 on that?

14 MR. GIVENS: Is that western? Is that close
15 enough, Karl?

16 MR. SHURTLIFF: How many people are in that
17 Bonneville County portion of the state; do you
18 know?

19 MR. GIVENS: There is some block work, so
20 it's hard to tell exactly. But we can get a
21 general idea. Looks like about -- we've got about
22 1,200 in that one, 1500 in that one, so we're a
23 little under 3,000. Probably with the block work
24 there's going to be around 4,000.

25 MR. SHURTLIFF: The part of Bingham County,

1 the folks have indicated they would rather have in
2 their major district there, that you said you
3 couldn't make it because the numbers didn't work,
4 how many people are we talking about there?

5 MR. GIVENS: Well, I don't know.

6 MR. SHIPLEY: If you -- I'm not sure how much
7 there is in what you added on this last map, the
8 Rockford, Pingree, and part of Moreland that you
9 had in the L-76 was 2,800 plus people. Again, I
10 don't know what -- how many there are in that area
11 that's north of Highway 26.

12 MR. GIVENS: That's Pingree, and that's
13 1,200; that's Rockford, and it's about the same
14 number. Trouble is, you can't get it from
15 Power County to Bonneville County to accommodate
16 them.

17 MR. STUART: Other questions on this L-86, at
18 this point?

19 MR. TAYLOR: Is that the Rockford, and what's
20 the other precinct?

21 MR. GIVENS: Rockford and Pingree, and then
22 there was a portion of the Moreland precinct south
23 of Highway 26.

24 MR. TAYLOR: Okay.

25 MR. GIVENS: That goes back to the L-76-A

1 Plan.

2 MR. STUART: Mr. Commissioner, for everybody
3 else, I might remind everybody in the audience for
4 the record, for the purpose of the reporter and
5 tape recorder, state your name, if you haven't
6 already.

7 MR. SHIPLEY: DeVaughn Shipley,
8 Bingham County Commissioner.

9 MR. STUART: Thank you, Mr. Shipley.

10 MR. GIVENS: The next one would be 88 -- or
11 no, 87, I'm sorry. And if the population for those
12 four counties around the corner doesn't come out of
13 -- added to eastern Bonneville and Teton Counties,
14 another option is to find it in eastern
15 Bingham County. And that's what this plan does.

16 This actually is similar in that regard
17 to the plan that was previously adopted and then
18 the Court considered, and what it does is go up
19 from Caribou County and take in the Fort Hall
20 precinct and the precincts on the western or
21 eastern boundary of Bingham County.

22 There was concern about Firth and
23 Shelly, and there's been some block work done to
24 keep those in 31. And then it, also, goes up into
25 western and northern Bonneville County to get the

1 additional population for 31.

2 It -- unfortunately though, the issue's
3 the same in the eastern part of Bingham County,
4 those precincts have to stay with 27, in order to
5 get the population to make 27 work.

6 Any questions?

7 MR. STUART: Commissioner Givens, can you
8 show us the northeast corner there? Madison,
9 Fremont, Teton. Those two counties.

10 MR. GIVENS: Same approach.

11 MR. TAYLOR: They're still whole?

12 MR. GIVENS: Yeah. I -- that can be done
13 either way. Fremont is with Madison. My personal
14 opinion is that at 12 percent, is it justified to
15 keep those two counties whole?

16 We had elected officials. We had
17 citizens. Both testifying that they'd rather keep
18 the counties whole; even though, it is their vote
19 that, as a result, is somewhat underrepresented.

20 So -- but, again, I think that can be a
21 separate consideration of whatever plan we adopt.

22 MR. STUART: Commissioner Givens, I note for
23 the record that Fremont folks are here today. Do
24 we have any questions?

25 MR. TAYLOR: Maybe, they've changed their

1 minds, but I somehow doubt it.

2 MR. DAVIS: Glen Davis, Fremont County
3 Commission. No, we have not.

4 MR. TAYLOR: And that's for the record,
5 right?

6 MR. DAVIS: That's for the record.

7 MR. GIVENS: Is there any other questions
8 about this Plan 87?

9 Now, the next plan is one that does
10 divide Bannock County.

11 MR. TAYLOR: Is this 88?

12 MR. GIVENS: This would be 88.

13 MR. TAYLOR: I think when we get to a hundred
14 we quit, right.

15 MR. GIVENS: Yes. And other Commissioners
16 can go from there. This Commissioner will be
17 tired.

18 The -- this isn't the right one. Sorry.

19 MR. STUART: 88. That's not it either, is
20 it? That's the one.

21 MR. GIVENS: All right. What this does is it
22 puts southern Bannock County with the counties
23 around the corner. It puts Chubbuck, the
24 Fort Hall precinct, and then goes into Power County
25 and puts the portion -- the red line there that you

1 can see right here -- is the exterior boundaries of
2 Fort Hall, and, as you remember from the testimony,
3 this area of Fort Hall and Caribou County has no
4 people living in it.

5 So all populated areas of the -- of
6 Fort Hall is in District 29, and it goes over into
7 American Falls.

8 MR. TAYLOR: Does it include the entire city
9 of American Falls?

10 MR. HAAGENSON: Yes.

11 MR. GIVENS: Yes, it does. Let me show you
12 that.

13 MS. SELLERS: That little bottom piece that
14 you've blocked off of the Fort Hall Reservation,
15 I'd like to see that, also.

16 MR. GIVENS: Let me stick in the city limits.
17 There. Should we do block work around -- let me
18 get even tighter on it, so you can see it -- block
19 work around American Falls to include the entire
20 city limits.

21 MR. TAYLOR: Can I just ask Mr. Commissioner,
22 Mr. Chairman, just south of the border that you
23 have there, is that little subdivision that is just
24 south of American Falls, south of the exchange
25 there? Is that what I'm seeing?

1 MR. GIVENS: Looks like this probably is a
2 subdivision. That would be in 27, under the plan.

3 MR. STUART: Commissioner Taylor, that is
4 outside the city limits, for what it's worth.

5 MR. TAYLOR: Right. I understand that. I'm
6 just wondering if it's -- okay.

7 MR. GIVENS: The 27 and 29 -- 27 is already
8 very, very light and so that limits some of the
9 stuff that you can --

10 MR. TAYLOR: I'm sure those people consider
11 themselves residents of American Falls. I
12 understand.

13 MR. GIVENS: Let me go back to -- I thought
14 that got all the -- I don't think there are a whole
15 lot of people down there. This probably ought to
16 be modified to include all of Fort Hall.

17 MR. TAYLOR: Keep the reservation down there.

18 MR. GIVENS: Yeah, that was my intent.

19 MR. TAYLOR: So -- excuse me, Mr. Chairman.

20 MR. STUART: Commissioner Taylor.

21 MR. TAYLOR: Commissioner Givens, does this
22 keep the entire reservation intact?

23 MR. GIVENS: All populated portions of it.
24 There is that one small part in Oneida County -- or
25 Caribou County, I'm sorry -- which has no one

1 living in it.

2 MR. TAYLOR: Okay. So it's fair to say that
3 all of the population of the reservation is
4 included in this plan?

5 MR. GIVENS: Yes.

6 MR. TAYLOR: At least, it's fair to say that,
7 now.

8 MR. GIVENS: Okay. I've suggested places in
9 Bingham. It still does what was of concern to
10 Bingham Commissioners. That area east of the river
11 is put down with 27. The -- District 31 is
12 Blackfoot, and it's really the interstate quarter,
13 as it goes between Blackfoot and Idaho Falls.

14 It does not take in the city of
15 Idaho Falls, but it's all around it. I guess,
16 there are just little pieces of it at the bottom
17 that are in it, but that could be adjusted as
18 people want, but the concept, I think, is what's
19 important, at this juncture.

20 MS. SELLERS: Could you click the city
21 limits?

22 MR. GIVENS: They are.

23 MS. SELLERS: No. Just click them off of
24 there.

25 MR. STUART: Commissioner, don't you think if

1 Ammon is whole, Idaho Falls cannot be, obviously,
2 because of its size.

3 MR. GIVENS: This area over here is
4 Idaho Falls.

5 MR. TAYLOR: That's Ammon.

6 MR. GIVENS: The green stripe is Ammon, the
7 white stripe is Idaho Falls.

8 MR. SHURTLIFF: If you can come back just a
9 minute. Mr. Chairman.

10 MR. STUART: Commissioner Shurtliff.

11 MR. SHURTLIFF: Can you come back out a
12 little bit?

13 MR. GIVENS: This plan has the same ability
14 to do the same thing up in Fremont County that is,
15 if Fremont County is divided in that way, the
16 population deviation is just under 10 percent. If
17 it is -- if we do it the other way, the population
18 deviation goes up to something around 12 percent.

19 MR. STUART: Questions on this one?

20 MR. TAYLOR: Not yet.

21 MR. WHITWORTH: I have a question.

22 MR. STUART: Senator Whitworth, go ahead.

23 MR. WHITWORTH: Thank you. Mr. Chairman, you
24 can get it and that would split Bannock County?

25 MR. GIVENS: Yes, it does.

1 MR. WHITWORTH: Can you give me the more
2 precise boundary lines of Bingham districts and
3 Bannock County? Would that come clear into the
4 city of Pocatello then?

5 MR. STUART: Commissioner Givens, can you
6 just blow up the Pocatello area up there?

7 MR. TAYLOR: Don't tempt him.

8 MR. STUART: Folks -- lacks in terminology.
9 I apologize. Senator Whitworth, as I understand
10 this, it looks to me that the District 30 there,
11 which is the urban core of Pocatello, includes one
12 suburban precinct just south of Simmons there, out
13 in the Mink Creek, Portneuf Road area, and I think
14 District 30, also, includes, on the east side of
15 the freeway, those portions in the southern part of
16 the city that are inside the city limits.

17 28, in this illustration, it takes up
18 McCammon precincts; it takes up, I believe, the
19 Inkom precinct, which is yours, of course, and the
20 rural portions of those precincts, east of Simmons
21 and Pocatello, as depicted there.

22 So, I think, it's the intent here that
23 District 28 not include the city limits of
24 Pocatello. Is that helpful?

25 MR. WHITWORTH: Yes, thanks.

1 MR. TAYLOR: Excuse me, Mr. Chairman.

2 MR. STUART: Commissioner Taylor.

3 MR. TAYLOR: What is the south boundary then
4 of 30? Can you go all the way to the south
5 boundary on that.

6 MR. STUART: Commissioner Taylor, it's a
7 precinct boundary of wherever the precinct is.
8 It's just a precinct.

9 MR. TAYLOR: So -- okay.

10 MR. STUART: There's no block. Whatever it
11 is.

12 MR. SHURTLIFF: Can you pull that back out
13 for a minute.

14 MR. TAYLOR: Where's the city of Inkom in
15 this?

16 MR. STUART: Do you have the laser pointer?

17 MR. TAYLOR: Yes. Of course, I do.

18 MR. STUART: The city of Inkom,
19 Commissioner Taylor, is right here, under the I-15
20 sign.

21 MR. TAYLOR: Okay.

22 MR. STUART: McCammon's down here. Lava's
23 right here.

24 MR. TAYLOR: Now, I know.

25 MR. STUART: Additional questions on this

1 one?

2 MR. GIVENS: The other thing -- Mr. Chairman,
3 the other people may have plans that they want to
4 throw out, and that would be fine.

5 I'd like to be able to have about ten
6 minutes to load this Bingham County Plan because,
7 quite frankly, I haven't liked how a lot of these
8 plans dealt with Bingham County.

9 Bingham County is big enough to have a
10 district all by itself, and I think that counties
11 that are that size should have those districts.
12 But as much as I've tried, I can't find anyway to
13 do what probably ought to be done for
14 Bingham County, and this idea of putting Oneida
15 with Cassia to come up with additional population
16 intrigued -- I don't know if it's, politically,
17 sellable on this Commission. It might be, but I
18 would like to get a mix, so we can actively
19 consider them.

20 And it does the same thing that has been
21 objectionable to some about going clear up to
22 Teton County and putting Teton and Bear Lake in the
23 same district. But --

24 MR. HAAGENSON: Mr. Chairman --

25 MR. STUART: Commissioner Haagenson, go

1 ahead.

2 MR. HAAGENSON: -- Commissioner Givens. I
3 would be perfectly happy to, you know, get the time
4 to load that up and have a look at it, but,
5 frankly, I think the combination of putting Oneida
6 with Cassia and then taking Caribou, and the rest
7 of them going up north to Teton is -- we kind of
8 addressed that idea down the road quite a ways ago.
9 I don't see that selling, but you should put it up
10 there, because you're right about what we do to
11 Bingham County in most all of these plans.

12 MR. GIVENS: The thing that's intriguing to
13 me about this is it does round out the options for
14 those counties around the corner, and we've got to
15 pick one of them.

16 MR. HAAGENSON: Granted.

17 MR. TAYLOR: I'm okay. I have no problem
18 looking at it. I would like to see it on the
19 board, and let's -- I mean, on the face of it,
20 obviously, I don't like Cassia County/Oneida County
21 combination, but I'm willing to take a look at it.

22 MR. STUART: We understand that Linda Davis
23 is actually putting that together so...

24 MR. GIVENS: So that will be 89,
25 Mr. Chairman?

1 MR. BORDEN: Yes.

2 MR. GIVENS: Call that 89. That's all the
3 plans I have, Mr. Chairman.

4 MR. STUART: Thank you, Commissioner Givens.
5 That's a good review.

6 It seems to me -- I don't know if we
7 can, at least, begin this discussion at this
8 point -- but it seems to me that the ultimate
9 resolution of our whole process here depends on
10 reaching some sort of consensus about
11 Bannock County, obviously.

12 I think the options that
13 Commissioner Givens has reviewed here are not new
14 concepts, but I think they are the cleanest, newest
15 iterations of the various new concepts that we've
16 had for some time. I don't know if you'd like to
17 begin any discussion of that, at this point.

18 Linda, I might ask you how far you are
19 away from, perhaps, being able to take a closer
20 look at this suggestion, the concept suggested by
21 the Bingham County folks.

22 MS. DAVIS: I would say 20 minutes to half an
23 hour.

24 MR. STUART: We'll press on, then.

25 MS. SELLERS: Mr. Chairman.

1 MR. STUART: Commissioner Sellers, go ahead.

2 MS. SELLERS: I would like to -- because
3 Plan L-69, now 81, is the plaintiff's plan, with
4 the changes in the north, I would like to see their
5 changes that they brought in from Bonneville County
6 Commissioners and county clerks, and the Madison
7 people added to that plan and just simply mesh
8 together as a -- I think they have that -- as a new
9 plan number so that we can put that up on the
10 table, additionally.

11 MR. STUART: Commissioner Sellers, just for
12 clarification, do I understand that this will be a
13 new plan an L-90 that would be, essentially, the
14 L-81 Plan?

15 MS. SELLERS: Plus the modifications that
16 they showed us Friday.

17 MR. STUART: Plus modifications?

18 MS. SELLERS: But we've not ever seen that
19 actually all together.

20 MR. STUART: That sounds productive on space.
21 Does that make sense to get that on the table here,
22 too? Are you going to present that one,
23 Commissioner Sellers, or how do you want that to
24 work?

25 MS. SELLERS: I don't know. I'll, probably,

1 let them do it.

2 MR. STUART: Go ahead. Who's doing that one?
3 Mr. Kidd? Okay. If you'd like to, Mr. Kidd, be my
4 guest. We'll give you about -- it won't take more
5 than about ten minutes, I'm sure.

6 MR. KIDD: I believe it's Graham.

7 MR. STUART: We've got a request from a
8 couple Commissioners, while you're setting up,
9 we'll take about a ten-minute restroom break.

10 We'll reconvene at 11:15.

11 (Recess taken.)

12 MR. STUART: We're going to recess for lunch
13 until 12:30.

14 (Recess taken.)

15 MR. STUART: We'll reconvene. Our plan here
16 is to -- I think we have the computers repaired.
17 Mr. Kidd asked me to apologize for the technical
18 glitches on the computer that took more time than
19 expected to repair, but we're ready to go, now.

20 So Scott, I'll allow to -- I guess, your
21 plan is to compare your -- the modifications on the
22 right that you're proposing, which is L-90, you're
23 going to compare that with something else on the
24 left; is that correct?

25 MR. KIDD: Yes. With L-69.

1 MR. STUART: With L-69. Okay.

2 MR. CHRISTIANSON: Mr. Chairman, will I be
3 able to speak to these?

4 MR. STUART: Oh, you gentlemen have the
5 floor. Please, move through it as briefly as you
6 can, please.

7 MS. SELLERS: You need to announce for the
8 court reporter who you are.

9 MR. CHRISTIANSON: Roger Christianson,
10 Commissioner for Bonneville County. These will be
11 far briefer than the time it took to upload them.

12 First, let me clarify one thing here.
13 The plan that surfaced in the Friday meeting, we
14 were unaware of the addition of Fremont County,
15 which confused this overall issue. This was the
16 plan that the mayor contacted Mr. Kidd on and asked
17 if there's some way we could make some changes.

18 We had contacted Mr. Kidd and asked if
19 there were ways we could straighten some of lines
20 out, and I'll show you what was technically
21 corrections. And we tried to keep that totally
22 within our own county boundaries recognizing the
23 general boundaries that the Commission set.

24 We didn't want to get into moving too
25 many boundary lines. This is the original plan,

1 L-61. As you can see, this area is
2 Sunny Side Road. When this plan was put
3 together --

4 MR. STUART: Mr. Christianson, excuse me.
5 Can I ask you to take the centering signs off, so
6 we can see the district comparison rather than all
7 that cover.

8 MR. CHRISTIANSON: Okay. You could ask me,
9 but I don't know how to run computers so...

10 MR. STUART: Shut them off on both, Scott, if
11 you would, please.

12 MS. SELLERS: Take the blocks off, please,
13 Scott. Thank you.

14 MR. STUART: Thank you.

15 MR. CHRISTIANSON: Okay. This plan
16 apparently was put together by the Madison County
17 people, the plaintiff's plan, I guess, it could be
18 referred to. They, basically, came in and used
19 some of our existing precinct lines along
20 Sunny Side Road, which is this major corridor.

21 And for those of you who aren't familiar
22 with our part of the state, this is a very major
23 road improvement project that goes all the way out
24 to the interstate. These little lines that you can
25 see in here are now part of the city subdivisions.

1 This line right through here cuts right
2 through the middle of the city subdivision right
3 down one street. We felt like it would be easier,
4 if we could square that up and then square up over
5 along -- this is Hit Road, and so what we wanted
6 Mr. Kidd to do is run the numbers and see if that
7 would throw either of these -- any of these three
8 districts out of deviation.

9 The mayor of Ammon was concerned,
10 because this area -- you don't have the city limits
11 on here, but let's see -- there's Sunnyside,
12 there's 17, there's an area right up in this area
13 that they've already annexed up to the foothills.
14 You will see, if you look at the annexation maps,
15 that our cities have a tendency to annex in some
16 very unusual patterns. One of which was this two
17 mile, two and half mile strip that went to the
18 north, and it's a city subdivision built around a
19 golf course.

20 What we propose doing is squaring this
21 off to the north, squaring it off along
22 Sunnyside Road over Hit, and then, where this
23 already had a portion of this subdivision, bringing
24 it up to 17th Street and over. This area is
25 largely commercial, so there's not a lot of

1 residential over there.

2 The mayor of Ammon felt like he would
3 like to square it down to here, because he already
4 has subdivisions outside of what you show as the
5 annexed areas down here. This is the primary area
6 of growth. Because of the annexation policies of
7 the city of Idaho Falls, this area is probably not
8 going to annex in the near future.

9 It has to do with sewer lines, and
10 there's other considerations where they don't want
11 it annexed or are reluctant to annex. We tried --
12 you know, obviously, it would be easier to start
13 here and work west, but what we've tried to do is
14 to work within the general guidelines of what the
15 Commission put together.

16 The effect this would have would be to
17 keep all the residents in the city of Idaho Falls
18 to the south of Sunny Side in one district. It,
19 also, allows us to set up our precincts, because
20 this is an area with very rapid growth and, on an
21 almost monthly basis, the city limits change, and
22 that's where the growth is. In that area and in
23 this area for Ammon. And these subdivisions are
24 county subdivisions.

25 They, basically, share the same interest

1 that most of the residents of Ammon do. We would
2 like to be able to establish -- these precinct
3 lines were drawn to, kind of, force the growth into
4 the legislative districts. We were hoping, for
5 example, this precinct is part over here, goes over
6 to here, and up into here. Well, in fact, it even
7 comes here, so this actually splits the existing
8 precinct, and we've been trying to adjust these to
9 accommodate the growth.

10 All we simply wanted to do is to square
11 this area up and keep it within the population
12 deviation for the folks and to accommodate what the
13 mayor of Ammon had requested. Now, it's pretty
14 much that simple.

15 MR. KIDD: There is some change, also, in the
16 eastern part of the state.

17 MR. GIVENS: Mr. Chairman.

18 MR. STUART: Commissioner Givens.

19 MR. GIVENS: That means then -- could you put
20 the city limits back then on the one on the right?
21 That means that you have -- take it off, again, if
22 you would.

23 You've got city -- some city limits in
24 31, some of Idaho Falls city limits in 31, some of
25 Idaho Falls city limits in 32, most of Idaho Falls

1 in 33 and, 35, right on the edge of the city
2 limits, so it's spread between --

3 MR. CHRISTIANSON: Yeah.

4 MR. GIVENS: Does the city realize that --
5 you're county commissioner does -- does the city
6 concur in these suggested changes, as well?

7 MR. CHRISTIANSON: When I visited with
8 Mayor Milan on Friday, I explained to her what this
9 suggested. You know, she would like to keep
10 Sage Lakes in there. And then I showed her the
11 effects of straightening the line, actually, puts
12 more residents from the city of Idaho Falls in to
13 District 33, because if you go to the north, you
14 pick up a lot of rural county people in the north.

15 MR. GIVENS: Excuse me. What is Sage Lakes?
16 Is that that little chunk up to the north?

17 MR. CHRISTIANSON: Yeah, that's that --

18 MR. GIVENS: Put the city limits back on
19 that.

20 MR. CHRISTIANSON: Put the city limits on,
21 and you'll see. There was an annexation done,
22 basically, where the golf course went. Two hundred
23 feet wide and approximately two miles in length.
24 It's a little bit difficult, when you have those
25 annexation patterns, to try to group them all

1 together. This is the best we could come up with.

2 Ideally, this is -- and I hate to even
3 throw this idea up, but what Mayor Milan was saying
4 was, you know, it would be nice to start at the
5 east side and work west and then draw a line, and
6 go with the rest of it, but I realize as far along
7 in the process as we are, we didn't even want to
8 approach that.

9 MR. GIVENS: Well, the -- Mr. Chairman,
10 Mr. Commissioner -- for this Commissioner,
11 anyway -- this is very helpful, not as what we will
12 be able to necessarily adopt, because it ends up
13 being, kind of, a mesh and mash as to where the
14 population is in those districts surrounding Idaho
15 Falls, but there is consensus on what -- like the
16 Idaho Falls district -- it's helpful to know that,
17 and I appreciate that.

18 MR. CHRISTIANSON: We would hope you would
19 give us this consideration when you find a plan to
20 adopt but try to clean up those lines, so it makes
21 it easier for us to administer elections. Thank
22 you.

23 MR. STUART: Any other questions? Thank you.

24 MR. KIDD: Do you want to see eastern
25 Bonneville?

1 MR. STUART: Just briefly, I think.

2 MR. KIDD: Is this working?

3 MR. STUART: Can you back out just a touch
4 more, for perspective?

5 MR. STUART: That's good. Questions? This
6 is L-90.

7 MS. SELLERS: Could you back out the one on
8 the right just a little bit more, so they're about
9 equal?

10 MR. KIDD: We're having fun. Sorry about
11 that.

12 MS. SELLERS: That's fine. Thank you.

13 MR. STUART: Okay. Just --

14 MR. HAAGENSON: Mr. Chairman.

15 MR. STUART: Commissioner Haagenson.

16 MR. HAAGENSON: What are the numbers on those
17 districts?

18 MR. STUART: Mr. Kidd, can you pull up the
19 numbers page on that one, just to review the plan
20 deviation a little? Just fill the whole page with
21 it.

22 MR. KIDD: Let's see. We're looking at 28,
23 29, 30, and 31.

24 MR. STUART: The largest is, if I see this
25 correctly, Mr. Kidd, the largest is 4.31 percent

1 positive.

2 MR. KIDD: Yes, in 29.

3 MR. STUART: Okay.

4 MR. KIDD: And then the same in the north.

5 MR. STUART: Right, 5.52. So that would give
6 us a 9.83.

7 MR. HAAGENSON: Mr. Chairman, Mr. Kidd.

8 MR. STUART: Commissioner Haagenson.

9 MR. HAAGENSON: What, if any, incumbent
10 considerations are there, other than these
11 differences?

12 MR. KIDD: I believe the ones in Idaho Falls
13 there's really no change there. You've got
14 Tom Lurcher out in bold. That's the X right down
15 in here.

16 MR. STUART: It appears there is a change
17 there. He's moved from 31 on the left to 32 on the
18 right?

19 MR. KIDD: That's right.

20 MR. TAYLOR: Who has?

21 MR. KIDD: Tom Lurcher.

22 MR. STUART: Tom Lurcher.

23 MR. KIDD: But that was done not to protect
24 an incumbent but to preserve the community interest
25 that has been there, historically.

1 MR. HAAGENSON: I'm sorry. He's in 31 on the
2 left, and 32 on the right? Is that what you said?

3 MR. KIDD: Right.

4 MS. SELLERS: Click on the 90 district.
5 Where is he now?

6 MR. KIDD: He's there in 32.

7 MR. HAAGENSON: Mr. Chairman, Mr. Kidd, I
8 think the western boundaries of District 33, I
9 guess, is essentially the same on those two plans.

10 MR. KIDD: Yes.

11 MR. SHURTLIFF: Mr. Chairman.

12 MR. STUART: Commissioner Shurtliff.

13 MR. SHURTLIFF: Scott, the -- is this
14 somebody's recommendation?

15 MR. KIDD: No. This is -- well, with the
16 county commissioners -- what -- the history behind
17 it, again, is, as I said Friday, we were under
18 Court deadlines to make sure that we could submit
19 those plans.

20 This was the third of our plans, and we
21 simply didn't have time to consult the county
22 officials, and so this is the result.

23 MR. SHURTLIFF: Mr. Chairman.

24 MR. STUART: Commissioner Shurtliff.

25 MR. SHURTLIFF: I don't really get the point.

1 I'm not caring as much as I used to. But how many
2 people are we talking about in Bonneville County
3 that are now in District 35?

4 MR. KIDD: I would have to --

5 MR. SHURTLIFF: What I don't understand is --
6 and I don't want to argue or debate things -- but,
7 I just don't understand why we don't want to send
8 the people from Madison County out to purgatory in
9 District 35, and now we're going to relegate the
10 people in Bonneville County out to 35, and we talk
11 about a lack of community of interest with people
12 and the lack of all this, and I don't know why the
13 people in Coltman have any more interest in Shoup
14 than the people on the west side of the river in
15 Madison County.

16 Do I -- I don't know. The more I see,
17 the more confused I get, frankly.

18 MR. KIDD: If you drive up through that area,
19 that's a farming area. It's very similar. In
20 fact, you can pass the one county into the next and
21 not even know it. The communities are there. That
22 was the aspect of it and, again, there's a lot of
23 emphasis from commissioners that say, what
24 relationship do these people have with Salmon and
25 Challis? We've never made that argument.

1 They do have a lot in common with these
2 people in that area -- the Osgood area.

3 MR. CHRISTIANSON: Mr. Chairman.

4 MR. STUART: Commissioner Christianson.

5 MR. CHRISTIANSON: Underlying the old world,
6 we would like to see that included with the rest of
7 Bonneville County. You know, we're trying not to
8 make this process any more difficult.

9 You're talking about, probably, in the
10 numbers there are less than a thousand people. The
11 majority of that is rural agricultural. A lot of
12 those farmers farm across that county line.
13 Approximately, 60 percent of the population of that
14 district is right in the small, yellow-lined areas
15 in that area, I think, who will want their
16 representatives, who are within about 15 or 20
17 miles, in Jefferson County.

18 Ideally, if we could find a way to work
19 it out internally and not below -- you know, if we
20 could get one of those exemptions to go over your
21 deviation, we would prefer to keep that together as
22 one.

23 MR. STUART: Thank you, Mr. Christianson.
24 We've got lots of plans on the table here. I might
25 review just briefly.

1 I think it's my intuition here that I
2 think we need to start talking seriously about some
3 of the substantive issues that this Commission
4 faces and beginning to explore a decision process
5 for that.

6 Commissioner Givens introduced L-86,
7 which is a county's whole option, including Bannock
8 with District 28 linked with eastern Bonneville and
9 Teton County as the principle descriptor there.
10 Fremont and Madison are whole in that one.
11 Deviation's about 11.8.

12 L-87, District 28, population from
13 eastern Bingham County is added to those counties
14 in the southeast corner, otherwise similar,
15 conceptually, to the other -- the L-86.

16 L-88 is the plan that proposes to split
17 Bannock County with significant differences in
18 District 29, northern Bannock, reaching out to
19 include American Falls and parts of Power County,
20 some impacts on District 27 there, reaching out to
21 Blackfoot for population requirements.

22 That plan, I noticed, has some options
23 for Fremont and Madison. It can be divided to keep
24 the deviation below 10 percent or left combined to
25 reach the deviation of about 11.8.

1 MS. SELLERS: Mr. Chairman.

2 MR. STUART: Commissioner Sellers.

3 MS. SELLERS: Scott, what is the deviation on
4 what's now Plan L-90; do you know?

5 MR. STUART: 9.83, Commissioner Sellers. I
6 believe, that's the calculation. We already had it
7 on the board.

8 MS. SELLERS: Thank you.

9 MR. KIDD: I believe, the largest is 5.5.

10 MR. STUART: 5.52.

11 MR. KIDD: I believe --

12 MR. STUART: Negative 5.5.

13 MR. KIDD: I believe, with your changes in
14 the north, it brought it down to 5.32, didn't it?

15 MR. STUART: I don't think so. I don't think
16 it changed the -- it didn't affect the controlling
17 district there. The bookend's still there.

18 And then we have L-90, which has just
19 been presented, essentially, the L-81, with the
20 modifications primarily around Idaho Falls,
21 Corinth, and eastern Bonneville.

22 Where would you folks like to go from
23 here? I think we have to deal with the central
24 questions here about which of these plans can,
25 potentially, achieve a Commission majority, and

1 which will not.

2 I guess, I would suggest that we start
3 considering some of them and see where we are.

4 MS. SELLERS: I think it would be a good idea
5 if we determined where we stand on deviation,
6 because that's going to significantly, you know,
7 determine what plans we're looking at.

8 If we really don't think that deviation
9 is going to be an issue, then --

10 MR. STUART: Commissioner Sellers, ladies and
11 gentlemen of the Commission, I think we have a
12 couple of approaches on this.

13 I would suggest we could either -- all
14 of these plans have significant options in how we
15 handle Fremont and Madison Counties, and, I think,
16 each of these plans, I think, can either be taken
17 as they are with a county split, if they have to be
18 to get below 10 percent on deviation with that
19 county split, generally, coming in Fremont County
20 in one configuration or another.

21 We could either designate these plans to
22 all be under 10 percent, or we can take them with
23 Madison and Fremont whole and knowing that the
24 deviation will be up around 11.7, 11.8 in each
25 case.

1 MR. HAAGENSON: Mr. Chairman.

2 MR. STUART: Commissioner Haagenson.

3 MR. HAAGENSON: Mr. Chairman, members of the
4 Commission, we know or have always found, many
5 times, that we have our difference of opinions,
6 perhaps, about the privacy of any given
7 requirement, but when I sit and look at them, the
8 constitution, initially, said you couldn't split
9 counties, and the US Supreme Court said, well,
10 you've got to have one man, one vote.

11 So then we amended our constitution to
12 say split counties only as necessary. We've got
13 statutory language about keeping communities of
14 interest together. And, I guess, for my part on
15 this issue of Fremont and Madison, I would like to
16 see us adopt a plan as our first choice that keeps
17 them together.

18 Further, go on in our findings.
19 Instruct the Court that if they find that it needs
20 to be under 10 percent that this would never be our
21 choice. All our choices and instruct the best way
22 to go.

23 It just seems to me that the law, the
24 US Constitution, protects people's right to vote by
25 keeping districts approximately the same size, so

1 that people have an equal vote, but when the dually
2 elected representatives of an area say, frankly,
3 it's more important to us to be together than it is
4 to be -- to have our due representation, we can
5 stand a little deviation there.

6 We, also, can consider the fact that the
7 BYU-Idaho is in that district and many of those
8 people that are in the count really are residents
9 that vote. I think, those are good findings.
10 Those are good reasons to deviate from the 10
11 percent.

12 I'm certainly happy to -- if the
13 Commission's selective wisdom is -- well, let's put
14 one out under 10 and not fool with this. It's fine
15 with me, but, I guess, I'd like to see us put one
16 out that meets the requests of the people mostly
17 closely affected and then say to the Court, if you
18 don't like that, then do this.

19 MR. STUART: Other ideas?

20 MR. GIVENS: Mr. Chairman.

21 MR. STUART: Commissioner Givens.

22 MR. GIVENS: I concur with that.

23 MR. TAYLOR: Mr. Chairman.

24 MR. STUART: Commissioner Taylor.

25 MR. TAYLOR: I agree with that.

1 MR. STUART: Ladies and gentlemen of the
2 Commission, just, in part, to be a devil's
3 advocate, but, also, because I'm a little concerned
4 about this, I'm going to take the opposite view.

5 I think that with a Supreme Court
6 ruling, recently behind us, that overturned a plan
7 with a 10.7 percent deviation on a unanimous vote
8 from the justices, there's is some reason --
9 although, I agree it's a very gray area -- some
10 reason and some compulsion to submit a plan under
11 10. So I might argue.

12 I don't disagree with the observations
13 that you've made. I think I'd be comfortable
14 accepting the larger deviation in the interest of
15 keeping counties whole. I mentioned that I do, and
16 I'm just a little uncomfortable about that because
17 of where I sense the Supreme Court may want us to
18 go with that.

19 I think as along as we provide
20 alternatives for them, and give them this body's
21 recommendation, that can certainly work.

22 MR. TAYLOR: Mr. Chairman.

23 MR. STUART: Commissioner Taylor.

24 MR. TAYLOR: I would suggest that if we do
25 adopt a plan that exceeds the 10 percent threshold,

1 that we are considering are drafted so that if the
2 vital part of the precinct is put with the -- most
3 of them I think in District 35 -- I know the
4 numbers change, but with the Lemhi/Custer County
5 district -- then, the deviation is under 10
6 percent.

7 MR. STUART: Yes.

8 MR. GIVENS: And they are -- if it is left in
9 Fremont County, where I'd like to see it left, the
10 deviation goes up to 12 point something percent.

11 And, I guess, my suggestion would be, we
12 decide how we're going to deal with the rest of
13 eastern Idaho. And then, once we get that in
14 place, we decide whether -- which way we want to
15 deal with the Fremont and Madison County Districts,
16 because with all of these plans, I believe, Fremont
17 and Madison are in the same districts.

18 MR. STUART: Does that meet with the
19 concurrence of the Commission? This is, probably,
20 a decision that we don't have to make up front, but
21 it's a decision we'll have to make at some point --
22 once we adopt the consensual plan for how to deal
23 with the rest of eastern Idaho.

24 MR. HAAGENSON: Mr. Chairman.

25 MR. STUART: Commissioner Haagenson.

1 MR. HAAGENSON: I have a question for
2 Commissioner Givens. If that's even the question,
3 then we can consider it after we've decided how
4 we're going to deal with the rest of it.

5 MR. STUART: Right. Exactly.

6 Commissioner Shurtliff, I'm curious if
7 you have any input on this. I'd like your legal
8 opinion.

9 MR. SHURTLIFF: I don't have a legal opinion.
10 I just get more confused than less. If we take --
11 if we took the Island Park precinct, put it in with
12 35, took the Idaho Falls people, who don't seem to
13 want to be in Bonneville County, and put them in
14 with 35, maybe, we could address the problem with
15 Butte County, who would rather be with
16 Bingham County. So you move one, you move another.

17 So we've got 4,000 options on the table,
18 and it's just time to get to one. And, on the
19 larger issue, I can't disagree that it would be
20 nice to give the Supreme Court an option, but tell
21 them this is choice A and this is choice B, but I
22 don't think they were appointed to be the
23 redistricting Commission; we were.

24 So, I mean, if you do that, you require
25 somebody to go get choice A or choice B, it seems

1 to me, but what do I know?

2 MR. STUART: Sounds like we're comfortable,
3 at this point, working on the more substantive
4 issues on how we deal, conceptually, as necessary,
5 to administrate these plans with eastern Idaho.
6 Where would you like to go from here? Does it make
7 sense to consider some of those options.

8 MS. SELLERS: Mr. Chairman.

9 MR. STUART: Commissioner Sellers.

10 MS. SELLERS: Mr. Chairman, I think we'd like
11 to see L-88 back up on the board. Is that
12 possible, Ray?

13 MR. GIVENS: Yes, I can. This is not 88,
14 just for the record.

15 What I did here, while the county
16 Commissioner from Bonneville County was talking, I
17 modified the boundaries around the city of
18 Idaho Falls a little bit. So, in keeping with
19 that, the rest of it is the same.

20 Do you want me to put this one up, or
21 88 -- do you want to see this one or a new number,
22 and put it up, or do you want to go back to 88? It
23 had a different Idaho Falls. This has a squared up
24 Idaho Falls.

25 MS. SELLERS: Well, let's look at it.

1 MR. TAYLOR: Are the only changes,
2 Mr. Givens, in the city of Idaho Falls, then.

3 MR. GIVENS: Well, and the surrounding --
4 right around there, yeah.

5 MR. TAYLOR: So this would be 91; is that
6 correct?

7 MR. GIVENS: This is 91.

8 MS. SELLERS: 91.

9 MR. STUART: Can you go back to L-88, and
10 we'll just look at L-88?

11 MR. GIVENS: There it is. Let me show you
12 what I just did in Idaho Falls. I couldn't do it
13 exactly the way it was suggested, but I tried to do
14 it as close as I could, of squaring up the northern
15 boundary of District 33 and the southern boundary
16 along Sunnyside Road and the eastern boundary
17 along -- I think, that's Sinclair Road -- and then
18 going south of Ammon toward, which is, apparently,
19 an area of growth getting all that in area 32. So
20 there it is.

21 MR. STUART: Can you back out one more click,
22 please?

23 MR. GIVENS: Sure. There we go.

24 MR. STUART: Any questions for review or
25 clarity on this one? Commissioner Sellers.

1 MS. SELLERS: I'd like you to zoom in on the
2 boundaries around Pocatello, just all the areas of
3 30 and let us see -- I want it in closely, so we
4 can see what's -- where it really is. What
5 street's on the west? Is the west just county
6 boundaries?

7 MR. GIVENS: Yes. Would you like the highway
8 on this?

9 MS. SELLERS: Yeah, that would be good. Will
10 you just zoom in, then, up on the top corner.

11 MR. GIVENS: All the coordinates along 86 to
12 the north?

13 MS. SELLERS: Yeah, and then the one little
14 piece that's on the side, and then, if you would,
15 just come down the interstate south, just so I can
16 see the one -- I guess, it's on the other side.
17 Okay. Thank you, Ray.

18 MR. GIVENS: That's partly on the other side.
19 It's in the city limits; I just want to say.

20 MS. SELLERS: Right.

21 MR. SHURTLIFF: Can we see 28, District 28?

22 MR. GIVENS: You bet.

23 MR. SHURTLIFF: Now, if I could see
24 Bingham County.

25 MR. TAYLOR: Mr. Chairman.

1 MR. STUART: Commissioner Taylor.

2 MR. TAYLOR: Would it be possible to hear
3 from the Bingham County Commissioners on how they
4 feel about this plan? I would be interested to
5 know.

6 MR. STUART: Gentlemen.

7 MR. SHIPLEY: DeVaughn Shipley,
8 Bingham County Commissioner.

9 This one certainly doesn't look good to
10 us, frankly. For the same reasons that we've
11 talked about before.

12 I think, that's one, but, also, if you
13 look at that, the distance between the northern
14 boundary of 27 down to Cassia County is really
15 significant. I've heard a lot of discussion from
16 various counties in the last few days with regard
17 to that very issue.

18 It just appears to me that the problems
19 that are associated with Bonneville County, the
20 problems that are associated with Bannock County,
21 are all culminated in Bingham County, and I think
22 there has been very little consideration given to
23 the fact that the major portion of Bingham County
24 really lies outside its boundaries there.

25 MR. STUART: Thank you.

1 MR. TAYLOR: Thank you.

2 MR. SHURTLIFF: Can we see Blackfoot on
3 there? Thank you.

4 MR. TAYLOR: So the city limits of Blackfoot
5 -- excuse me, Mr. Commissioner and Mr. Chairman.

6 MR. STUART: Commissioner Taylor.

7 MR. TAYLOR: The city of Blackfoot is
8 contained in -- I'm sorry, I can't read that -- 31.

9 MR. STUART: It's all in 31.

10 MR. TAYLOR: All in 31.

11 MR. STUART: Yes, Commissioner Taylor, it is.

12 MR. STUART: Other questions?

13 MR. HAAGENSON: Mr. Chairman, just for
14 clarification, this is 91, right?

15 MR. STUART: Yes, this is L-91,
16 Commissioner Haagenson, which is the clarification
17 of --

18 MR. HAAGENSON: I'm having trouble. I wasn't
19 sure if we went back to 88 or not. This is 91.

20 MR. STUART: Yes, he found it. This is,
21 indeed, L-91.

22 MS. SELLERS: Mr. Chairman, I would really
23 like to see -- I'd like to see that backed out a
24 little bit, and I'd like to see what is now the
25 L-90 side by side with this one.

1 MR. STUART: Ross, perhaps you can project
2 the L-90 for us, for the same geography. It should
3 be on the machine there.

4 MR. GIVENS: I think that's a good idea.
5 Mr. Chairman, I would like to see that
6 Bannock County -- or Bingham County Plan and 89
7 afterwards, also.

8 MR. STUART: Commissioner Givens, we'll,
9 probably, have to view your plan for these,
10 sequentially.

11 MR. GIVENS: Yeah.

12 MR. STUART: If you'd like, the L-90 Plan and
13 then, perhaps, Ms. Linda Davis', if we can project
14 that one -- the L -- it doesn't have a number yet.
15 I guess the Oneida County Plan.

16 MR. GIVENS: No, that's 89.

17 MS. SELLERS: L-89.

18 MR. STUART: Thank you, the L-89. That's a
19 good comparison of L-90 on the right.

20 MR. GIVENS: Ross, on the right, could you
21 back that out more, just one more.

22 MR. STUART: One more click, please, Ross.

23 MR. GIVENS: So that this whole, everything
24 from the tip of Fremont on down.

25 MR. STUART: Okay. That's comparative.

1 MR. GIVENS: Well, actually, Ross, could you
2 do it one more, please, to see what is --

3 MS. SELLERS: Mr. Chairman.

4 MR. STUART: Commissioner Sellers.

5 MS. SELLERS: Roger or Scott, can you look at
6 this map and see if this is, in fact, L-69, or if
7 this is your new L-90? Do you know which
8 computer --

9 MR. STUART: Madam Chairman, gentlemen, it
10 looks like to me this is indeed the L-90 on the
11 right, because of the configuration of District 32
12 in eastern Bonneville, primarily.

13 MS. SELLERS: Just verify, thank you.

14 MR. STUART: Good question.

15 MR. KIDD: Do you want me to check it for
16 sure?

17 MS. SELLERS: If you're sure --

18 MR. STUART: No, don't --

19 MS. SELLERS: -- yeah, if you're sure don't
20 worry about it.

21 MR. STUART: You can leave it, Scott. That's
22 District 32?

23 MR. KIDD: Yes, that's --

24 MR. HAAGENSON: Can you bring that out to
25 about the same schedule?

1 MR. STUART: Further back, Scott. One more
2 time. On the right is 90, the left is 91. The
3 differences there, just for clarification,
4 significant differences in District 29, follow
5 along differences in District 27.

6 MS. SELLERS: Could you just take the water
7 shapes off of yours. Just to clean it up a little
8 bit.

9 MR. HAAGENSON: This is different than
10 Bannock, as well?

11 MR. STUART: It looks like some minor
12 differences in District 28 and Bannock, but they
13 don't appear to be huge. I guess, in the boundary
14 between District 28 and 29, probably, in that area
15 east of the freeway, Dean, where I think the plan
16 on the left considers the same --

17 MR. HAAGENSON: Excuse me, Mr. Chairman. The
18 precinct was southwest of the city. Is that cued
19 the same way; do you know?

20 MR. STUART: It is not. Thank you. You are
21 correct.

22 Significant differences in District 31
23 and in Bingham County and across the board.

24 MR. SHIPLEY: There is a little difference,
25 Mr. Chairman. Right under that one highway map in

1 15, there's a little indentation to the left.

2 I can't -- let me show you where it is.

3 Right here.

4 MR. STUART: Yes.

5 MR. SHIPLEY: That's different.

6 MR. STUART: Yes. There are quite a few
7 differences in District 27. You're correct, sir.

8 MR. JOLLEY: Cleone Jolley, Bingham County
9 Commissioner.

10 MR. STUART: Raise that a little bit higher,
11 Commissioner. The one on the left is correct,
12 L-91.

13 MR. HAAGENSON: Mr. Chairman, as you can see,
14 that Pocatello, Bannock County area, can I have it
15 blown up a little bit on both of them, so I can
16 understand what the difference is?

17 MR. STUART: The major difference there,
18 Commissioner Haagenson, is in the addition to
19 District 30 of that precinct, that's partly urban,
20 partly suburban, partly rural, immediately south of
21 the city of Pocatello.

22 That's driven, in part, by the different
23 configuration of District 29, which requires you to
24 rebalance the populations.

25 MR. HAAGENSON: I'm trying to understand

1 that. I understand that this is about that one
2 precinct, but I -- somehow this has got to be
3 gained somewhere. So what else could we do
4 different in 30?

5 MR. GIVENS: Mr. Chairman.

6 MR. STUART: Commissioner Givens.

7 MR. GIVENS: If you are comfortable, I will
8 address that.

9 On the plan on the left, the big
10 difference is that it goes out and picks up
11 American Falls in District 29, and the -- another
12 difference is on the south and west side of
13 Pocatello.

14 There is -- there, west of the freeway,
15 where 30 is on the blue, that is changed a little
16 bit. That whole precinct is put in the recent
17 boundaries on it.

18 MR. STUART: This precinct right here --

19 MR. GIVENS: Right where the 30 is.

20 MR. STUART: -- as opposed to here, which is
21 in 28?

22 MR. GIVENS: There is, also -- we're going to
23 have to lose some of that population in 29 that is
24 gained by going out to American Falls. You can see
25 there are a couple of precincts east of the freeway

1 in the Pocatello area that go with 28, rather than
2 29.

3 There's a change there, too. And then,
4 of course, in Power County. I mean, that's where
5 the big differences are in Power County, Pocatello,
6 American Falls, but it picks up that portion of
7 Fort Hall, the reservation boundaries.

8 All of Fort Hall is in -- all the
9 populated part of Fort Hall is in 29. The little
10 part right over here, which is in Caribou County,
11 it's part of Fort Hall. There is absolutely no
12 people living there, literally zero population in
13 that little part of the reservation.

14 MR. STUART: Other questions? Is there a
15 motion on the plan, or would you like to look at
16 another plan, or what would you like to do?

17 MR. TAYLOR: I thought we were going to look
18 at that Bingham County Plan, 89.

19 MR. GIVENS: I'd like to look see it. That
20 Bingham County Plan, if that's possible.

21 MR. STUART: Linda, is that on the computer
22 that you can project for us.

23 MS. DAVIS: Yes.

24 MR. STUART: Thank you. Linda, perhaps, with
25 your help, we can, kind of, go through these and

1 compare. Can you zoom in just a little bit,
2 please, on that same geography that's depicted on
3 the left and take a look at how these compare?

4 That's good. Thank you. Observation,
5 looks like Oneida is attached to District 27.

6 MR. TAYLOR: Can we go further south on that?

7 MR. STUART: Sure.

8 MR. TAYLOR: And east. You may have to back
9 out on that, because don't we have 28 going all the
10 way up to Teton County?

11 MR. STUART: That's correct.

12 MR. TAYLOR: Thank you.

13 MR. STUART: Yes. Major differences in
14 District 27. Obviously, on the plan on the right
15 the L-89 Plan, Oneida County, is in
16 District 27, Cassia, Power, a little bit of
17 Bingham. Okay. Bannock is whole; Bingham is in
18 two districts, most of which is in one district,
19 largely self-contained; a little bit in the
20 Aberdeen area attached to 27; Madison County is
21 divided.

22 MR. HAAGENSON: Blow up the Fort Hall Indian
23 Reservation area of northern Bannock County, the
24 north part of Pocatello.

25 MR. STUART: Northern Bannock in 29, 30, and

1 31, right there. There you go.

2 MR. HAAGENSON: What's the reservation
3 boundary in?

4 MR. STUART: Bingham.

5 MR. HAAGENSON: Okay.

6 MR. GIVENS: So -- Mr. Chairman.

7 MR. STUART: Commissioner Givens.

8 MR. GIVENS: Am I understanding correctly
9 that this plan puts the Fort Hall Reservation in
10 four different legislative districts?

11 MR. STUART: That appears to be correct,
12 Commissioner Haagenson.

13 MS. SELLERS: That's correct.

14 MR. HAAGENSON: Mr. Chairman.

15 MR. STUART: Commissioner Haagenson.

16 MR. HAAGENSON: Mr. Chairman and members of
17 the Commission, for that reason and for the reason
18 that Oneida and Cassia don't fit very well
19 together, and then the 28 going clear up to
20 Teton County. I think there's too many fatal areas
21 in this plan.

22 MS. SELLERS: I agree.

23 MR. SHURTLIFF: Mr. Chairman.

24 MR. STUART: Commissioner Shurtliff.

25 MR. SHURTLIFF: I want to see what the --

1 what part of Madison County is split? Is Archer?

2 MR. SHIPLEY: Yes. It's that one precinct in
3 Archer.

4 MR. SHURTLIFF: And that's in 28?

5 MR. STUART: Yes, it is in 28.

6 MR. SHIPLEY: Yes.

7 MR. GIVENS: Linda, could you see what
8 happens if you take that out of 28 for a second. I
9 want to see, for the record, what that does to 28's
10 population.

11 MR. STUART: 28 is heavy.

12 MR. GIVENS: So that 28 would still work
13 then, and then we would be in the same situation we
14 are with these other plans with the Fremont and
15 Madison mix, so we want to put out a part in 35 or
16 under 10, and, if we don't, we're over 10.

17 MR. STUART: Correct.

18 MR. GIVENS: Okay. Put it back, so it's the
19 way it was, please. Thank you.

20 MR. STUART: Other questions for clarity?

21 MR. SHURTLIFF: Mr. Chairman.

22 MR. STUART: Commissioner Shurtliff.

23 MR. SHURTLIFF: Did Commissioner Haagenson
24 say he didn't like this because it went to
25 Teton County and because Cassia and Oneida don't

1 blend?

2 MR. HAAGENSON: Mr. Chairman,
3 Commissioner Shurtliff, yes. Yes, for those two
4 reasons, plus the fact that it splits the
5 Fort Hall Reservation into four different
6 districts.

7 MR. TAYLOR: Mr. Chairman.

8 MR. STUART: Commissioner Taylor.

9 MR. TAYLOR: In eastern Cassia County and
10 western Oneida County, we've got a mountain range
11 that goes all the way to Pocatello.

12 Essentially, the only way to get there,
13 except on horseback, is from Malad to Burley, is
14 through Utah down to Snowville, and around, or
15 there's a road that goes from Malad over through
16 Rockland into American Falls and then back down
17 into Burley.

18 So that's not a very accessible route,
19 no matter how you look at it. There's not much --
20 the only community of interest that I can even
21 think of, and I've been sitting here thinking about
22 that, is that Governor Evens works in Burley and
23 was born in Malad, and that's about the biggest
24 stretch I can come up with on that.

25 MR. STUART: What I'm hearing is that despite

1 its advantages, in some respects, the L-89, on the
2 right, I'm not hearing much interest in advancing
3 that, at this point. Is that correct?

4 MR. HAAGENSON: Hit the gong.

5 MR. SHURTLIFF: Same status as the other 112
6 plans out there.

7 MR. STUART: Commissioner Givens.

8 MR. GIVENS: Well, Mr. Chairman, I think it
9 should be said for the record, I do like very much
10 what it did with western Bingham County and so that
11 -- although it solves that problem, in my mind, it
12 creates other problems that, I guess, I'd have to
13 concur with the other Commissioners and make it
14 unacceptable.

15 However, I would point out that
16 Commissioner Hepworth was kind enough to enlighten
17 me to the fact that D.L. Evans Bank actually was
18 started in Albany and then moved to Malad after
19 that, so there has been -- maybe, it's that whole
20 sheep trail business -- there has been some ties
21 back and forth between southern Cassia and
22 Oneida Counties.

23 MR. STUART: That's about the only one on the
24 left that's advancing that one.

25 MR. TAYLOR: Mr. Chairman.

1 MR. STUART: Commissioner Taylor.

2 MR. TAYLOR: I do have concerns with L-91 as
3 it relates to western Bingham County. I agree with
4 the County Commissioners that that's a stretch from
5 the Jefferson County, Bingham County border, all
6 the way to the Utah line.

7 I agree that most of those people are in
8 the potato business, and that there's an area of
9 commonality there. I recognize that.
10 Nevertheless, that's a long stretch.

11 I, also, understand that Cassia County,
12 Power County, is decreasing in population, not
13 increasing in population, but that region of the
14 state is extremely light, and the foreseeable
15 future for that is the continuation of outflow, not
16 inflow.

17 So I understand the population reasons
18 for that, but I'm not pleased with the
19 configuration as it relates to western
20 Bingham County.

21 MR. STUART: Just an observation. I think,
22 in terms of process and moving toward a decision, I
23 think, we're -- we've reached a point where we need
24 to take some votes on some of these plans to see
25 where we are.

1 I share some of Commissioner Shurtliff's
2 view that we've seen lots of these plans, and
3 there's things I like about some of them, there's
4 things I dislike. There's things I like about all
5 of them, and there's things I dislike about all of
6 them, but, I think, it's, probably, time to start
7 getting down to brass tax in terms of some votes.
8 I would suggest that we do that.

9 MR. GIVENS: Mr. Chairman.

10 MR. STUART: Commissioner Givens.

11 MR. GIVENS: I agree with you, but I would --
12 I spent too much time talking with other
13 Commissioners about this, before we went back into
14 session, and I breached a rule of one of my wife's
15 uncles that before you go into a meeting, you
16 should properly prepare. Can I ask for a short
17 recess?

18 MS. SELLERS: Yes, you may.

19 MR. GIVENS: Thank you.

20 MR STUART: Commissioner Givens, would ten
21 minutes --

22 MR. GIVENS: That would fine.

23 MR. STUART: We'll reconvene at 2:00.

24 (Recess taken.)

25 MR. STUART: We'll reconvene as the

1 Commissioners are making their way back up here.
2 Time is wasting here. We have a lot of work to do.
3 Where are we?

4 MS. SELLERS: Mr. Chairman.

5 MR. STUART: Commissioner Sellers.

6 MS. SELLERS: I would really like to see L-90
7 and L-91, again, side by side, with deviations
8 available. Graham could probably do that. Ross, I
9 think he's back now.

10 MR. STUART: How are we set up to do this?
11 Commissioner Sellers, do you want to do 80?

12 MS. SELLERS: I think, Ray's got 91. No, I
13 want the whole map and the whole matrix. Ray's got
14 91 on his.

15 MR. STUART: Should we set up to have 91 on
16 the left, as it's now appearing, and 90 on the
17 right?

18 And, Graham, I might invite you, or ask
19 you, when you get set there, just match the
20 geographic scale, as best you can, to make it
21 easier for folks to compare visually.

22 MS. SELLERS: The one on the right is the
23 L-90, left is L-91.

24 MR. STUART: Just for clarity, 90 is on the
25 right, 91 is on the left.

1 MS. SELLERS: Ray, could you back yours out.
2 If you could, make yours bigger.
3 MR. GIVENS: Close enough?
4 MS. SELLERS: No. Back it out so we can see
5 the whole thing.
6 MR. GIVENS: Do you want it less backed out?
7 MR. STUART: Zoom in one click. That's
8 pretty close. Commissioners', questions? Issues
9 to review?
10 MR. TAYLOR: Mr. Chairman.
11 MR. STUART: Commissioner Taylor.
12 MR. TAYLOR: Can you tell me, again, the
13 deviation on 90?
14 MR. STUART: On 90, what I have in my notes,
15 Commissioner Taylor, is a 9.83, as depicted there
16 with the Island Park precinct, that's to the west.
17 The deviation on 91 would be --
18 MS. SELLERS: 11.8 still.
19 MR. STUART: Well, it would be 11.8. For
20 comparison though, I think it would be important to
21 note that if you pull out the Island Park precinct
22 there, they would be within probably 500ths. So
23 they're, statistically, identical.
24 MR. TAYLOR: The Island Park precinct then is
25 what?

1 MR. STUART: It's less than 10 percent. It's
2 about 9.8.

3 MR. TAYLOR: With Fremont County whole?

4 MR. STUART: 11.8.

5 MR. TAYLOR: 11.8.

6 MR. STUART: Yes. That would be true in
7 either case.

8 MR. TAYLOR: The same.

9 MR. STUART: 5.53 plus 6.26.

10 MR. TAYLOR: And about 9.8 is the same with
11 90 as without, right?

12 MR. STUART: Correct. The bookends of the
13 statistics there, Commissioner Taylor, are the 5.52
14 of the rural -- the least populous district, and
15 the 6.26 on the positive side, which is Madison and
16 Fremont Counties.

17 MR. TAYLOR: Okay. Thank you.

18 MR. STUART: Everything else is within that
19 bracket. Can we go back to the maps, please?

20 MR. GIVENS: Just to get this going,
21 Mr. Chairman.

22 MR. STUART: Commissioner Givens.

23 MR. GIVENS: Though I may vote against the
24 motion, I'm going to move for the adoption for
25 L-90.

1 MR. HAAGENSON: Second.

2 MR. STUART: L-90 is on the right. We have a
3 motion and a second to adopt L-90. Discussion?

4 MR. TAYLOR: Mr. Chairman.

5 MR. STUART: Commissioner Taylor.

6 MR. TAYLOR: I recognize some difficulties
7 with L-90; however, it definitely addresses, to my
8 satisfaction, and I think, at least, to some extent
9 better answers to the complaints of the
10 Bingham County Commissioners, and it satisfies the
11 community of interest argument, as it relates to 28
12 and 32 and, therefore, I think this is a very
13 sellable plan to the public.

14 I think it's extremely defensible, and,
15 therefore, I strongly support it.

16 MS. SELLERS: Mr. Chairman.

17 MR. STUART: Commissioner Sellers.

18 MS. SELLERS: In addition to that, we have
19 the Bonneville County Commissioners and clerks and
20 the mayors of Idaho Falls and Ammon who support
21 that portion of this plan, you know. For that and
22 the reasons that Derlin has indicated and the
23 proper deviation numbers, I would have to support
24 this plan.

25 MR. STUART: I'll jump in here. The plan on

1 the right has several things about it that I don't
2 like. I -- most of this is founded in my belief
3 that I truly think we need to minimize the splits
4 of counties.

5 I think we have an unnecessary split in
6 Bonneville County that I don't like. There's no
7 mystery to that. Of course, we have an extra split
8 in Bingham County that certainly exists in the
9 L-90, and I'm not sure we can, totally, get away
10 from all those, but that's certainly a negative to
11 the way Bingham County is handled.

12 The -- of course, I'm not going to
13 mention the splitting of Bannock County. Enough
14 has been said about that. I just don't think
15 that's appropriate. So I'm not going to be able to
16 support this one.

17 Other comments? Discussion?

18 MR. GIVENS: Questions?

19 MR. STUART: Ready for a vote? We'll do a
20 roll call vote. Commissioner Haagenson.

21 MR. HAAGENSON: Pass.

22 MR. STUART: Commissioner Taylor.

23 MR. TAYLOR: Aye.

24 MR. STUART: Commissioner Sellers.

25 MS. SELLERS: Aye.

1 MR. STUART: The Chair votes no.
2 Commissioner Shurtliff.
3 MR. SHURTLIFF: No.
4 MR. STUART: Commissioner Givens.
5 MR. GIVENS: No.
6 MR. STUART: Commissioner Haagenson.
7 MR. HAAGENSON: I'll go aye.
8 MR. STUART: We have a 3-3 deadlock, 3-3 tie.
9 MR. GIVENS: Mr. Chairman.
10 MR. STUART: Commissioner Givens.
11 MR. GIVENS: I move for the adoption of
12 Plan L-86.
13 MR. STUART: Commissioner Givens, L-86 is
14 your motion?
15 MR. GIVENS: Yes.
16 MR. STUART: Can you call that one up, so we
17 can refute the call. I'll refer to my notes while
18 it's coming.
19 L-86 is a county's whole plan, including
20 Bannock County District 28, linked with eastern
21 Bonneville and Teton. Deviation with Fremont and
22 Madison Counties whole, 11.79. With the Island
23 Park precinct pulled out, it's 9.75. It's the same
24 picture. We have a motion to adopt the L-76. I'll
25 second the motion.

1 MR. GIVENS: It's L-86.

2 MR. SHURTLIFF: Mr. Chairman's not going to
3 second the motion. I don't think --

4 MR. STUART: Do we have a second.

5 MR. HAAGENSON: Just -- pardon the inquest,
6 Mr. Chairman, that suggests the Chairman can't
7 second the motion.

8 MR. SHURTLIFF: That was my suggestion.
9 Maybe -- I guess, I, probably, stand corrected. I
10 think --

11 MR. STUART: I think the precedent would
12 pass.

13 MR. SHURTLIFF: They can -- precedent would
14 indicate they can't -- the precedent is not the
15 ruler.

16 MR. HAAGENSON: Mr. Chairman and members of
17 the Commission, I, frankly, don't know the
18 parliament rule in this case, and, normally, I
19 think as the chairman doesn't, with a small group
20 like this, I think -- I'm just wondering if it
21 would be more appropriate to allow the Chairman.

22 MR. SHURTLIFF: I'll withdraw any objection.

23 MR. STUART: If it meets the pleasure of the
24 Commission, I think we've done it routinely from
25 the time that we've been functioning. It,

1 probably, makes sense to be consistent. In that
2 case, I'll second the motion. Discussion?

3 MR. GIVENS: Commissioner Givens.

4 MR. GIVENS: I appreciate your second on
5 that, but, I think, we, at least, owe it to the
6 folks to go through the various options here.

7 The down side of this plan -- let me get
8 it right up front -- is that those counties around
9 the corner go all the way up to western -- eastern
10 Bonneville and Teton. And the -- as I mentioned
11 earlier, driving through that country this weekend,
12 it sure seemed to me that it's the same country as
13 Oneida is to the south, particularly Caribou.

14 I think, if you get in too close to
15 Idaho Falls, like some other plans do, that tried
16 to get all the additional populations from the
17 counties around the corner from Bonneville County,
18 it's a bad deal, but staying in that rural eastern
19 part of Bonneville, makes sense.

20 I like keeping Bannock County, dividing
21 it twice, just fully within Bannock County. One
22 very good aspect of this plan is that
23 Bingham County is not chopped in three districts.
24 It's only in two. And the -- let me stick the
25 highways on here -- District 28 just becomes the

1 Interstate-54 through really everything in
2 Bingham County, east of the river, all the way up
3 into Idaho Falls, plus western Bonneville.

4 So it doesn't do all the things that the
5 folks would like it to do east -- west of the river
6 in Bingham County, but it has a lot of good aspects
7 about it, and the way it's shown up here right now,
8 Fremont County is left whole.

9 I think we -- if this were to pass, we
10 can address that issue separately at the end, but I
11 support this plan.

12 MR. STUART: Thank you, Commissioner Givens.
13 I'd like to make a couple of comments. I'm, also,
14 going to support this plan, for several reasons.

15 I like how it handles Bonneville County.
16 I like how it handles Bingham County. It's not
17 perfect in either case, but I think it's closer. I
18 like how it handles Bannock; although, the
19 District 28 is, certainly, not perfect, as any plan
20 has, at least, one imperfect district.

21 It's not ideal. It, nevertheless, is
22 workable. It consists, for the most part, of whole
23 counties, or counties like Bonneville that must be
24 part of another district. This is the kind of plan
25 that I think minimizes splits, and I think it's

1 workable and will hold up in court. I'll support
2 it.

3 MR. HAAGENSON: Mr. Chairman.

4 MR. STUART: Commissioner Haagenson.

5 MR. HAAGENSON: Mr. Chairman and members of
6 the Commission, I'm going to oppose the motion for
7 -- there's a number of reasons, without getting too
8 involved in them here. That district on the corner
9 that goes clear up to Teton County is --

10 We've been down that road way early on
11 in this thing, and it just doesn't work. We know
12 all the other roads, you've got to go through
13 Wyoming. I disagree with the treatment of Bannock.
14 I think it's not treated the way it ought to be
15 here. I think it should be split off. And,
16 finally, if I understand the plan correctly, it
17 chops up the Fort Hall Indian Reservation into
18 three different districts, and, I think, that --
19 four, perhaps.

20 MR. GIVENS: Yes, four.

21 MR. HAAGENSON: Four. Although, the fourth
22 one has no population in it. So, effectively,
23 three, and I think we owe it to the reservation to
24 treat it a little better than that.

25 So, for those reasons, I'm going to

1 oppose it.

2 MR. STUART: Further discussion? Ready to
3 vote? I'll start from the upper -- other end this
4 time, Commissioner Haagenson.

5 I'll take a roll call a vote. We have a
6 motion and a second for Plan L-86 as depicted on
7 the screen. Commissioner Givens.

8 MR. GIVENS: Yes.

9 MR. STUART: Commissioner Shurtliff.

10 MR. SHURTLIFF: No.

11 MR. STUART: Cochair votes yes.

12 Commissioner Sellers.

13 MS. SELLERS: No.

14 MR. STUART: Commissioner Taylor.

15 MR. TAYLOR: No.

16 MR. STUART: Commissioner Haagenson.

17 MR. HAAGENSON: No.

18 MR. STUART: Down on a 4-2 vote.

19 MR. STUART: Commissioners, in observation,
20 we've addressed, in part, the notion of splitting
21 Bannock and not splitting Bannock, which we -- I
22 think, we all have a sense of this is kind of what
23 this debate comes down to.

24 I don't know if we can articulate our
25 positions any more clearly. I wonder if there's

1 support -- Commissioner Shurtliff indicated
2 earlier, and I share his views, that the support
3 for a plan that splits Bannock.

4 We probably need to figure that out. If
5 there's not, then, there's other directions we can
6 go. I think we need to, probably, get to that
7 point and then see where we are.

8 MR. GIVENS: Mr. Chairman.

9 MR. STUART: Commissioner Givens.

10 MR. GIVENS: Before we do that, I don't think
11 the votes are there for it, but I appreciate the
12 work in bringing it to us, and I won't necessarily
13 vote for the plan, but I think it owes a vote of
14 the Commission, so I'll move the adoption of
15 Plan 89, which is the plan from the Bingham County
16 Commissioners.

17 MR. STUART: We have a motion to adopt the
18 L-89 Plan. Ross, if you can find that, that would
19 be great.

20 The L-89 Plan is the development of the
21 suggestion by Bingham County Commissioners that
22 attaches Oneida County to Cassia in District 27
23 with the impacts spreading from there up the
24 Snake River Valley.

25 Do we have a second?

1 MR. SHURTLIFF: Second.

2 MR. STUART: We do have a second.

3 Discussion? I'll hold off here until we get that
4 called up, Ross, if you can.

5 MR. TAYLOR: Mr. Chairman.

6 MR. STUART: Discussion?

7 Commissioner Taylor.

8 MR. TAYLOR: I'm not wholly against this
9 plan, but I have some concerns that go back to the
10 Idaho Falls meeting, as it related to the community
11 of interest, and those people in Bonneville,
12 eastern Bonneville County, and their relationship
13 with the people in Franklin and Oneida.

14 It's not Oneida in this case, but
15 Caribou and Bear Lake Counties. That still exists
16 here, and I have some problem with that. I might
17 be able to live with that ugly green splotch in the
18 center there, but the rest of it I just don't think
19 fits with me, so I'm going to oppose this.

20 MR. STUART: Commissioners, I might offer a
21 couple of observations. There are some things,
22 again, I like about this plan, as others.

23 I think the District 27, although, the
24 geography between Oneida and Cassia Counties is
25 certainly difficult, communications are tough. You

1 know, it's not the worse alternative that we've
2 seen in this part of the country.

3 I like how it handles Bingham, real
4 well, for obvious reasons, coming from the folks
5 who designed it. I intend to support this with the
6 caveat that I don't like the split of Madison
7 that's offered there and with the condition that
8 we've attached to all other conceptual notions that
9 we reserve the right to revisit the Fremont and
10 Madison issue and keep those intact and together
11 and combined, if at all possible.

12 Once again, the District 28 there on the
13 Wyoming border is ugly. It's not a pretty sight.
14 It, however, is workable, and I can live with it.

15 MS. SELLERS: Mr. Chairman.

16 MR. STUART: Commissioner Sellers.

17 MS. SELLERS: Just for the record, 27 and 28,
18 you know, I'm not going to reiterate -- we've
19 discussed innumerable times the problems with
20 trying to join those areas with no roads that even
21 combine them.

22 In -- I think it's 34 -- I can't see
23 from here. 30 and 34 we cut the city of Fort Hall
24 directly in half, again, just eliminating any
25 community of interest that, you know, they may

1 have, any possibility of holding a vote together,
2 or having their community of interest destroyed.

3 In that way, I cannot vote for it.
4 That's all.

5 MR. STUART: Other discussion? I want to
6 thank the Bingham County folks, on a personal
7 level, for taking the effort and the time to bring
8 this to our attention.

9 MR. GIVENS: Mr. Chairman.

10 MR. STUART: Commissioner Givens.

11 MR. GIVENS: The more I look at it and think
12 about it, the more I like it. My cousins in Rupert
13 have their lambing sheds right down by where the
14 freeway crosses the river. And they trail their
15 sheep from there, across Cassia, across Power, and
16 through Oneida.

17 I can't remember if they went through
18 Franklin or Bannock up to Caribou County, and if
19 they run sheep through an area, I'm sure that the
20 elected officials can find a way to get through
21 themselves. They said it themselves, so I'm going
22 to vote for it.

23 MR. STUART: Discussion? Ready for a vote?
24 We have a motion and a second for L-89 as depicted.
25 I'll take a roll call vote.

1 Commissioner Haagenson.

2 MR. HAAGENSON: No.

3 MR. STUART: Commissioner Taylor.

4 MR. TAYLOR: No.

5 MR. STUART: Commissioner Sellers.

6 MS. SELLERS: No.

7 MR. STUART: The chair votes aye.

8 Commissioner Shurtliff.

9 MR. SHURTLIFF: No.

10 MR. STUART: Commissioner Givens.

11 MR. GIVENS: Yes.

12 Mr. Chairman.

13 MR. STUART: Commissioner Givens.

14 MR. GIVENS: I'm tired of making motions.

15 Somebody else make one.

16 MR. HAAGENSON: Mr. Chairman.

17 MR. STUART: Commissioner Haagenson.

18 MR. HAAGENSON: With that offer on the table,

19 I'll make one then. I move for the adoption of

20 L-91.

21 MS. SELLERS: Can we have that one back up on

22 the screen?

23 MR. STUART: We have a motion to adopt L-91.

24 Can we get that one up on the screen, please?

25 MS. SELLERS: I'll second that.

1 MR. STUART: We have a motion and a second
2 for Plan L-91.

3 MR. GIVENS: Mr. Chairman.

4 MR. STUART: Commissioner Givens.

5 MR. GIVENS: Might I inquire that may we make
6 a motion -- is this motion subject to later motions
7 to modify what is District 34 on this plan dealing
8 with the split of Fremont County issues?

9 MR. STUART: Commissioner Givens, it's my
10 understanding --

11 MR. GIVENS: I was just directing the
12 question to make a motion, Mr. Chairman.

13 MR. STUART: I'm sorry.

14 MR. HAAGENSON: Mr. Chairman.

15 MR. STUART: Commissioner Haagenson.

16 MR. HAAGENSON: Commissioner Givens, yes,
17 with the consent of the second, that would
18 certainly have the motion read to approve this plan
19 with the option to revisit the
20 Fremont/Madison County issue and see which one goes
21 out, finally.

22 MR. GIVENS: One other clarification,
23 Mr. Chairman. I believe this plan was built by
24 topics of other plans. It may be a little bit
25 different up north, but was the intent of the maker

1 of the motion that the districts that we had put
2 together for the rest of the state be incorporated
3 in this, as we have approved them, previously.

4 MR. STUART: Commissioner Haagenson.

5 MR. HAAGENSON: Mr. Chairman,
6 Commissioner Givens. Yes, we may want to confirm
7 that, but I -- we're working off of the maps that
8 we had last week, which 81 and -- 88 or 81 and 82,
9 I guess it was -- that has those changes made, and,
10 I presume, they still exist on here.

11 MR. GIVENS: Let me just take look.

12 MR. HAAGENSON: You might want to have a
13 look. It appears that it is.

14 MS. SELLERS: No, it's not.

15 MR. GIVENS: I believe that's incorrect,
16 Mr. Chairman.

17 MR. HAAGENSON: Oh, that is?

18 MR. GIVENS: Yes.

19 MR. STUART: I don't believe they're made.

20 MR. HAAGENSON: They're not made?

21 MR. STUART: Yes.

22 MR. GIVENS: So the Bonner County changes
23 would have to be adjusted, because they're not in
24 this particular map.

25 MR. STUART: Does the second concur with

1 that?

2 MR. TAYLOR: (Nod, nod.)

3 MR. STUART: Further discussion?

4 MR. TAYLOR: Mr. Chairman.

5 MR. STUART: Commissioner Taylor.

6 MR. TAYLOR: This plan, essentially,
7 accomplishes everything that we talked in the
8 Idaho Falls meeting, as it relates to the
9 communities of interest in 28, and is that 30?
10 What's that in Bonneville? I can't read that.

11 MS. SELLERS: 32.

12 MR. TAYLOR: 32? This map is very pleasing
13 to my eye with one glaring exception, that's
14 western Bingham County, again. So I'm still
15 thinking about this one.

16 MR. HAAGENSON: Mr. Chairman.

17 MR. STUART: Commissioner Haagenson.

18 MR. HAAGENSON: Mr. Chairman, members of the
19 Commission, in support of my motion, I think, this
20 does make a lot more sense. I think that,
21 especially, the counties in the corner, Oneida,
22 Bear Lake, Franklin, Caribou, and the southern
23 Bannock County, and I recognize fully that that has
24 -- creates a little heartburn for certain members
25 of the Commission, but I would offer the comment

1 that, likewise, District 27 offers some real
2 heartburn to the rest of us.

3 But there is no easy way out of this,
4 that's going to have a solution that is a happy one
5 for everyone, and of the 80, 90, some odd, options
6 we've now considered, I think, this is the most
7 viable, acceptable.

8 It has -- it does make a nice compact
9 district in the southeast corner of the state. It
10 does keep the reservation together, which I think
11 is important, and these other difficulties that
12 exist in it are, certainly, something that can be
13 lived with, so I would hope that we would get
14 majority support for this, and have our job
15 concluded.

16 MR. STUART: Other discussion?

17 MR. SHURTLIFF: Mr. Chairman.

18 MR. STUART: Commissioner Shurtliff.

19 MR. SHURTLIFF: So, as I understand it, we're
20 voting on a plan and, I think, the deviation is
21 what? 11. --

22 MR. STUART: 11.78, give or take.

23 MR. SHURTLIFF: So we're not really voting on
24 a plan. We're voting on a -- maybe a plan, I
25 guess.

1 MR. GIVENS: As it's configured there with
2 the Fremont County, the high end is 6.26, and the
3 low end will be 5.5, minus 5.53, so that will be
4 11.79 total deviation.

5 MR. HAAGENSON: Mr. Chairman.

6 MR. STUART: Commissioner Haagenson.

7 MR. HAAGENSON: Mr. Chairman, members of the
8 Commission, as was stated earlier, I think, in
9 debate on another plan, I do think that when you
10 consider common sense, and what's sensed on the
11 ground, and what people in the area wish to have, I
12 think it makes sense to do this.

13 But I do think that we need to make a
14 secondary choice, after adopting this plan to
15 either change it or send it with under 10 percent,
16 or send it this way with instructions to the Court
17 that if you conclude -- if the Court concludes it
18 must be less than 10 percent, then our instruction
19 is to take the Island Park precinct and put it with
20 District 35.

21 I know there's an argument that doing
22 that puts the Court in the business of making a
23 choice, and they can argue that that's not a
24 judicial prerogative, it's a legislative, but I
25 don't know -- to my mind, not being a lawyer, it

1 doesn't seem to me that that's really what's
2 happening.

3 They're not choosing a plan. We're
4 choosing a plan, and then we're telling them, if
5 you don't accept that plan, then our choice is
6 this; and we're still the one choosing it. But
7 that would be my hope.

8 MR. STUART: Commissioner Haagenson, might I
9 jump in? I share your observation that whatever
10 plan -- I think it's wise that whatever plan we
11 adopt -- I'm not sure it will be this one -- we
12 need to offer something like that. So -- obviously,
13 in the case of Madison and Fremont County and,
14 perhaps, the other options, as well.

15 I want to relay a few of my personal
16 thoughts on this one. I'll say right up front
17 there's some things I like about the plan, and I
18 think too often, in our eagerness to try to do
19 something for tribal nations, we don't really do
20 that. We say it; we don't do it.

21 I think this plan does it. That's the
22 real plus of this approach. However, I'll go
23 further. I think, it's fairly clean in
24 Bonneville County. I think, it's important to keep
25 Bonneville in three. That's a good principal that

1 we need to observe.

2 My -- I'm not going to support it,
3 however. And my fundamental concern here, is that,
4 I believe, that it simply splits -- it divides too
5 many counties. I think we have other options out
6 there that divide significantly fewer counties.

7 In some cases, as many as three or four
8 fewer divisions, and I think that's a significant
9 number, and that's not something that should read
10 the law, but I think we should set aside. So
11 despite some of the attractive features of this,
12 and I agree that some of the -- it's a reasonable
13 interpretation of community of interest to see one
14 view there of southern Bannock County.

15 I hear an awful lot from a different
16 community of interest that says that Bannock is a
17 community in, itself, and it's no different than
18 any county or Minidoka County, or any other county,
19 and I do believe that it should be left whole, if
20 there's a way we can do that.

21 On that basis, I'm going to oppose this.

22 MR. TAYLOR: Mr. Chairman.

23 MR. STUART: Commissioner Taylor.

24 MR. TAYLOR: I know I've already spoken, but
25 I have another thought.

1 MR. STUART: That's fine.

2 MR. TAYLOR: As a Commission, we've been
3 given the responsibility to make a choice. We have
4 voted now on three plans that have been rejected,
5 just today.

6 This plan while it's not satisfactory,
7 I'm convinced to either party in its entirety,
8 politically or philosophically, and that's
9 certainly the case with me.

10 I do see this plan as a plan of
11 compromise. I see this plan as both sides of this
12 table saying, fine, we'll give a little here, you
13 give a little there, and ultimately that's what has
14 to happen here.

15 It serves no interest for the people of
16 the state of Idaho, for this Commission, for any of
17 us to, at some point, dig in our heels, as it were,
18 and be inflexible. Of all of the plans that I have
19 seen, this one to me has some compromise that
20 appears to be acceptable.

21 It affects District 27, my home ground,
22 in a negative way. Nevertheless, I, also, see that
23 it's a plan that ought to be acceptable in its
24 compromise level. And I'm hoping that, finally,
25 maybe, we've come to a plan that can be, if you

1 will, voted upon, even if you hold your nose and do
2 it, because that's, ultimately, where this
3 Commission is going.

4 Somebody is going to have to hold their
5 nose and vote, and this plan, I believe, has the
6 opportunity for that to happen.

7 Thank you.

8 MR. STUART: Thank you, Commissioner Taylor.

9 MR. SHURTLIFF: Mr. Chairman.

10 MR. STUART: Commissioner Shurtliff.

11 MR. SHURTLIFF: I appreciate the remarks of
12 Commissioner Taylor. I appreciate the other views.
13 Frankly, I hear what you say. I don't see as much
14 as I heard in the way of compromise. I don't know
15 what compromises there are.

16 We spent the day, a lovely day, out in
17 Idaho Falls the other day listening to people, and
18 we have -- took our -- had a little colloquy
19 amongst us as to where we stand on things, and the
20 issue then, the issue now is whether we divide
21 Bannock County.

22 This plan divides Bannock County, in my
23 view, unnecessarily and unconstitutionally. It's
24 not necessary. We're, also, voting on this plan
25 with our fingers crossed, because we may or may not

1 look at reducing the deviation to get within the --
2 what I view, is a fairly strict constitutional
3 requirement that was enunciated in the last
4 Supreme Court case brought on this to the
5 permissible deviation.

6 I think we invite -- if we don't modify
7 it, we invite an attack on that ground as well as
8 the ground of unnecessarily, in my view, with all
9 due respect, dividing Bannock County. We do so on
10 this plan, in part, based on our notion, altruistic
11 as it might be, that we've got to take care of the
12 tribe.

13 The Fort Hall Indian Reservation I would
14 like to keep whole, kept together. The rather
15 simple fact of the matter is, as our legal counsel
16 told us the other day in Idaho Falls, the division
17 of that Fort Hall Reservation is not, in his
18 opinion, constitutionally impermissible. And let's
19 get practical.

20 As much as we would like, and we heard
21 from a representative from the Indian tribe the
22 other day in Idaho Falls, we're talking about 3,800
23 to 4,000 people. We're talking about a very
24 discreet minority, even if combined in any
25 legislative district. There are three or four

1 precincts involved.

2 There's, also, the fact that the
3 Voting Rights Act, as indicated by counsel for the
4 tribe the other day, does affect the language
5 requirement in Bingham County that's not included
6 in some of the other counties.

7 I don't know how that comes into play
8 here. I'm informed that, in the one precinct that
9 we're talking about, Fort Hall Indian Reservation,
10 there are 2,800 people that live there, or less.
11 In 1998, out of that 2,800 people, I'm informed
12 that 68 people voted. Probably, a few more in the
13 year 2000 because of the presidential election,
14 probably, excites twice the interest, than a
15 nonpresidential election.

16 So we're talking about as many as 125
17 people. I don't think that's basis enough or
18 reason enough to divide Bannock County when we have
19 a state constitution that says you shouldn't divide
20 counties, unless reasonably necessarily to achieve
21 a one man, one -- or one person, one vote
22 requirement.

23 There are some aspects of this plan
24 that, as Commissioner Taylor indicated, look good
25 on a map. But quite, frankly, looking good on a

1 map and being constitutional and being required
2 are, in my view, different things, and so I'm going
3 to oppose this.

4 I don't suppose I -- the fact of the
5 matter is that the Island Park precinct, whether it
6 comes or goes, is not going to swing my decision
7 either way. I'd vote against it whether it was in
8 there or out of there.

9 Just so it's -- to make it abundantly
10 clear, I'm not concerned about the deviation, but
11 I'm less concerned about that, as I expressed the
12 other day, and I trust this will probably the last
13 time I have the opportunity or the need to express
14 it, I'm opposed to the notion of splitting
15 Bannock County, when we don't have to.

16 It's perfectly sized for two districts.
17 We're dividing it, and that's all there is to it.
18 We don't need to divide it. We've seen a plethora
19 of plans that do otherwise, and they might not be
20 as pretty, they might not strike the fancy of the
21 people in the southeast corner of the state, but
22 the rather simple fact of the matter is that the --
23 it's not any further from the southeast corner of
24 Idaho to Idaho Falls. There's a district we've
25 created there from the corner of Bingham and

1 Jefferson Counties to this Utah border and
2 Cassia County. So, indeed, on a map, it's less
3 distance.

4 And whether there's a community of
5 interest that -- you're not affecting as many
6 people -- that's the difference. But it's no less
7 attenuated. It's no less difficult for people to
8 get from one end of that district to the other,
9 and, in my view, the outstanding quality of the
10 arguments made from the people in Bonneville County
11 as to why they don't want Bonneville to be split in
12 to four counties in a corner and vice versa, the
13 fact of the matter is that the people in
14 Bonneville County would, at least, be the second
15 largest voting group in that district. And their
16 voices would not be lost.

17 And we have some people here whose
18 voices are going to be lost in the district they're
19 placed in. So I oppose it.

20 Thank you.

21 MR. HAAGENSON: Mr. Chairman.

22 MR. STUART: Commissioner Haagenson.

23 MR. HAAGENSON: Mr. Chairman, members of the
24 Commission, it's been suggested that a reason to go
25 against this is the number of county splits, and

1 let me just point out that it's some -- what 7 -- 6
2 or 7 or 8 less county splits than the plan that
3 we're currently operating the legislature under, so
4 we've improved on that picture, and, inevitably,
5 the desire to keep counties together, and the
6 desire to keep communities of interest together,
7 conflict with one another.

8 And I just don't know -- think it's
9 appropriate that we flush down the communities of
10 interest in favor of keeping a county whole, and I
11 would remind Commissioner Shurtliff our counsel did
12 tell us that we could, probably, split the
13 reservation and not run afoul of the
14 Voting Rights Act.

15 He, also, said pretty unequivocally that
16 the plan that puts southern Bannock County with the
17 Oneida, Franklin, Bear Lake, and Caribou is a far
18 more defensible plan than going the other way, so
19 Commissioner Taylor articulated it very well.

20 There's got to be some give here. And,
21 apparently, I guess, I don't see much give on the
22 other side concerning Bannock County, and there is
23 significant compromise from our side of
24 District 27. So I would hope there would be some
25 good faith effort on the other side to adopt a plan

1 that is a compromise.

2 MR. STUART: Commissioner Haagenson,
3 Commissioner Taylor, I would like to speak for just
4 30 seconds.

5 I appreciate the notion of, you know,
6 the notion of compromise and statesmanship, and I,
7 certainly, wish doing that. I think -- I've got to
8 express the view, however, that I think it's
9 imprudent to -- there's other compromises that are
10 out there. I would very much like to seek some
11 compromises where an unnecessary split of
12 Bannock County is not required. A couple of those
13 we could chat about after.

14 MR. SHURTLIFF: Mr. Chairman.

15 MR. STUART: Commissioner Shurtliff.

16 MR. SHURTLIFF: Mr. Chairman, I don't want to
17 go off on this thing unnecessarily, but
18 Commissioner Haagenson's point that there's a
19 compromise in District 27 fails to sway me.

20 I don't know who compromised, or who
21 wanted it, but there was nothing there that was of
22 any interest of mine, and I don't know that it was
23 of any interest to anybody else, other than getting
24 the numbers right.

25 So I don't see any compromise there that

1 affected anything that I cared about. The only
2 thing I cared about was not dividing
3 Bannock County. The only reason I care about not
4 dividing Bannock County is because I think it's
5 unconstitutional.

6 MS. SELLERS: Mr. Chairman.

7 MR. STUART: Commissioner Sellers.

8 MS. SELLERS: There's so much discussion
9 about not dividing Bannock County, but everyone
10 seems to forget that Bannock is currently divided,
11 has nearly always been divided, that community of
12 interest is already established, not by us. We're
13 not trying to create something new; it's already
14 there.

15 It seems to me that this map most fully
16 takes into consideration the counsel of your
17 attorney and deals with the things that have been
18 brought up by the county commissioners and the
19 county clerks, most fully.

20 I do have grave concerns about the
21 deviation and feel really strongly that if we go --
22 if we approve any plan that has over 10 percent
23 deviation, it will be immediately brought back to
24 the drawing board.

25 MR. STUART: Further discussion?

1 MR. GIVENS: Mr. Chairman.

2 MR. STUART: Commissioner Givens.

3 MR. GIVENS: For some time now, I have
4 expressed my feelings to the members of the
5 Commission that I think the Idaho Constitution
6 prohibits us from dividing Bannock County,
7 prohibits us from having less than one full
8 district comprised only of Bingham County,
9 prohibits us from having less than two full
10 districts comprised only of Bonneville County, and
11 I continue to believe that.

12 I have, also, expressed my opinions to
13 the Commission that if a division of a county that
14 does not otherwise have to be divided, or excuse
15 me, if a deviation exceeds 10 percent, and is
16 justified by keeping whole counties that don't have
17 to otherwise be divided as long as the deviation is
18 under 16 percent, that I believe that is
19 permissible given the United States Supreme Court
20 decision at hand, and the Idaho's strong policy to
21 keep the counties whole, which is stronger than
22 Virginia's policy was in that day.

23 I, also, having -- 18 years having
24 litigated reapportionment issues as an attorney for
25 the plaintiffs, and this year having been a

1 defendant in reapportionment litigation, I am
2 strongly of the opinion that as much trouble as we
3 are having getting to a result, reapportionment is
4 best done by a citizen's commission, such as this,
5 not by the legislature and not by the courts.

6 The -- so I'm in a dilemma. In just
7 looking at the districts, themselves, this is a
8 pretty reasonable plan. It's, probably, one of the
9 more reasonable ones that we've considered, but I
10 think it is illegal. And I swore an oath to uphold
11 the Idaho Constitution.

12 Others, including very competent counsel
13 that we hired, think it would be legal. And I'm
14 not prepared to out-of-hand reject that
15 possibility. So how can those be blended together?

16 And we considered two plans that, in my
17 view, were legal under a strict interpretation of
18 the counties for the State Constitution regarding
19 the division of counties. The Plan L-79, which had
20 a deviation of 14.3 percent, split no counties,
21 other than those that had to be split, because not
22 splitting them would have resulted in a deviation
23 over 16 percent.

24 So I'm in agreement with
25 Commissioner Shurtliff that the division of

1 Bannock County into -- in this case, one district
2 fully contained with Bannock, and two districts
3 were combined with other counties. I think that's
4 in violation of the constitution, but we are not a
5 court.

6 We are a citizens' commission charged
7 with drawing lines, and if we, as a Commission, had
8 the answer to that legal question -- I've worked
9 with all of you long enough to know that we would
10 not be in the quandary we are in. We'd find a way
11 to make it work, given whatever set of rules that
12 we had to play by, but we don't really know exactly
13 what the rules are. That's what makes it tough.

14 Some of us think the rules are one way,
15 some of us think the rules are the other way, and
16 the amazing thing is that we've come as close as we
17 have to agreement without all having the same ideas
18 of what the rules are.

19 The -- maybe, there's a way out of that
20 dilemma, and before I get to that, let me talk just
21 a bit about this plan. District 28, I think, is a
22 reasonable district -- other than the fact that I
23 think it's unconstitutional -- for all the reasons
24 that the people have said in the past.

25 District 29, it does keep the populated

1 areas of Fort Hall together, and I agree with what
2 Commissioner Shurtliff said, and what legal counsel
3 said that that may not be legally required. In my
4 mind, that doesn't matter.

5 It's the right thing to do. And it is
6 the right thing to do for Idaho, not just for the
7 Shoshone/Bannock tribes. I say that as an attorney
8 who spends most of his time representing the
9 Indian tribe, and I realized what incredibly unique
10 issues there are that state representatives have to
11 deal with in Indian countries, and if you have an
12 entire reservation in one legislative district,
13 those legislators are going to become knowledgeable
14 in that district.

15 And the classic example of that is
16 Senator Wheeler, who has represented both the
17 Shoshone/Bannock and Fort Hall Reservations for the
18 last ten years and is chair of the legislature's
19 Indian Committee, and Senator Wheeler is very
20 knowledgeable.

21 So it's the right thing to do. I don't
22 like what it does with all of Bingham County.
23 Bingham County is split into three. Oneida would
24 solely be contained in Bingham. Other than the
25 fact that I think that's unconstitutional, this is

1 an all right plan.

2 The -- there are two people that are
3 elected to serve Bingham County that live west of
4 the river and will now be in District 27, and I'm
5 sure the republicans on this Commission see that as
6 a great compromise, putting them with 27.

7 I think it's just a natural consequence
8 of the change of population, but I appreciate that
9 some do feel it's a compromise. The western part
10 of Bonneville County, I think, it makes -- it's a
11 much more compact district in this plan than prior
12 plans that put it all the way up to Salmon and
13 Challis.

14 The Bonneville County is only in three
15 districts here, as opposed to four in some other
16 plans. I think, that's better; however, I think,
17 this one is unconstitutional. The dilemma that we
18 are faced with as a Commission and the state is
19 faced with and all the institutions of government
20 are faced with, is that by mid March, we absolutely
21 have to have a plan in place for the 2002 election.

22 And, if there is a judicial challenge to
23 this, which I have been promised by parties on all
24 sides that there will be, no matter what we do,
25 we've got to provide the Court with -- I think --

1 with our selection of what district is appropriate
2 under whatever the rules may be.

3 If the rules are, as
4 Commissioner Shurtliff and I feel, that counties
5 cannot be split, we came up with a plan that, I
6 think, everybody, if I understand the Commissioners
7 right, feel is the best that can be done that way.
8 That is that is Plan 79, with a deviation of 14.3
9 percent.

10 If there is a plan that allows the
11 splitting of a few counties to get under 10
12 percent, we have come up with a plan like that,
13 which is Plan L-80. And then this plan is based
14 more on the communities of interest argument, as
15 legal counsel said, was more defensible.

16 If that's the law, well, then, maybe,
17 this plan, probably, does have the best combination
18 of counties for communities of interest. So if I
19 were to have assurances from the other members of
20 the Commission or, at least, the majority of the
21 Commissioners, that we put together findings that
22 do what people talked about with Fremont County,
23 that is a -- if, in fact, it is the law that
24 counties cannot be split, unless absolutely
25 necessary, then the Commission's choice is that

1 L-79 be the plan.

2 If, in fact, the law is that you can
3 split some to get under 10 percent, then L-80
4 should be the plan. If, in fact, the law is, as
5 Mr. Hopkins says it was in Idaho Falls, then this
6 should be the plan.

7 And if, in fact, it is the law that this
8 -- that you can't be over 10 percent, then -- but
9 you can't split counties, then the -- this plan
10 with the Island Park precinct split out of
11 Fremont County should be the plan.

12 If the other -- if the majority of the
13 Commission could support a set of findings like
14 that, then I could be true to my own belief of
15 what the constitution says and to my oath and vote
16 for this plan, because then I would know that it
17 -- the entity, which is making the rules, the
18 Court, could make those -- make its determination.

19 And then we have provided the Court with
20 our selection of the appropriate plan under those
21 various views of what the law might be and that
22 this can all, I believe, this can all happen in a
23 timely enough manner that there will be a plan in
24 place for the mid March, early April beginning of
25 the 2002 election process.

1 So, I guess, that is the way that I
2 could feel comfortable voting to adopt Plan L-91.

3 MS. SELLERS: Mr. Chairman.

4 MR. STUART: Commissioner Sellers.

5 MS. SELLERS: Mr. Givens, did you -- did I
6 misunderstand? Are you indicating that we should
7 give the Court all of that criteria and say if you
8 want it this way, this would be the one, and if you
9 want it this way, this would be the one.

10 Is that, in fact, what you were saying?

11 MR. GIVENS: Well, I wouldn't call it if you
12 want it this way. I would say if you, the Court,
13 determine that the Idaho Constitution requires that
14 counties can only be split if absolutely necessary,
15 then it should be Plan L-79 and --

16 MS. SELLERS: So you would be giving the
17 Court half a dozen options?

18 MR. GIVENS: No. Probably, about three or,
19 maybe, with the Fremont County issue, four. But I
20 think we would -- I think, it is incumbent on this
21 Commission to adopt a plan today, and if someone
22 wants to challenge it and raise those issues with
23 the Court, then the Court gets it.

24 Otherwise, we -- what is adopted today,
25 is the plan, and, if no one challenges it, then

1 L-91 would be the plan. And the issue of whether
2 or not counties need to split or not, is a question
3 for another day.

4 MR. STUART: Other discussion?

5 MR. GIVENS: But before we have a vote, I
6 would like to know if there is support for the type
7 of findings from the other Commissioners, and, if
8 there isn't, then I can't vote for this plan.

9 MR. TAYLOR: Mr. Chairman.

10 MR. STUART: Commissioner Taylor.

11 MR. TAYLOR: I appreciate Mr. Givens'
12 dilemma, as he put it; however, it seems to me like
13 what he's really asking us to do is to sign a blank
14 check, and the other plans that he's talked about
15 have already been voted on by this Commission and
16 failed.

17 I don't disagree with his opinion in
18 that, perhaps -- and there's a lot of "perhapsing"
19 going on here -- let's assume for a moment that we
20 pass L-91, and the Courts throw it back to us.

21 Well, then we come back, and we do our
22 job, and we go at it, again, until we pick one that
23 doesn't. It seems to me that the purpose of this
24 Commission is to do one plan at a time. Let the
25 public take their shot at it.

1 If the Courts don't like it, they'll
2 give it back to us, and we'll going back to work.
3 I respect Mr. Givens' opinion as he thinks that
4 this plan is unconstitutional. I respect that. I
5 understand where he's coming from. We've had
6 enough discussions; I understand that.

7 But, Mr. Givens, I can't give you that
8 assurance that, if somebody were to successfully
9 have L-91 thrown out, that I would automatically
10 give my support to whatever the Court decides they
11 think is constitutional or isn't constitutional. I
12 think I have a problem with that.

13 I'm sorry, Mr. Givens.

14 MS. SELLERS: Mr. Chairman.

15 MR. STUART: Commissioner Sellers.

16 MS. SELLERS: I would just like to say
17 because this is Ray's plan, that this has happened
18 on a number of occasions, and I would just like to
19 say, for the record, I'm really tired of him
20 putting plans out that he can't support, because
21 they're not constitutional, in his mind.

22 So I wish that he would only present the
23 plans that he feels that he can deal with.

24 MR. SHURTLIFF: Commissioner Sellers,
25 Mr. Chairman.

1 well be the last time we get together, and I know
2 that that's not altogether an unhappy thought. But
3 I would suggest that there's no given that they're
4 going to give it back to us, at all, and so I
5 don't -- you can factor that in on how I vote.

6 MR. TAYLOR: Mr. Chairman.

7 MR. STUART: Commissioner Taylor.

8 MR. TAYLOR: Commissioner Shurtliff, I had
9 some conversation this morning with someone who had
10 had a personal conversation with
11 Chief Justice Trout, and her opinion was that there
12 is no remedy beyond this Commission.

13 MR. SHURTLIFF: Well, but -- Mr. Chairman.

14 MR. STUART: Commissioner Shurtliff.

15 MR. SHURTLIFF: Commissioner, I respect a
16 great deal all ex-parte communication from the
17 chief justice and -- but that, I would submit to
18 you, as; A, improper on her part; and B, probably,
19 not anything that she has a right to speak for the
20 majority of the Court about. Given the fact that
21 there are no major controversies before her, and I
22 certainly have no -- you know, if we were in a
23 court as opposed to a Commission, we'd strike that
24 as hearsay.

25 But, on the other hand, that doesn't do

1 much to sway my opinion either, and, frankly, I'm
2 offended, if, in fact, she had that conversation,
3 and I would tell her that or anybody else that the
4 Supreme Court justices shouldn't be having those
5 kinds of conversations about what may or may not
6 get in front of them.

7 MR. HAAGENSON: Mr. Chairman.

8 MR. STUART: Commissioner Haagenson.

9 MR. HAAGENSON: Mr. Chairman, members of the
10 Commission, recognizing that Commissioner Givens
11 needs no defense from me, I'd just like to point
12 out that, while there has been strong opposition
13 from the democrats with this Commission splitting
14 Bannock County that Commissioner Givens and others
15 on that side have been willing to, at least, look
16 at, explore, develop plans without options, and to
17 suggest that they're bound to vote for them,
18 because they participated in helping to write
19 something that took that approach, I think is
20 wrong.

21 So I commend Commissioner Givens for the
22 work that he's put in on this Commission, which is
23 substantial. So enough said.

24 MR. STUART: Ladies and gentlemen of the
25 Commission, I might offer, also, for those of us

1 who agree with Commissioners Shurtliff and
2 Commissioner Givens that this may be
3 unconstitutional, there are constitutional
4 alternatives I'm prepared to offer.

5 MR. GIVENS: Mr. Chairman.

6 MR. STUART: Commissioner Givens.

7 MR. GIVENS: May I suggest we take a short
8 recess?

9 MR. STUART: Good idea. Ten minutes. 3:30.
10 Let's try to be on time, this time.

11 (Recess taken.)

12 MR. STUART: We'll reconvene.

13 MR. HAAGENSON: Mr. Chairman.

14 MR. STUART: Commissioner Haagenson.

15 MR. HAAGENSON: Mr. Chairman, with the intent
16 of my second, I will withdraw my motion, while we
17 consider the other plans that Commissioner Givens
18 suggested might be in a package that we might send
19 out.

20 So if my second would concur, we would
21 -- then -- maybe, we could make a motion, once
22 we've take a look at those.

23 MS. SELLERS: I agree.

24 MR. STUART: So we have concurrence from
25 Commissioner Haagenson and Commissioner Sellers to

1 withdraw the motion, pending the discussion.

2 Commissioner Haagenson, clarify for me the plans
3 you'd like to see are the potential alternatives in
4 the findings.

5 MR. HAAGENSON: Mr. Chairman, I think it was
6 Commissioner Taylor who made the request, but I
7 certainly am with him. I would like to see, again,
8 those plans that might be included in the findings.

9 MR. STUART: That's great.

10 Commissioner Taylor, you, also,
11 indicated during our break that you'd like to take
12 a look at another plan.

13 MR. TAYLOR: Yes, I would.

14 MR. SHURTLIFF: I would, too.

15 MR. STUART: I'd be happy to do that.

16 Commissioner Haagenson, do you have a
17 request, or would you like to do that first? Does
18 it make any difference?

19 MR. HAAGENSON: No, Mr. Chairman, I just -- I
20 think, if we're going to entertain the notion,
21 which I maybe willing to do, that
22 Commissioner Givens has raised to put other plans
23 as alternatives in the findings, then we need to
24 look at them, again.

25 If there's another plan we want to look

1 at, let's look at them at the same time, in any
2 order.

3 MR. STUART: Is that reasonable to the
4 Commission here?

5 Commissioner Givens, I'm going to ask
6 you to do that just briefly. As I recall, the L-79
7 was the maximum counties whole alternative that had
8 a 14 percent plus deviation.

9 MR. TAYLOR: Excuse me, Mr. Chairman.

10 MR. STUART: Commissioner Taylor.

11 MR. TAYLOR: Excuse me for interrupting.
12 Because Mr. Givens read to me, during the break,
13 how he would like his -- the condition of his vote,
14 I would like to have that entered into the record
15 so that we could all hear that.

16 Mr. Givens, would you mind doing that,
17 so we know why we're looking at these plans, so all
18 of us are on the same page here?

19 MR. GIVENS: I'd be happy to.

20 MR. STUART: That's fine.

21 Commissioner Givens, go ahead.

22 MR. GIVENS: Mr. Chairman, members of the
23 Commission, as I was thinking about this yesterday,
24 and realizing that we've got to come to a
25 resolution of this.

1 I took the proposed findings that
2 Mr. Hopkins had given to us a week or so ago and
3 just added some additional language to them in
4 several areas. One primary area was, you know,
5 there are several things just to clean up.

6 And I think make our -- or whatever we
7 adopt -- more bullet proof but part of that was
8 this additional alternative plan section. And I
9 had to go through many of it, but let me just go
10 through the alternative plan section. It's about 2
11 pages. I'll just read it.

12 MS. SELLERS: What page are you on, Ray?

13 MR. TAYLOR: Mr. Givens, no offense, but
14 could you use the microphone? I'm having a hard
15 time hearing you.

16 MR. GIVENS: Oh, I'm sorry. "Each member of
17 the Commission is especially mindful of the
18 Commissions' obligation to adopt, in a timely
19 manner, a redistricting plan which complies with
20 all applicable legal requirements.

21 Since this is the first time
22 redistricting in Idaho has been conducted by the
23 Commission, many legal questions remain unanswered.
24 The time constraints of having an approved plan in
25 place for the start of the 2002 election process

1 does not allow these legal questions to be resolved
2 in the ordinary course of business.

3 In order to ensure that the 2002
4 election is conducted under a plan approved by the
5 Commission, the Commission has approved three
6 separate plans appropriate under the three separate
7 legal theories herein identified.

8 So that any reviewing Court will know
9 the Commission's preference under each legal
10 theory. Plan" L-59, or excuse me "L-79, no split,
11 14.30 percent deviation.

12 Some members of the Commission believe
13 that the Idaho Constitution requires that counties
14 not be divided unless absolutely necessary to
15 create a redistricting plan which satisfies the
16 population deviation approved by the United States
17 Supreme Court and the Han v. Howell of less than
18 16.4 percent.

19 If this, in fact, is found to be the
20 law, Plan L-79 is the most desirable 35-District
21 Plan. Its population deviation is 14.3 percent.

22 Plan L-80, minimal split under 10
23 percent. Some members of the Commission believe
24 that the Idaho Constitution and the
25 Idaho Supreme Court's holding in

1 Smith v. Commission on Redistricting" -- the
2 decision was this last month -- "may require that
3 counties not be divided unless absolutely necessary
4 to create a redistricting plan with less than 10
5 percent deviation.

6 If this in fact, is found to be the law,
7 the Commission finds Plan L-80 to be the most
8 desirable 35-District Plan. Its population
9 deviation is --

10 MR. STUART: 9.8.

11 MR. GIVENS: -- 9.8." Then, if Plan 91 were
12 to be the plan that were adopted, the language
13 would read this:

14 "Plan L-91, community of interest" and
15 then whichever version of it we would adopt would
16 be the percentage of deviation. "Some members of
17 the Commission believe that the
18 Idaho Constitution and Statutes, when read
19 together, allow the division, or additional
20 division, of counties to satisfy the preservation
21 of local communities of interest provided by Idaho
22 Code 72-1506(2)."

23 And Commissioner Haagenson suggested
24 there ought to be a clause in there about keeping
25 counties together, and that would be fine. That

1 would be worth the work.

2 MR. HAAGENSON: Mr. Chairman,
3 Commissioner Givens, the suggestion was that
4 language be there. That it's for the dual purpose
5 of achieving population parity and communities of
6 interest.

7 MR. GIVENS: Yes, yes.

8 "If this, in fact, is found to be the
9 law, Plan L-91 is the most desirable 35-District
10 Plan. Its population deviation is," whatever it
11 is.

12 And then we would go -- I would suggest
13 that we make specific findings as to the counties
14 we split that explain why they are split under any
15 of the alternatives, and then under the next major
16 section approved plan -- this plan would be L-91.

17 "The Commission adopts Plan L-91 as the
18 Idaho Redistricting Plan to be used in the 2002
19 election. The adoption of Plan L-91 is not to be
20 construed as a determination by the Commission of
21 the correctness of any of the legal theories
22 mentioned above.

23 This is a function of the Courts.
24 Rather, the adoption of Plan L-91 reflects the
25 Commission's recognition of the necessity of

1 adopting a 2002 redistricting plan in that the
2 districts in Plan L-91 are reasonably compact, are
3 not oddly shaped, reflect common communities of
4 interest in the various districts, with an effort
5 to maintain the integrity of county boundaries.

6 Specifically, as to each district of
7 Plan L-91, the Commission finds..." and then that
8 was actually the part of the findings that
9 Mr. Hopkins put together, and, I think, probably,
10 those ought to be modified, but, basically,
11 they're --

12 So that would be my proposal.

13 MR. TAYLOR: Thank you.

14 MR. STUART: Commissioner Haagenson, you
15 expressed some interest in reviewing those plans.
16 Do you want to do that formally? They may be
17 posted on the walls around here. What's your
18 preference, sir?

19 MR. HAAGENSON: Mr. Chairman, I think that we
20 should project up on the screen, again, the 79 --
21 is it 79 and 80 and 91, I guess.

22 MR. STUART: Commissioner Givens, I might
23 note that the L-80 Plan is one that I introduced
24 for the record in Idaho Falls on Friday.

25 That one, as I recall, had a split of

1 Madison County, the Plano precinct, but I
2 mentioned -- some of you may recall -- at the time,
3 that that precinct -- to reduce the size of that
4 Madison/Fremont -- can come from either county.

5 And I think the consensus we got from
6 the Fremont County folks was that, perhaps, the
7 Island Park precinct was better, and the L-84, in
8 fact, does that, which is now part of the record.
9 So for what that's worth, that could be, perhaps --

10 MR. HAAGENSON: So 79, 84, and 91?

11 MR. STUART: Right.

12 MR. GIVENS: This is 79. Let me just run
13 through it from the top down.

14 Mr. Chairman, Commissioner Shurtliff,
15 Commissioner Haagenson, and Commissioner Taylor
16 were interested in reviewing this.

17 MR. STUART: Commissioner Givens, in the
18 interest of time, can we just focus on the
19 southeastern portion?

20 MR. GIVENS: You bet.

21 MR. STUART: I'll call up the L-84. It's on
22 my machine here.

23 MS. SELLERS: Tom, L-84 was L-80, correct?

24 MR. STUART: L-84 is a modification of L-80.
25 The only difference being the precinct position in

1 Fremont.

2 MS. SELLERS: Right.

3 MR. HAAGENSON: Mr. Chairman,
4 Commissioner Givens, do all three of these,
5 essentially, have the same treatment of
6 Idaho Falls, in the west -- the west of
7 Idaho Falls?

8 MR. GIVENS: I believe so, although, my
9 thinking has changed a little bit as to how
10 Idaho Falls ought to be dealt with. But,
11 basically, yeah. I mean, I would think from what
12 we've heard today, it, probably, makes more sense
13 to box Idaho Falls up like we did in '79, and that
14 can be done without really changing things one way
15 or another.

16 I believe it, probably, would make sense
17 to do that, if we're going to go this route.

18 MR. STUART: Commissioner Taylor,
19 Commissioner Haagenson, the Commissioner who asked
20 that last question, in the L-84, I'm not certain if
21 the precise boundaries in Idaho Falls are exactly
22 the same as the L-79 Plan that we depict.

23 They're -- because of the additional --
24 there's an additional split that falls in
25 Bonneville, I suspect there was rebalancing there.

1 Although, the same concept, I'm sure, was observed
2 in that that urban core was observed, although,
3 there may be some minor -- some minor differences.

4 This is the L-84 on the right for what
5 it's worth. It changes in L-84, between L-84 and
6 L-79, to get the deviation below 10 percent. And
7 our folks in the north over here -- there's
8 additional count in Kootenai County, okay, that
9 equalizes populations that were efficiently and
10 effectively in District 2.

11 There is an additional division of
12 Canyon County, right here in the far northwest
13 corner with a section connected to District 9.
14 District 9 is constraining for a deviation.

15 MS. SELLERS: Could you put your matrix up,
16 Tom, please?

17 MR. STUART: Oh, sure. I'll show you the
18 whole matrix here when we're finished.
19 Southwestern Idaho is otherwise identical then down
20 to Lemhi are identical. There is an additional
21 division in Bonneville County to reduce deviation,
22 and, as I've indicated, the Island Park precinct
23 attached to the rest there in District 34, and the
24 matrix looks like so.

25 The low end is the 5.52. The figure

1 that's been common throughout some of the other
2 plans, on the negative side. On the positive side,
3 4.24 -- 4.27 in District 34 for a deviation of
4 about 9.8, give or take.

5 MR. HAAGENSON: Mr. Chairman, would you blow
6 up the Idaho Falls area, for a moment?

7 MR. STUART: Of course.

8 MR. HAAGENSON: Thank you.

9 MR. STUART: It's roughly similar. Perhaps,
10 not identical, but it's quite similar. There is no
11 reason that could not be, you know, modified, if it
12 were necessary. It's just a matter of balancing
13 those populations 32, 33, and 34.

14 MS. SELLERS: May I see the matrix on 33 and
15 34?

16 MR. STUART: Say, again,
17 Commissioner Sellers.

18 MS. SELLERS: May I see the matrix, again, on
19 33 and 34?

20 MR. STUART: We're 3 and 4 percent across the
21 board from District 30 on. It's pretty much
22 equalized.

23 MS. SELLERS: Thank you.

24 MR. STUART: Commissioner Haagenson, does
25 that address your question, sir?

1 MR. HAAGENSON: Yes, Mr. Chairman.

2 MR. STUART: It's been suggested, also, that
3 before we go back and reconsider, if we wish to,
4 the motion on L-91 that there's another alternative
5 that, perhaps, would work for us, as well.

6 If it pleases the Commission, I will --
7 it's on my machine. I can go through that, just
8 briefly.

9 MR. TAYLOR: Do you want Mr. Shurtliff in
10 here?

11 MR. STUART: I'm sure he's seen it.

12 MR. TAYLOR: Okay.

13 MR. STUART: If you want to leave the other
14 on -- the L-91 up here for comparison that would be
15 fine. Conceptually, just as the plan on the left,
16 the L-91, is an evolution of the L-69 Plan. The
17 plan on the right, which doesn't have a number
18 yet -- what should it be?

19 MR. TAYLOR: 92.

20 MR. STUART: L-92 is an evolution of the
21 L-76 Plan. Differences are Bannock County is
22 whole. District 27, without 29 having to reach
23 into the Fort Hall complex and down to
24 American Falls, that let's us go back to some
25 earlier configurations on District 27.

1 I'll give you a blowup. I know there's
2 some interest in the Blackfoot area. That's a bit
3 more compact district with the -- of course, it's
4 well outside the city limits of Blackfoot. It
5 doesn't do a perfect job for Bingham, by any
6 stretch of the imagination, but it keeps a bit more
7 of those adjoined communities attached to
8 Blackfoot, itself.

9 The big difference in this plan is where
10 the extra population for District 28, there in the
11 southeast corner, comes from. Of course, in the
12 plan on the right, we're dealing with south Bannock
13 to pick up a few additional numbers. This plan
14 picks up the additional numbers from eastern
15 Bingham County. Okay.

16 MR. GIVENS: Mr. Chairman, could you scroll
17 your matrix up to --

18 MR. STUART: Oh, certainly. Thank you for
19 the reminder. I'm sorry. It might be worthy of
20 note here, some detail in Bingham County, first,
21 we've got to equalize the populations there with
22 District 28, so this is the least attractive
23 district, obviously, in this plan. I would be the
24 first to tell you that.

25 We have to come up in the Shelly and

1 Firth area. Both of those communities are intact,
2 but they are part of District 28, in this plan.
3 Bonneville County is pretty straight forward and
4 pretty clean. I'll put some roads on here for you,
5 for what that's worth.

6 We have -- Idaho Falls City Corp is,
7 basically, as it's been described, I think in the
8 L-69; although, it's not been squared off in this
9 iteration. District 33 or District 31, excuse me,
10 reaches around the southern boundary of the
11 Idaho Falls city limits, around the west, and to
12 the north.

13 District 32 picks up the remainder of
14 the Idaho Falls city limits on the eastern
15 boundary. All of Iona, all of Ammon in tact and
16 then reaches east to the Wyoming border and adds
17 Teton County to comprise District 32.

18 I think, the other handling of Madison,
19 Butte, Jefferson, is, basically, the same, except
20 for the split of Island Park precinct here, which
21 this plan depicts, is required to get the deviation
22 below 10 percent.

23 So I would offer this L-92 as an
24 alternative to splitting Bannock, which for me is
25 appealing. Neither plans are perfect. There's

1 things that I like about each one; there's things I
2 don't like about each one.

3 But there are some important
4 differences, not only in how Bannock County is
5 handled, but how District 27 is configured, how
6 Bingham is handled, and how Bonneville is handled.

7 So, with that, I'll leave it for
8 questions.

9 MR. HAAGENSON: Mr. Chairman.

10 MR. STUART: Commissioner Haagenson.

11 MR. HAAGENSON: Mr. Chairman, there was a
12 question. I would move for the adoption of
13 Plan L-91 with 91-B attached. 91, being Fremont
14 and Madison together, 91-B, being with the
15 Island Park precinct in District 35 and that we
16 further include the findings language that
17 Commissioner Givens has suggested and offer Plan 79
18 as a minimum split option, and 84 as a minimum
19 split, less than 10 percent option.

20 But the Commissions' adopted plan is 91.

21 MR. STUART: Do we have a second?

22 MR. GIVENS: I'll second the motion.

23 MR. STUART: We have a motion and a second --
24 let me restate this for the record,
25 Commissioner Haagenson.

1 To adopt Plan L-91 with Fremont and
2 Madison intact, together, on further part of this
3 motion, that findings include language covering
4 Plans L-79 and L-84 as alternatives for the
5 14 percent deviation range and below 10 percent
6 deviation range with minimal splits. Is that
7 correct, sir?

8 MR. HAAGENSON: That's correct, with the
9 exception that -- 91, we would put Fremont and
10 Madison together, but 91-B, if you will, would be
11 -- put the Island Park precinct -- becoming part of
12 District 35, to bring a deviation under 10 percent.

13 MR. STUART: It's your intention,
14 Commissioner Haagenson, that we include both of
15 those options in this motion, rather than dealing
16 with those later?

17 MR. HAAGENSON: The motion is as I stated. I
18 mean, we'll see if we have support for it, but --

19 MR. STUART: Okay. Do we have a motion to
20 second. Do we have discussion?

21 MR. HAAGENSON: Mr. Chairman.

22 MR. STUART: Commissioner Haagenson.

23 MR. HAAGENSON: Mr. Chairman, members of the
24 Commission, it seems to me that it's a late hour,
25 and we have looked at what, 92 options now, and I

1 think that the 91 Plan does the best job of
2 respecting the constitution, respecting one person,
3 one vote, and respecting communities of interest.

4 Obviously, we could have less county
5 splits, if we're willing to throw communities of
6 interest out the window, which I don't think we
7 should do. I think we need to respect counties and
8 split them only for the purpose of achieving
9 population parity, and not for other purposes, but
10 I don't know that -- my sense is that we have to do
11 it only if it's absolutely necessary at the expense
12 of creating five districts.

13 However, I think that
14 Commissioner Givens has come up with an excellent
15 suggestion is that we then put this plan out, if
16 it's challenged, that the Court is instructed by
17 this Commission what our choices would be if, in
18 fact, the minimum, absolute minimum number of
19 splits has to be adhered to, or secondly if
20 absolute minimum splits to achieve 10 percent is
21 what's the law.

22 And so, I think, that puts our first
23 choice out there. It's likely that it may very
24 well be challenged, but it will give us some
25 guidance from the Court if it is challenged. And

1 ask them to interpret the law, where we're
2 interpreting what we think is a good plan.

3 MR. STUART: Other discussion?

4 MR. SHURTLIFF: Mr. Chairman.

5 MR. STUART: Commissioner Shurtliff.

6 MR. SHURTLIFF: 91 is not my first choice,
7 the next one's not my second choice, and the next
8 one's not my third choice, so I -- it makes it
9 relatively easy to vote against it.

10 If we want a declaratory judgment from
11 the Supreme Court as to what we ought to be doing,
12 then I would suggest we employ legal counsel, and
13 we'll ask them which question on declaratory
14 judgment action as to what we ought to do, rather
15 than give them the choice with A, B, and C, and D.

16 I guess, we've got 91, 91-B, and two
17 others, and we're blowing this apart. It sounds
18 like to me, maybe, we'd just go ask the
19 Chief Justice over coffee, but I really don't think
20 that's an alternative.

21 So the last time I checked, I thought we
22 were asked to come up with a plan not four plans,
23 and none of them are my choice. So I -- you know,
24 with all we've accomplished, what we're doing is
25 we're saying A, this is our plan. Now somebody

1 take and go to the Supreme Court, and we'll figure
2 out which plan it is, and then the Supreme Court
3 gets to decide which plan it is based on the
4 parameters.

5 And, quite frankly, 91 we've spoken to;
6 the others we've spoken to. I don't think we've
7 advanced the proposition very far by this motion,
8 frankly, with all due respect. If you want to vote
9 for 91, and if you want that to be the plan, then
10 why don't we up or down 91 and go home.

11 MR. HAAGENSON: I'll second your motion.

12 MR. STUART: Other discussion? Ready for a
13 vote? We'll do a roll call vote. We have a motion
14 and a second on L-91. I won't restate it,
15 Commissioner Haagenson.

16 Can I answer any questions about what
17 we're voting on?

18 Commissioner Haagenson.

19 MR. HAAGENSON: Aye.

20 MR. STUART: Commissioner Taylor.

21 MR. TAYLOR: No.

22 MR. STUART: Commissioner Sellers.

23 MS. SELLERS: No.

24 MR. STUART: Chair votes no.

25 Commissioner Shurtliff.

1 MR. SHURTLIFF: No.

2 MR. STUART: Commissioner Givens.

3 MR. GIVENS: Yes.

4 MR. TAYLOR: Mr. Chairman.

5 MR. STUART: Commissioner Taylor.

6 MR. TAYLOR: I make a motion that we accept

7 L-91.

8 MR. HAAGENSON: Second.

9 MR. STUART: We have a motion and a second to

10 accept L-91, without additional conditions. Is

11 that the correct intention?

12 MR. TAYLOR: That's correct.

13 MR. STUART: Discussion? Ready for a vote?

14 I'll do a roll call vote, again.

15 Commissioner Givens.

16 MR. GIVENS: Yes.

17 MR. STUART: Commissioner Shurtliff.

18 MR. SHURTLIFF: No.

19 MR. STUART: Cochair votes no.

20 Commissioner Sellers.

21 MS. SELLERS: Yes.

22 MR. STUART: Commissioner Taylor.

23 MR. TAYLOR: Yes.

24 MR. STUART: Commissioner Haagenson.

25 MR. HAAGENSON: Yes.

1 MR. STUART: We have approved L-91.

2 MR. SHURTLIFF: I move we adjourn sine die.

3 MR. STUART: Is there a second?

4 MR. HAAGENSON: No.

5 MR. TAYLOR: Mr. Chairman.

6 MR. STUART: Hang on just a second. Is there
7 a second?

8 MR. HAAGENSON: No.

9 MR. STUART: The motion dies.

10 Commissioner Taylor, go ahead.

11 MR. TAYLOR: Mr. Chairman, I would like to
12 address the issue that Mr. Givens brought up about
13 the findings, and how we're going to do that, and I
14 would, also, like to know if this Commission is
15 interested in discussing the issues of
16 Fremont County and the deviation issue.

17 MR. GIVENS: Mr. Chairman, I am. And what --
18 can you clarify, Mr. Chairman, what would the
19 deviation of L-91 be, if Fremont County were left
20 whole?

21 MS. SELLERS: 11.7.

22 MR. STUART: 11.79 my notes show.

23 MR. GIVENS: I don't know what procedure you
24 want to use, Mr. Chairman, but I would move that
25 L-91 be amended and adopted as the final plan of

1 the Commission, keeping Fremont County whole.

2 MR. TAYLOR: Excuse me.

3 MR. HAAGENSON: Second the motion.

4 MR. STUART: Okay. We have a motion and a
5 second.

6 Commissioner Taylor, you have a
7 question, obviously.

8 MR. TAYLOR: Yes. Mr. Chairman, we just
9 passed L-91. L-91 in its entirety, as it now
10 exists, does it include -- it does include all of
11 Bannock County, does it not?

12 MR. GIVENS: Bannock County --

13 MR. TAYLOR: I mean, not Bannock County,
14 excuse me, Fremont County.

15 MR. STUART: No.

16 MR. TAYLOR: It has Fremont County split?

17 MR. GIVENS: Yes.

18 MR. HAAGENSON: No.

19 MS. SELLERS: Yes.

20 MR. STUART: L-91 has Fremont County split?

21 MS. SELLERS: Yes.

22 MR. STUART: Commissioner Haagenson, I got
23 confused here. Now, your motion is to amend the
24 L-91 to -- excuse me, Commissioner Givens, I'm
25 sorry -- to make the L -- restore Fremont County

1 whole, which would increase the deviation to 11.8
2 percent; is that correct.

3 MR. HAAGENSON: Yes.

4 MR. GIVENS: Yes. That is my motion.

5 MR. STUART: We have a motion and a second.
6 Any further discussion?

7 MR. HAAGENSON: Mr. Chairman, I can make
8 discussion. I -- there's others that, probably,
9 have a lot more knowledge on what the Court would
10 do, than I have, but I think that there's a clear
11 case of communities of interest being considered,
12 and the desires of the people in the area being
13 considered, and the elected leadership of the area
14 of the county commissioners, and so on saying,
15 yeah, we know that if we're combined, we're
16 slightly underrepresented, but we'd prefer that to
17 being split and point out the fact that BYU-Idaho
18 inflates the count in that district, and there's,
19 also, a lot of part-time residents in that district
20 that, probably, don't register to vote there.

21 And so they're not concerned about that.
22 So, I think, that's a very clear case of rationale
23 that we can give to the Court, should we be
24 challenged as to why that one district was allowed
25 to be over populated.

1 And so I would hope we'd pass the
2 amended motion and present 91 in that form.

3 MR. GIVENS: Mr. Chairman.

4 MR. STUART: Commissioner Givens.

5 MR. GIVENS: I agree with absolutely
6 everything Commissioner Haagenson said. I add only
7 to it that one person, one vote is a federal
8 constitutional requirement and keeping counties
9 whole is an Idaho constitutional requirement, and I
10 believe that the state laws should not be
11 willy-nilly trampled by federal law, and I think
12 the US Supreme Court has recognized that in Muhan.

13 The deviation, if we keep Fremont County
14 whole, is within Muhan. It respects the strong
15 policy of Idaho, stronger even than was in the
16 Muhan's case. It was not a constitutional
17 requirement in Virginia.

18 We have a strong record of elected
19 officials and of everyday citizens that say they
20 would really rather have their vote count a
21 minuscule amount less and have Fremont County kept
22 together whole.

23 And, to me, this is -- this is the good
24 side of a state's rights issue, and I think that
25 again, I think it's legally permissible, and I

1 think it's the right thing to do, and I think it's
2 respectful of the Idaho Constitution.

3 MR. STUART: Further discussion?

4 MR. SHURTLIFF: Mr. Chairman.

5 MR. STUART: Commissioner Shurtliff.

6 MR. SHURTLIFF: I haven't voted against 91.

7 And now I'm being asked to vote to amend it. I
8 don't think I have dog in this fight.

9 On the other hand, with all due respect,
10 to the good people from Fremont County, who
11 attended upon the meeting in Idaho Falls the other
12 day, and who have taken the time, made the effort,
13 and inconvenience of being here today, I think,
14 that the record would reflect that speakers from
15 Island Park as well as the elected county officials
16 from Fremont County circumstance and proposition
17 advanced by Commissioners Haagenson and Givens.

18 On the other hand, quite frankly, we
19 didn't go to Marsing and spend the day. We didn't
20 go to Twin Falls and spend the day. We didn't go
21 Orofino and spend the day. So I would suggest
22 that, if we had, that it's entirely possible, that
23 we would find people in Clearwater County who would
24 say to respect our communities of interest more, we
25 would suggest some change.

1 We would take less than the idea than
2 saying Marsing or Twin Falls, or Boise and
3 Owhyee County, Boise and Elmore Counties, and some
4 of the other goofy kinds of combinations that we've
5 created that are extended in 91 or 91-B. We didn't
6 hear from those folk with the same clarity that we
7 did from the people in Fremont County, but the
8 failure of those people to enunciate their views
9 doesn't make any less, in my opinion, valid.

10 The notion that we ought to respect the
11 Constitution of the United States as long as we
12 can, and we can. We're -- as I said the other day,
13 and I say it again, we don't need to pass
14 unconstitutional plans to meet -- unconstitutional
15 under either the state or the federal
16 constitutions. We've got plans that are out there
17 if we just hold purpose, and we might not advance
18 them as well as some of the others in the view of
19 some of the people on this Commission.

20 I respect that, but I don't think we
21 need to do the damage to either constitution that
22 we're doing by this motion, and so, notwithstanding
23 that I voted against it, I'll pass on this motion,
24 because I really do think that once you've started
25 -- once you're on position you shouldn't be -- it's

1 your party, now.

2 So I'll stay out of it, but that's my
3 view of where we are.

4 MR. STUART: Other discussion? I'll make a
5 couple of comments.

6 I'm still a bit concerned about
7 advancing a -- any plan with a deviation above 10
8 percent. I understand the position of the folks
9 from Fremont County and the positions of the folks
10 on the Commission, who are certain it's justified
11 from the legal point of view.

12 I didn't vote for the L-91 Plan, so
13 perhaps, I should hope it gets challenged, but I
14 really don't. I, likewise, don't want to incumber
15 this plan with provisions that, in my view, make it
16 legally more vulnerable.

17 I think it's more vulnerable with a
18 deviation above 10 percent. I share
19 Commissioner Shurtliff's view. I don't have a dog
20 in this fight either, really, but I, nevertheless,
21 recommend that the deviation should be kept below
22 10 percent.

23 Further discussion? Ready for a vote?
24 We have a motion and a second to amend the
25 L-91 Plan to restore Fremont County whole,

1 increasing the deviation to 11.8 percent,
2 approximately.

3 We will do a roll call.

4 Commissioner Haagenson.

5 MR. HAAGENSON: Aye.

6 MR. STUART: Commissioner Taylor.

7 MR. TAYLOR: No.

8 MR. STUART: Commissioner Sellers.

9 MS. SELLERS: Pass.

10 MR. STUART: Cochair votes no.

11 Commissioner Shurtliff.

12 MR. SHURTLIFF: Pass.

13 MR. STUART: Commissioner Givens.

14 MR. GIVENS: Pass.

15 MR. STUART: I'm barring a -- barring the
16 folks who passed. Do we want to retake the vote at
17 this point?

18 Commissioner Sellers.

19 MS. SELLERS: Aye.

20 MR. STUART: I'm sorry.

21 MS. SELLERS: I will vote aye.

22 MR. STUART: Commissioner Sellers votes aye.

23 Commissioner Shurtliff.

24 MR. SHURTLIFF: Pass.

25 MR. STUART: I believe we have three in

1 favor, two against, and one pass. We have failed
2 to pass that motion.

3 MR. HAAGENSON: Mr. Chairman.

4 MR. STUART: Commissioner Haagenson.

5 MR. HAAGENSON: You said failed to pass? It
6 should be in favor of two votes.

7 MR. STUART: It's my understanding that any
8 action requires a vote of four --

9 MS. BENNION: Mr. Chairman --

10 MR. STUART: -- is that not correct?

11 MS. BENNION: -- let's take a quick look. I
12 believe, that's a vote of the majority of the
13 Commission.

14 MR. STUART: Right, which would, certainly,
15 be four. I think we should look to see, but I
16 think it's appropriate to review the rule book.

17 It's my understanding that four votes
18 are required to pass a measure like this.

19 MS. BENNION: Right.

20 MR. STUART: I'd like to hear the
21 Commission's views on findings. I think we need to
22 jump through that hoop here and define what we --
23 how we want to handle that, if we wanted to include
24 -- I'm not certain all these things have to be
25 cleaned up today, but we need to devise a process

1 for doing so.

2 MR. TAYLOR: Mr. Chairman.

3 MR. STUART: Commissioner Taylor.

4 MR. TAYLOR: Mr. Givens has championed this
5 idea and, in fact, has done a substantial amount of
6 work in this area, which I applaud.

7 I would recommend that we allow
8 Mr. Givens to put together a narrative, if he
9 chooses to. I guess, I'm volunteering him for a
10 job to put together a narrative of the findings and
11 then circulate that among the members of the
12 Commission for edit and comment, and then we can
13 approve it without having to come back together as
14 a Commission to do that.

15 We can do it through the telephone, or
16 whatever we have to do it.

17 MR. STUART: Commissioner Haagenson.

18 MR. HAAGENSON: Mr. Chairman, I concur with
19 that idea with this additional thought, I guess. I
20 can see, under that scenario, Commissioner Taylor
21 making this change here, and Commissioner Sellers
22 wants to make that change, and you want to make
23 some other change.

24 Maybe, we need to circulate it and
25 compile those, and then have a, if it's necessary,

1 have a conference -- a meeting by conference call
2 and iron out any differences of opinion.

3 Would that be possible?

4 MR. STUART: I'm sure that's a workable
5 suggestion.

6 MR. GIVENS: Mr. Chairman.

7 MR. STUART: Commissioner Givens.

8 MR. GIVENS: Before we totally take up the
9 rest of my marbles, I would be happy to be the
10 Commission member who is, kind of, the point person
11 working with the legal counsel the Commission has
12 hired to adopt those findings, and then have them
13 circulated among the Commission, and, I guess, I
14 would hope that we could just approve it on a
15 duck-slip method without having to reconvene.

16 MR. TAYLOR: Excuse me. I don't know what a
17 duck-slip method is. I'm sorry.

18 MR. GIVENS: Well, everybody just signs off
19 on a sheet of paper saying it's approved. But I do
20 think that it's prudent that counsel that the
21 Commission has hired be involved in the drafting of
22 that, and I'd like to keep that in place.

23 MR. TAYLOR: Do we have budget for that,
24 Mr. Chairman?

25 MR. STUART: I believe we do. Ross.

1 MR. BORDEN: What exactly are we talking,

2 Mr. Chairman?

3 MR. STUART: Some potential additional budget

4 --

5 MR. TAYLOR: Can we put a number on it?

6 MR. STUART: Do we have any estimate,

7 Commissioner Givens?

8 MR. GIVENS: Well, I believe our agreement

9 with legal counsel was to provide findings, and

10 they haven't quite provided them yet, so, I guess,

11 it would be --

12 MR. STUART: So it's your assumption that the

13 additional work would be done under the current

14 agreement?

15 MR. GIVENS: There was a \$10,000 cap on it,

16 and they agreed to do that, and if they're

17 uncomfortable with that, I guess, my thought on

18 that would be an administrative matter, that the

19 cochairs can deal with. There's --

20 MR. STUART: That's fine. Everyone fine with

21 that?

22 MR. TAYLOR: I'm okay with it.

23 MR. STUART: Other discussion?

24 MR. SHURTLIFF: Well, Mr. Chairman --

25 MR. STUART: Mr. Shurtliff.

1 MR. SHURTLIFF: -- I certainly have no
2 objection, but just so the record is absolutely,
3 abundantly clear, so when the duck slip comes
4 around to me, and I file an opposing point of view,
5 and the opposing findings -- the suggested findings
6 of fact, because I think I have a right and an
7 obligation to do.

8 And I don't want anybody on this
9 Commission to be surprised that I did it, because,
10 quite frankly, I think what you just did is
11 patently unconstitutional, and I'm going to urge
12 that as a finding of fact.

13 MR. GIVENS: Well, I guess my thought,
14 Mr. Chairman, would be if there is not a majority
15 of the Commission for the findings, then we need to
16 reconvene as a body.

17 MR. STUART: I agree with that.

18 MR. GIVENS: But if we can reach majority
19 just on paper why --

20 MR. STUART: I think that's -- that goes
21 without saying that it requires Commission majority
22 to approve a plan, as well as the --

23 MR. TAYLOR: Certainly.

24 MR. STUART: I think it's appropriate to have
25 a Commission motion on the findings. I'd certainly

1 entertain that. I would make this an additional
2 discussion here.

3 MR. TAYLOR: Let me make sure I get this
4 correct.

5 Mr. Chairman, I make the motion that we
6 engage Mr. Givens to, in conjunction -- wait a
7 minute. I guess, that's not exactly right, is it?

8 Commissioner Givens, did you say that
9 you wanted Mr. Hopkins to do this with the counsel
10 of the two cochairs; is that correct?

11 MR. STUART: Again, Mr. Givens.

12 MR. GIVENS: Mr. Chairman, my thought is I
13 would be happy to be the point person dealing with
14 legal counsel to come up with proposed findings.

15 If there are any administrative matters,
16 that you don't need legal counsel on, I would
17 appreciate if the cochairs would take care of those
18 things, and I would be happy to be the point person
19 on any legal matters.

20 MR. TAYLOR: So moved.

21 MR. HAAGENSON: Second.

22 MR. STUART: Questions? We have a motion and
23 a second. Do we want to include an approximate
24 time table, or are we just assuming that you will
25 do this as rapidly as possible?

1 Discussion? We'll take a vote then.
2 Commissioner Haagenson.
3 MR. HAAGENSON: Aye.
4 MR. STUART: Commissioner Taylor.
5 MR. TAYLOR: Aye.
6 MR. STUART: Commissioner Sellers.
7 MS. SELLERS: Aye.
8 MR. STUART: The chair will pass for now.
9 Commissioner Shurtliff.
10 MR. SHURTLIFF: Pass.
11 MR. STUART: Commissioner Givens.
12 MR. GIVENS: Aye.
13 MR. STUART: Cochairman voted aye.
14 Motion passes.
15 MR. GIVENS: Mr. Chairman.
16 MR. STUART: Commissioner Givens.
17 MR. GIVENS: I said something in error, and
18 it is a material error. I thought that the -- I
19 was confused as to which plan.
20 When I looked up at the screen and said
21 that 91 had Fremont County split, I was looking at
22 the plan that was up there, and I -- based on that,
23 since my motion was made to keep it whole, but it
24 is whole.
25 So, I guess, the appropriate motion

1 would be, since we adopted 91, if anyone wants to
2 make a motion to keep it not whole that there would
3 be a -- to divide it.

4 I apologize to the Commission for my
5 error.

6 MR. TAYLOR: So, Mr. Givens, is it fact then
7 that L-91 has Fremont County whole? That is
8 correct?

9 MR. GIVENS: Yes, that is correct.

10 MR. STUART: It's on the screen now,
11 Commissioner Taylor.

12 MR. TAYLOR: That's as it was intended in the
13 motion?

14 MR. STUART: Right. I believe -- we,
15 obviously, made a logical error in the motion
16 there. It's appropriate that, I think, we
17 reconsider.

18 MR. HAAGENSON: Mr. Chairman, we are
19 reconsidering the motion to amend, correct?

20 MR. STUART: Well, reconsider the issue of
21 how we want Fremont and Madison Counties handled.

22 MR. TAYLOR: I think the only thing that
23 needs to be considered is if someone on the
24 Commission wants to make a motion to split
25 Fremont County.

1 MR. HAAGENSON: Correct.

2 MR. TAYLOR: We have a motion that's been
3 made and approved for Fremont County as it existed
4 in L-91 --

5 MR. STUART: That's correct.

6 MR. HAAGENSON: -- so if somebody on the
7 Commission wants to make a motion to split it, then
8 that's the next motion. Otherwise, we're done
9 then.

10 MR. HAAGENSON: I agree.

11 MR. STUART: In keeping with our odd
12 precedent and allowing the chair to act on this, I
13 will make the motion that L-91 is amended to divide
14 Fremont County, attaching the Island Park precinct
15 to District 35 to the west thereby lowering
16 deviation below 10 percent.

17 Is there a second to that? Going, going
18 --

19 MR. HAAGENSON: -- gone.

20 MR. STUART: Motion fails for lack of second.

21 MR. GIVENS: Mr. Chairman.

22 MR. STUART: Commissioner Givens.

23 MR. GIVENS: Just to make sure that we're not
24 -- I have a similar problem with the north Idaho
25 part of this.

1 The division line between District 1 and
2 District 2, on this particular copy, was not the
3 one that we approved the other day, and it just
4 didn't get changed on this plan.

5 My intent, when I made the motion, was
6 that the line be not as it is shown on the board,
7 but as we voted on the other day, and I think that
8 was everyone's intent.

9 MS. BENNION: That's true. Mr. Chairman,
10 Mr. Taylor made a motion to approve L-91.

11 MR. GIVENS: Well, I voted on it. I guess I
12 was curious just as to what the intent of your
13 motion was, Commissioner Taylor.

14 MR. TAYLOR: L-91 is what it is as of our
15 amendments from the previous meetings, and that
16 included the north; is that correct?

17 MR. STUART: Commissioner Taylor, that was my
18 understanding.

19 MR. TAYLOR: Yes, and the --

20 MR. STUART: The intent of your motion was
21 that --

22 MR. TAYLOR: It's not the picture on the
23 screen.

24 MR. STUART: Right.

25 MR. TAYLOR: It's the screen that matters.

1 MR. STUART: -- be approved as previously --

2 MR. TAYLOR: What's in the record. Correct.

3 MR. STUART: -- as an administrative
4 correction, too.

5 MR. TAYLOR: Okay.

6 MR. STUART: That was my understanding.

7 Further business?

8 MR. HAAGENSON: Commissioner Taylor, I wonder
9 if -- just for further clarity, we don't want to
10 clarify this by saying that -- well, I will move
11 that the Commission -- that Plan 91, as passed, was
12 with the understanding that the boundary between
13 District 1 and 2 be as approved last week in
14 Idaho Falls.

15 MR. STUART: Do we have a second?

16 MS. SELLERS: I second.

17 MR. STUART: Commissioner Sellers has a
18 second. Further Discussion? Ready for a vote on
19 this one?

20 MR. GIVENS: Mr. Chairman.

21 MR. STUART: Commissioner Givens.

22 MR. GIVENS: I want to mention that is what
23 is put up on the screen right now.

24 MR. STUART: So this is what we adopted in
25 Idaho Falls, correct?

1 MR. HAAGENSON: Right.

2 MR. STUART: The motion is that this
3 configuration, the -- attached to the L-91 just
4 approved. Roll call vote.

5 Commissioner Haagenson.

6 MR. HAAGENSON: Aye.

7 MR. STUART: Commissioner Taylor.

8 MR. TAYLOR: Aye.

9 MR. STUART: Commissioner Sellers.

10 MS. SELLERS: Aye.

11 MR. STUART: Cochair says aye.

12 Commissioner Shurtliff.

13 MR. SHURTLIFF: Pass.

14 MR. STUART: Commissioner Givens.

15 MR. GIVENS: Aye.

16 MR. STUART: We have a pass.

17 MR. TAYLOR: Do you have a motion you want to
18 make, Commissioner Shurtliff?

19 MR. SHURTLIFF: Pardon?

20 MR. TAYLOR: Do you have a motion you want to
21 make, Commissioner Shurtliff?

22 MR. STUART: Any further business?

23 MR. WHITWORTH: Mr. Chairman.

24 MR. STUART: Thank you.

25 MR. WHITWORTH: Can I make a brief statement,

1 sir?

2 MR. STUART: Senator Whitworth.

3 MR. WHITWORTH: I would just like to enter
4 into the record, if I may, that I believe the
5 passage of 91 is unconstitutional.

6 The boundaries were changed in
7 Bannock County 10 years ago, and that's one reason
8 that that was put into the constitution is because
9 of the votes to split the counties. It fails to
10 satisfy the communities of interest.

11 I know better than anybody else that
12 testifies that has been my district for 7 years. I
13 know damn near every person in that district. The
14 communities of interest you've just split up,
15 you've just done away with. And, in my opinion, it
16 isn't to protect the people's interests. Thank
17 you.

18 MR. STUART: Further business?

19 MR. SHIPLEY: Mr. Commissioner.

20 MR. STUART: Commissioner Shipley.

21 MR. SHIPLEY: I can't leave today without
22 expressing a couple of thoughts. First of all, I
23 heard it said a number of times that it's illegal
24 to divide a county.

25 Your actions tell me that if it is not

1 legal to divide a county, because they have more
2 than enough people, then it's okay to destroy a
3 county. That's what your actions have done today.

4 Now, let me point out something else
5 that if we would -- having adopted this, you have
6 placed 6 incumbents in District 27 at this time,
7 which is a very difficult situation for the
8 political process.

9 I know it's difficult, but I think if
10 you really think about it, you've said it's illegal
11 to divide a county, but if you do, you can destroy
12 it. Thanks.

13 MR. HAAGENSON: I move we adjourn.

14 MR. STUART: Second.

15 MR. SHURTLIFF: Mr. Chairman.

16 MR. STUART: Commissioner Shurtliff. At this
17 juncture, we'll probably adjourn sine die, while
18 it's appropriate to give you a comment.

19 MR. SHURTLIFF: Well, I hope that this is the
20 last time we meet, and I trust that it will be, but
21 I think that we shouldn't leave without saying a
22 thanks to the support that we've had logistically
23 and otherwise from the staff, and the others that
24 have assisted us, with great personal difficulty,
25 I'm sure.

1 And I'm sure that there were places that
2 they would rather have been at different times, and
3 I think, regardless, of the outcome, I think we
4 need to thank those that participated, too.
5 Without their assistance, it wouldn't have been as
6 quite as profitable and quite as enjoyable.

7 So I just want to thank the staff and
8 the others for their assistance.

9 MR. STUART: I would also like to add my
10 personal thanks to each of the Commissioners. I've
11 said it to the press before, and I'll say it again,
12 you five are citizens of the highest order, and I
13 thank you.

14 MR. GIVENS: Mr. Chairman.

15 MR. TAYLOR: It's been a pleasure.

16 MR. STUART: Commissioner Givens.

17 MR. GIVENS: I would like to thank,
18 particularly, the county commissioners that have
19 testified at all of our hearings, and I know that
20 I've disappointed some of you, probably not others,
21 but to me, your input was the absolute most helpful
22 of anyone.

23 And you were not talking from
24 self-interest, you were talking from the heart, and
25 you don't see that often in politics. And I --

1 without exception, I have been impressed, and I
2 certainly echo what Commissioner Shurtliff said
3 about the staff.

4 I would like to thank each of the
5 Commissioners for the courtesies extended, and the
6 hard work that you did on this.

7 Thank you very much.

8 MR. STUART: Ross, I think you had something
9 you wanted to pass out here before we adjourn.
10 While he's passing that, we'll take our vote to
11 adjourn. We'll do a voice vote. All in favor.

12 MR. GIVENS: Aye.

13 MR. SHURTLIFF: Aye.

14 MR. STUART: Aye.

15 MS. SELLERS: Aye.

16 MR. TAYLOR: Aye.

17 MR. HAAGENSON: Aye.

18 MR. STUART: Any opposed?

19 MR. BORDEN: Commissioner.

20 MR. STUART: Go ahead, Ross.

21 MR. BORDEN: Mr. Chairman, Commissioners, on
22 behalf of the people of Idaho for your long,
23 difficult, and thankless work, I'd like to present
24 just a small token of our gratitude.

25 MR. TAYLOR: Thank you very much.

1 MS. SELLERS: The check is in the mail.

2 MR. STUART: Thank you, Ross.

3 MR. SHURTLIFF: Thank you, Ross.

4 MR. GIVENS: Thank you, Ross.

5 MR. HAAGENSON: Ross, thank you.

6 MR. STUART: We are adjourned.

7

8 (The hearing adjourned at 4:45 p.m.)

9

10 -oo0oo-

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25