

Robin O. Brena, Esq.
 Jake W. Staser, Esq.
 Laura S. Gould, Esq.
 Brena, Bell & Walker, P.C.
 810 N Street, Suite 100
 Anchorage, Alaska 99501
 Telephone: (907) 258-2000
 E-Mail: rbrena@brenalaw.com
jstaser@brenalaw.com
lgould@brenalaw.com

Attorneys for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT VALDEZ

THE CITY OF VALDEZ, a municipal)
 corporation; and MARK DETTER, a voter and)
 resident of the City of Valdez,)

Plaintiffs,)

vs.)

ALASKA REDISTRICTING BOARD;)
 JOHN BINKLEY, in his capacity as Chair;)
 MELANIE BAHNKE, NICHOLE)
 BARROMEO, BETHANY MARCUM and)
 BUDD SIMPSON, in their capacity as)
 Members of the Alaska Redistricting Board;)
 and PETER TORKELSON, in his capacity as)
 Executive Director of the Alaska Redistricting)
 Board; and the State of Alaska,)

Case No. 3VA-21-_____ CI

Defendants.)

**COMPLAINT IN THE NATURE OF AN APPLICATION TO
 CORRECT ERRORS IN REDISTRICTING**

Plaintiffs, City of Valdez (“Valdez”), which consists of council members who are

qualified voters and represents qualified voters, and Mark Detter, through their attorneys,

Brena, Bell & Walker, P.C., hereby file their Complaint in the Nature of an Application to Correct Errors in Redistricting.

1. On November 10, 2021, the Alaska Redistricting Board (“Board”), pursuant to its constitutional authority under Article VI of the Alaska Constitution, promulgated a new redistricting plan to govern legislative elections in Alaska for the next decade. This plan places Valdez into House and Senate Districts in violation of the Open Meetings Act, in violation of Article VI, Sections 6 and 10 of the Alaska Constitution, and in violation of the equal protection and due process clauses of the Alaska Constitution. This Complaint seeks judicial review of the Board’s redistricting plan and an order invalidating that plan and requiring the Board to redraw the districts in accordance with the Alaska Constitution.

PARTIES

2. The City of Valdez is a home-rule municipal corporation organized and operating under the laws of the State of Alaska.

3. Mark Detter is a resident of the City of Valdez and a voter in state legislative elections.

4. Plaintiffs are public interest litigants in this action seeking protection of their rights and the rights of the citizens of the City of Valdez and the State of Alaska under the United States Constitution and the Constitution of the State of Alaska.

5. The Board is responsible for promulgating a new state legislative redistricting plan pursuant to the standards and procedures established by the Alaska Constitution.

6. John Binkley is chair of the Board.

7. Melanie Bahnke is a member of the Board.
8. Nicole Borromeo is a member of the Board.
9. Bethan Marcum is a member of the Board.
10. Budd Simpson is a member of the Board.
11. Peter Torkelson is the executive director of the Alaska Redistricting Board.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this action pursuant to Article VI, Section 11 of the Alaska Constitution, which provides that the superior court shall have original jurisdiction over applications to compel the Board to correct any error in redistricting.

13. Venue lies in this judicial district pursuant to Alaska Civil Rule 3.

ALLEGATIONS

14. Paragraphs 1 through 13 are incorporated as if fully set forth herein.

15. Pursuant to Article VI, Section 8 of the Alaska Constitution, a five-member redistricting board was appointed. The function of the Board was to receive and consider public testimony relating to the redistricting of Alaska following the 2021 census and to adopt a redistricting plan for new house and senate districts.

16. Under the Alaska Constitution, reapportioned districts must be contiguous, compact, socio-economically integrated, and as equal in population as near as practicable to the quotient obtained by dividing the population of the State of Alaska by forty. In creating house districts, the Board may consider local government boundaries but shall use drainage and other geographic features in describing boundaries wherever possible.

17. On September 9, 2021, the Board adopted a draft redistricting plan referred

to as Version 1. Attached as Exhibit A is a map showing Version 1.

18. On September 9, 2021, the Board also adopted a draft redistricting plan referred to as Version 2. Attached as Exhibit B is a map showing Version 2.

19. Valdez did not submit a draft redistricting plan because Valdez determined that the Board's proposed District 36, which was identical in both Version 1 and Version 2, was acceptable because the District united Valdez with socio-economically integrated communities along the Richardson Highway, while maintaining Matanuska-Susitna Borough ("Mat-Su Borough") boundaries.

20. Valdez also determined that the Board's proposed District 36 in Version 3 was acceptable because it united Valdez with Richardson Highway communities and respected Mat-Su Borough boundaries. Attached as Exhibit C is a map showing Version 3.

21. On September 20, 2021, at the end of the last meeting for presentation of draft plans to the Board, the Board introduced Version 4. Prior to the last meeting for presentation of draft plans to the Board, Version 4 had never been made available for public review or comment. The late introduction and adoption of Version 4 was a surprise to Plaintiffs and precluded Plaintiffs from offering comments related to Version 4 prior to adoption of redistricting, the draft. Attached as Exhibit D is a map showing Version 4.

22. After reviewing all draft plans adopted by the Board, including Version 4, Valdez submitted an alternative redistricting plan ("Valdez Option 1") that Plaintiffs believe best satisfies constitutional and judicially established redistricting criteria. In addition, Valdez Option 1 addresses the majority of concerns raised during the comment period. Attached as Exhibit E is a map showing Valdez Option 1.

23. Although the Board held some public hearings, it failed to provide adequate opportunity for the citizens of Alaska to provide their views regarding redistricting and to review and comment on proposed redistricting plans. The Board failed to adequately solicit the views of the citizens of Alaska on the redistricting plan or to consider the views and preferences the Board did receive. The Board made substantial alterations to draft redistricting plans in a manner that precluded any meaningful public comment on the Board's final redistricting plan.

24. During a public hearing on November 9, 2021, the Board adopted senate seat pairings, set senate constituency truncation cutoff, and assigned a new table of Senate election terms. The Board failed to provide adequate opportunity for public comment on these critical determinations.

25. On November 10, 2021, the Board adopted a final proclamation of redistricting. Attached as Exhibit F is a map showing the final redistricting plan for Valdez.

26. The final redistricting plan places Valdez in District 29, which separates Valdez from all Richardson Highway and Prince William Sound Communities. A Valdez citizen must drive over 120 miles after leaving the boundary of District 29, which is approximately ten miles from Valdez's municipal boundary, in order to reenter the citizen's own district. Valdez has been arbitrarily separated from the main transportation corridor that connects Valdez with its neighboring communities—the Richardson Highway.

27. The Board's final redistricting plan is manifestly arbitrary and irrational in the redistricting of the State. Existing and historical district configurations are ignored, political and municipal subdivision lines are violated, natural and geographical boundaries

are transgressed, communities of interest are fractured, and many of the resulting districts are neither contiguous, compact, nor socio-economically integrated—all in violation of the Alaska Constitution.

28. In the final redistricting plan, the Board erroneously created districts focused on minimizing the percentage of population deviations within each House District rather than creating districts containing populations “as near as practicable” to the ideal size, thereby sacrificing the constitutional requirements of compactness, contiguity, and socio-economic integration.

29. Valdez is a home-rule municipality incorporated on June 11, 1901. Valdez is organized and operates under the laws of the State of Alaska.

30. Valdez has looked to its deep-water port for financial stability for the duration of its existence. Valdez has invested heavily in establishing a transportation gateway to Interior Alaska through the Port of Valdez and north on the Richardson Highway to Fairbanks. Valdez has invested over \$50 million to construct and maintain a floating container dock to facilitate the delivery of freight destined for Interior Alaska. The natural route for freight destined for Interior Alaska is through the Port of Valdez and then north along via Richardson Highway. In addition to being a transportation hub, Valdez has a growing and long-standing fishing and tourism industry that is an integral part of its economy. The aquaculture programs established in Valdez have caused the return of millions of salmon into Prince William Sound each summer.

31. Valdez is one of several communities in the Richardson Highway area. The other communities include Kenny Lake, Glennallen, Paxson, Delta Junction, and Eielson

Air Force Base. These communities constitute a socio-economically integrated area, and there is a close interaction and strong integration among all of the communities in the Richardson Highway area.

32. Instead of creating a redistricting plan comprised of the Richardson Highway communities and the area along the Richardson Highway up to Eielson Air Force Base, the Board's 2021 redistricting plan combines Valdez with the Mat-Su Borough to the exclusion of the communities with which Valdez shares socio-economic ties. The residents of Valdez do not share a commonality of interests or any meaningful integration with the residents of the Mat-Su Borough. For example, Valdez is socially and economically tied to the Trans-Alaska Pipeline, commercial fishing, highway freight transportation, and maritime commerce. Like Valdez, which relies on the Richardson Highway for the success of bringing north-bound freight through the Port of Valdez, communities such as Kenny Lake, Glennallen, Paxson, and Delta Junction rely on the Richardson Highway not only for transportation but also for commerce through their communities.

33. Valdez's economy relies heavily on the in-state tourism trade. While the economic stability of Valdez relies heavily on the condition of the Richardson Highway for freight heading north, Valdez relies equally on the residents of Richardson Highway communities travelling south to Valdez to hunt, fish, ski, snowmachine, and otherwise recreate.

34. Valdez is the regional port and harbor for Richardson Highway communities and the Fairbanks North Star Borough ("FNSB") and is widely considered the "gateway to the interior." The Port of Valdez is extensively utilized for shipping oil and gas equipment,

mining equipment, and military supplies north along the Richardson Highway for use in commercial and military activities.

35. The use of the Valdez Small Boat Harbor by non-residents of Valdez is indicative of the relationship Valdez has with the communities north along the Richardson Highway. As of the date of this Complaint, 38 percent of the of the boat slips within the Valdez Small Boat Harbor are leased by residents from communities which lay north of Valdez—including Fairbanks, North Pole, Eielson, Salcha, Delta Junction, Tok, and Glennallen. The residents of these Richardson Highway communities lease more permanent slips at the Small Boat Harbor than Valdez residents. Only 7 percent of Small Boat Harbor slips are rented by those listing Wasilla, Palmer, or Sutton as their address. In 2019, Valdez completed construction of a new small boat harbor adding an additional 144 slips and numerous other amenities to serve the growth in demand driven by citizens of Richardson Highway communities.

36. The State of Alaska, Department of Transportation and Public Facilities (“DOTPF”) is divided into separate districts with regional offices. The DOTPF regional headquarters for Valdez is located in Fairbanks. The maintenance, repair, and reconstruction of the Richardson Highway is absolutely critical to the well-being of not only the citizens of Valdez but also communities that share that same transportation corridor, including communities north of Valdez.

37. Valdez, Glennallen, Paxson, Delta Junction, Deltana, Eielson, North Pole and Fairbanks all share the Trans-Alaska Pipeline System (“TAPS”). The safe operation of TAPS is of great importance to each of the communities. Additionally, on an annual

basis the value of the portion of TAPS that runs through each of those communities is valued by the State of Alaska and has substantial impact on the tax base of those communities that impose an ad valorem tax on TAPS. It is unlikely that any other combination of communities in Alaska have such a close association with one taxpayer as those that have TAPS traverse their territory.

38. The only source of power generation in the Valdez area is Copper Valley Electric Association, Inc. (“CVEA”), with headquarters located in Glennallen. Valdez and Glennallen are tied together electrically with a high-powered transmission line stretching from the Solomon Gulch hydroelectric facility in the city limits of Valdez to Glennallen.

39. Similarly, Valdez and Glennallen area residents utilize a single telephone utility, Copper Valley Telephone Cooperative (“CVTC”). The headquarters for CVTC is located in Valdez; however, CVTC services areas between Valdez and Glennallen and areas to the north. There have been occasions when Valdez and CVTC have jointly lobbied for legislative assistance on issues directly impacting CVTC.

40. The Prince Williams Sound Community College (“PWSCC”) is located in Valdez and has extension campuses in Cordova and the Copper Basin. The Copper Basin extension campus consists of a regional hub in Glennallen with outreach sites in Mentasta, Slana, Chistochina, Kenny Lake, and Chitina. PWSCC’s campus facilities in Glennallen service a high population of the residents in Glennallen. Valdez is a substantial financial contributor to the annual funding for the operation of PWSCC and frequently joins forces with PWSCC on lobbying efforts in Juneau for PWSCC/City funding.

41. The KCHU Public Radio located in the Valdez service area includes

Glennallen and Cordova. KCHU received legislative funding, which was endorsed and lobbied by Valdez, to enable KCHU to acquire a permanent home in Valdez. Valdez and Glennallen have worked together to enable public radio to be enjoyed by not only residents of Valdez but also by residents of Glennallen and north of Glennallen.

42. In contrast to all of the above, Valdez and the Mat-Su Borough do not in any way share such commercial activities, commonalities or local concerns and priorities or other indicia of socio-economically integration. The Board has ignored the preference for combining together socio-economically integrated communities, and the resulting proclamation is an irrational combination of socio-economically diverse populations that denies Valdez fair representation. The Board's final redistricting plan improperly separates Valdez from all Richardson Highway and Prince William Sound communities and combines Valdez with Mat-Su Borough communities that have no commonality of interests or socio-economic ties.

First Claim - Violation of the Open Meetings Act

43. Paragraphs 1 through 42 are incorporated as if fully set forth herein.

44. The Board, as a governmental body of a public entity of the state, is subject to the requirements of AS 44.62.310-320 ("Opening Meetings Act"). The deliberations and decisions of the Board are activities covered by the Open Meetings Act.

45. Upon information and belief, the Board has violated the Open Meetings Act in the following ways:

- (a) It conducted deliberations in secret.
- (b) It failed to properly conduct votes.

(c) It conducted a serial meeting.

(d) It withheld documents from the public that were used in formulating the final redistricting plan.

(e) It failed to clearly and with specificity state the subject(s) of each executive session or its reasons for addressing the subject(s) in executive session.

46. Plaintiffs and others have been harmed by these violations.

47. As a result of these violations, the actions of the Board resulting in adoption of the final redistricting plan including senate pairings, should be voided.

48. The Board's proclamation of redistricting should similarly be voided, as it was based solely upon the redistricting plan.

Second Claim - Violation of Article VI, Section 6

49. Paragraphs 1 through 48 are incorporated as if fully set forth herein.

50. Article VI, Section 6 of the Alaska Constitution provides that each House District "shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area." Section 6 also provides that "[c]onsideration may be given to local government boundaries" and "geographic features shall be used in describing boundaries wherever possible."

51. The Board's redistricting plan violates Article VI, Section 6 by disregarding government and geographic boundaries, thereby creating districts that are not contiguous, not compact, and does not contain integrated socio-economic areas. For example, the Board's plan joins Valdez to the Mat-Su Borough in a manner that denies the citizens of Valdez fair representation by diluting their political effectiveness. This end result

constitutes gerrymandering on the part of the Board.

52. The Board’s redistricting plan creates districts with bizarrely shaped appendages that separate socio-economically integrated communities, are unnecessary to further other requirements of Article IV, Section 6, and result in districts that are substantially less compact and contiguous than other viable alternatives presented to the Board.

53. House District 29 as included in the Board’s final redistricting plan places Valdez in a district that includes no Richardson Highway or TAPS communities while simultaneously segregating Valdez from other Prince William Sound communities.

54. House District 29 and Senate District O dilute the vote of the citizens of Valdez by placing Valdez in districts dominated by citizens of the Mat-Su Borough that share no socio-economic commonalities.

55. House Districts, including but not limited to Districts 29, 30, and 36, in the final redistricting plan violate Article VI, Section 6 of the Alaska Constitution, as the House Districts are not compact, contiguous, do not contain as nearly as practicable a relatively integrated socio-economic area, nor do they consider local government boundaries or geographical features.

Third Claim – Violation of Article VI, Section 10

56. Paragraphs 1 through 55 are incorporated as if fully set forth herein.

57. Article VI, Section 10 of the Alaska Constitution provides that “the board shall hold public hearings on the proposed plan, or, if no single proposed plan is agreed on, on all plans proposed by the board.” Section 10 is intended to ensure a fact-oriented inquiry

based on public input and the traditional redistricting requirements set forth in the Alaska Constitution

58. Upon information and belief, the Board's redistricting plan was not included in the public hearing process. While other proposed plans were offered to the public at the public hearings, the testimony and evidence submitted to the Board was largely ignored.

59. The Board's failure to allow the public an opportunity to comment on the plan violates Article VI, Section 10 and makes the plan illegal and voidable.

Fourth Claim – Violation of Article I, Section 1 (Equal Protection)

60. Paragraphs 1 through 59 are incorporated as if fully set forth herein.

61. Article I, Section 1 of the Alaska Constitution guarantees each citizen the equal protection of the law. The Board's redistricting plan ignores political subdivision boundaries and communities of interest, which implicates Alaska's equal protection clause.

62. By combining Valdez with dissimilar municipalities and localities, the Board's redistricting plan violates the State of Alaska's equal protection clause, dilutes the vote of the citizens of Valdez, and thus denies those citizens the right to be an equally powerful and geographically effective vote.

Fifth Claim – Violation of Article I, Section 7 (Due Process)

63. Paragraphs 1 through 62 are incorporated as if fully set forth herein.

64. Article I, Section 7 of the Alaska Constitution guarantees each citizen the due process of law.

65. The Board's redistricting plan is arbitrary, irrational, and unnecessarily separates socio-economically integrated communities without furthering any other

constitutional redistricting criteria.

66. The Board's final redistricting plan as adopted was not made available for public comment on its merits and reflects last minute revisions made in secret and outside of a full and fair public process.

67. The Board's separation of Valdez from all Richardson Highway and Prince William Sound communities is arbitrary, irrational, and is the result of decisions made outside of a full and fair public process.

68. The Board's redistricting plan is so arbitrary and irrational that it violates Plaintiffs' constitutional right to due process of law.

RELIEF

WHEREFORE, Plaintiffs pray that this Court:

1. Enter a judgment declaring the Board's redistricting plan promulgated pursuant to the proclamation dated November 10, 2021, to be in violation of the Open Meetings Act, Article VI, Sections 6 and 10 of the Alaska Constitution, and the equal protection clause and the due process clause of the Alaska Constitution;

2. Enter a judgment declaring the Board's redistricting plan promulgated pursuant to the proclamation dated November 10, 2021, to be null and void;

3. Enter an order enjoining the State Division of Elections and the State of Alaska from conducting any primary or general election for state legislative office under the Board's redistricting plan, or otherwise taking any step to implement the plan;

4. Enter an order requiring the Board to promulgate a new redistricting plan consistent with the requirements of the Alaska Constitution or, in the alternative, enter an

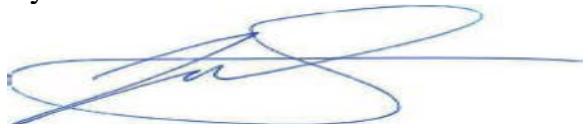
order correcting errors in the Board's redistricting plan;

5. Enter an order declaring Plaintiffs to be public interest litigants as constitutional claimants and awarding costs and attorney's fees;

6. Enter an order for such other and further relief as may be just and reasonable.

DATED this 10th day of December, 2021.

BRENA, BELL & WALKER, P.C.
Attorneys for Plaintiffs

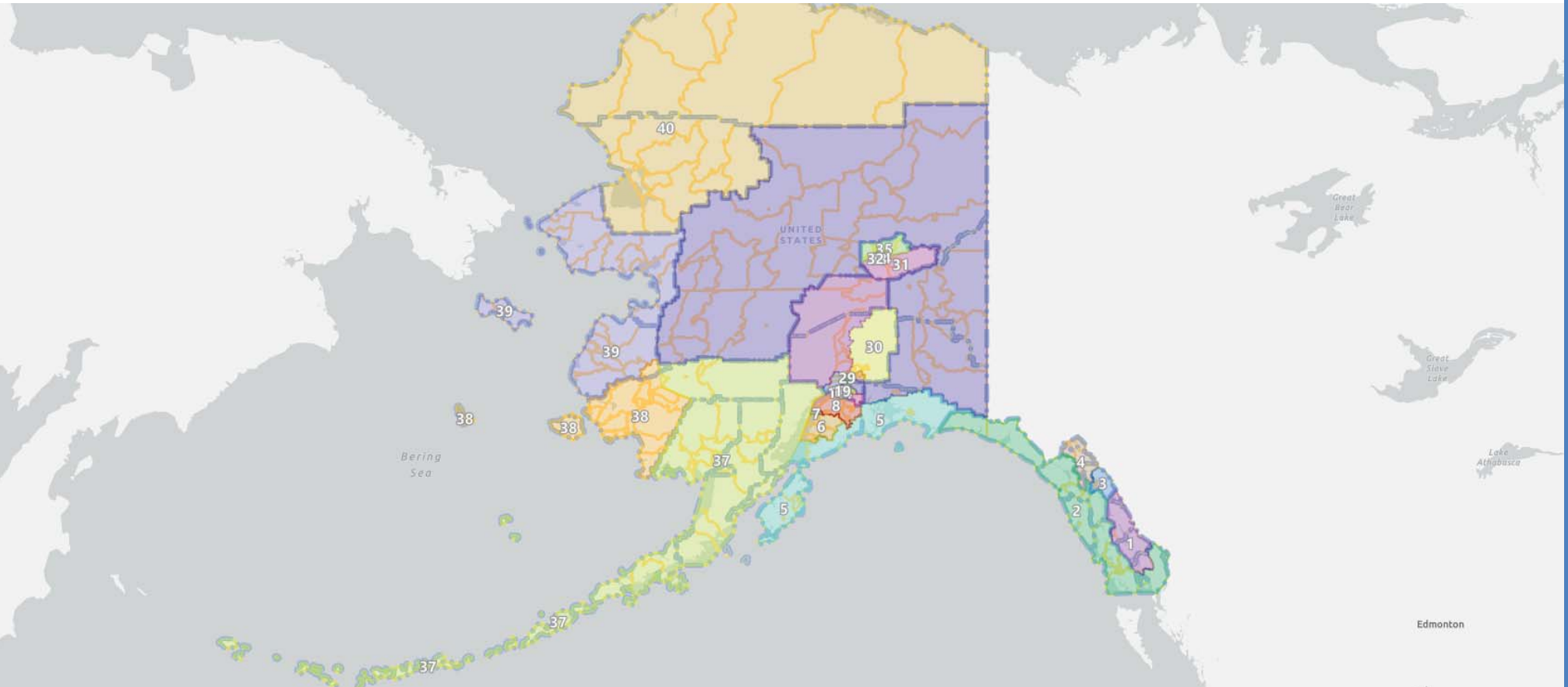


By _____

Robin O. Brena, ABA No. 8511130
Jake W. Staser, ABA No. 1111089
Laura S. Gould, ABA No. 0310042

**BRENA, BELL &
WALKER, P.C.**
810 N STREET, SUITE 100
ANCHORAGE, AK 99501
PHONE: (907) 258-2000
FAX: (907) 258-2001

Board Composite v.1

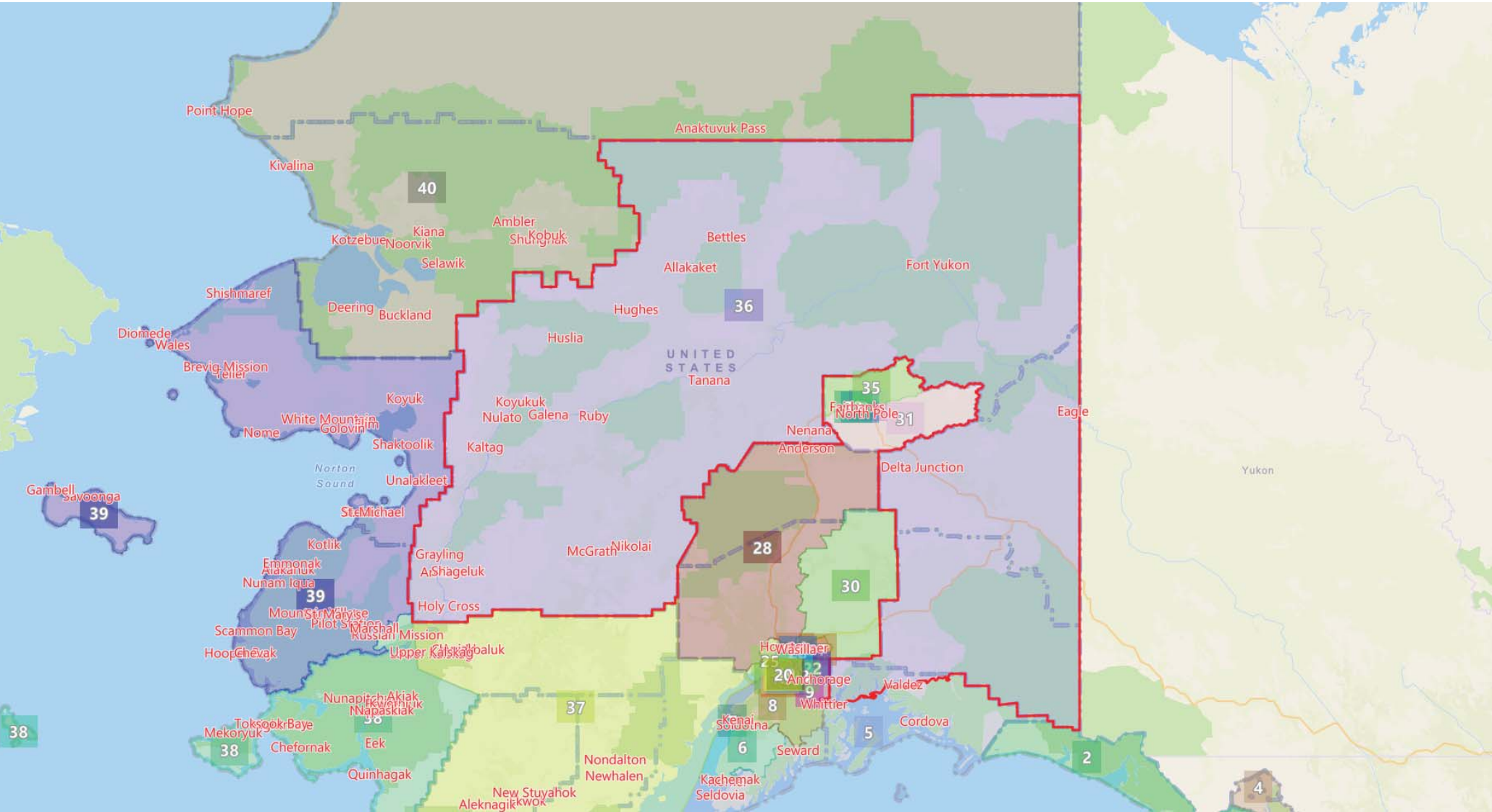


Board Composite v. 1

Proposed Redistricting Plan Adopted by the Alaska Redistricting Board 9/9/2021

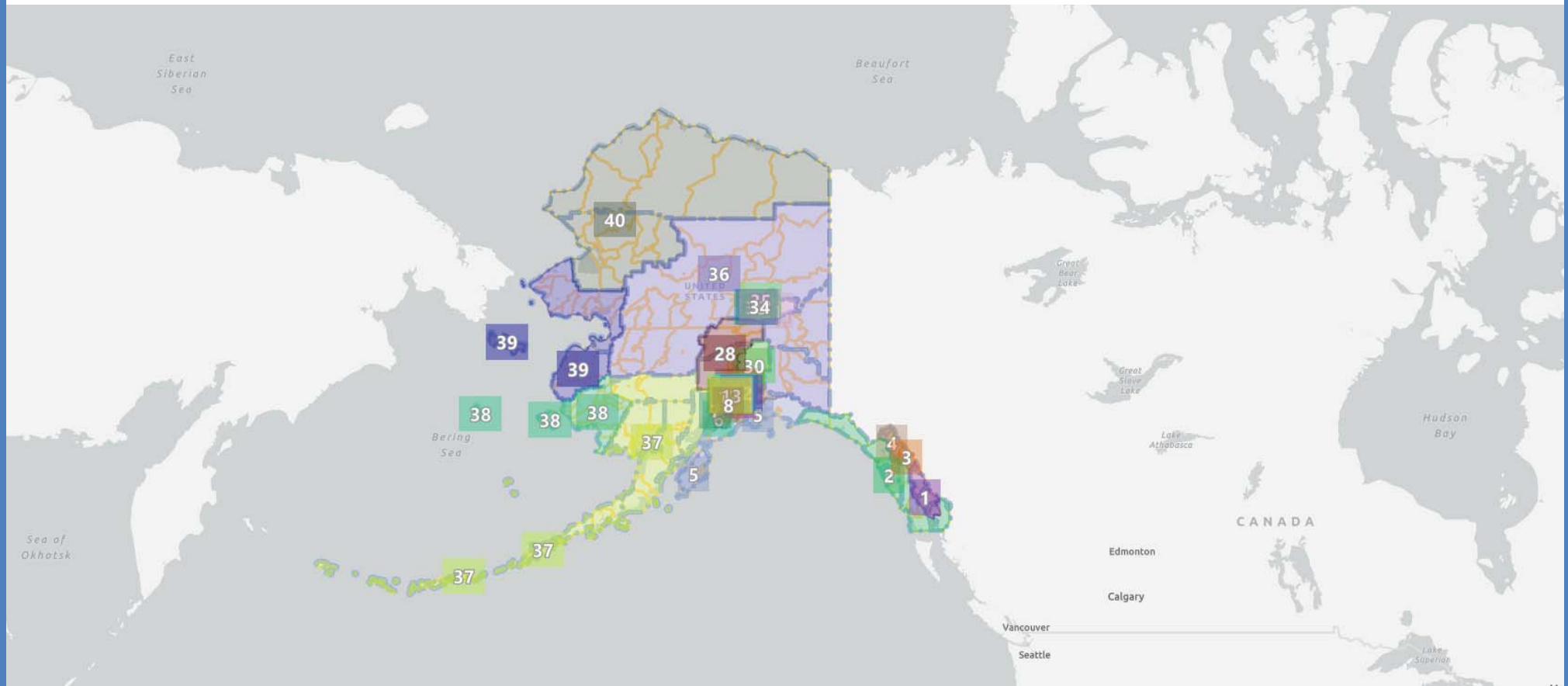
District 36

Population: 18,798



Based on 2020 Census Geography and 2020 PL94-171 Data
Map Gallery link: www.akredistrict.org/maps

Board Composite v. 2

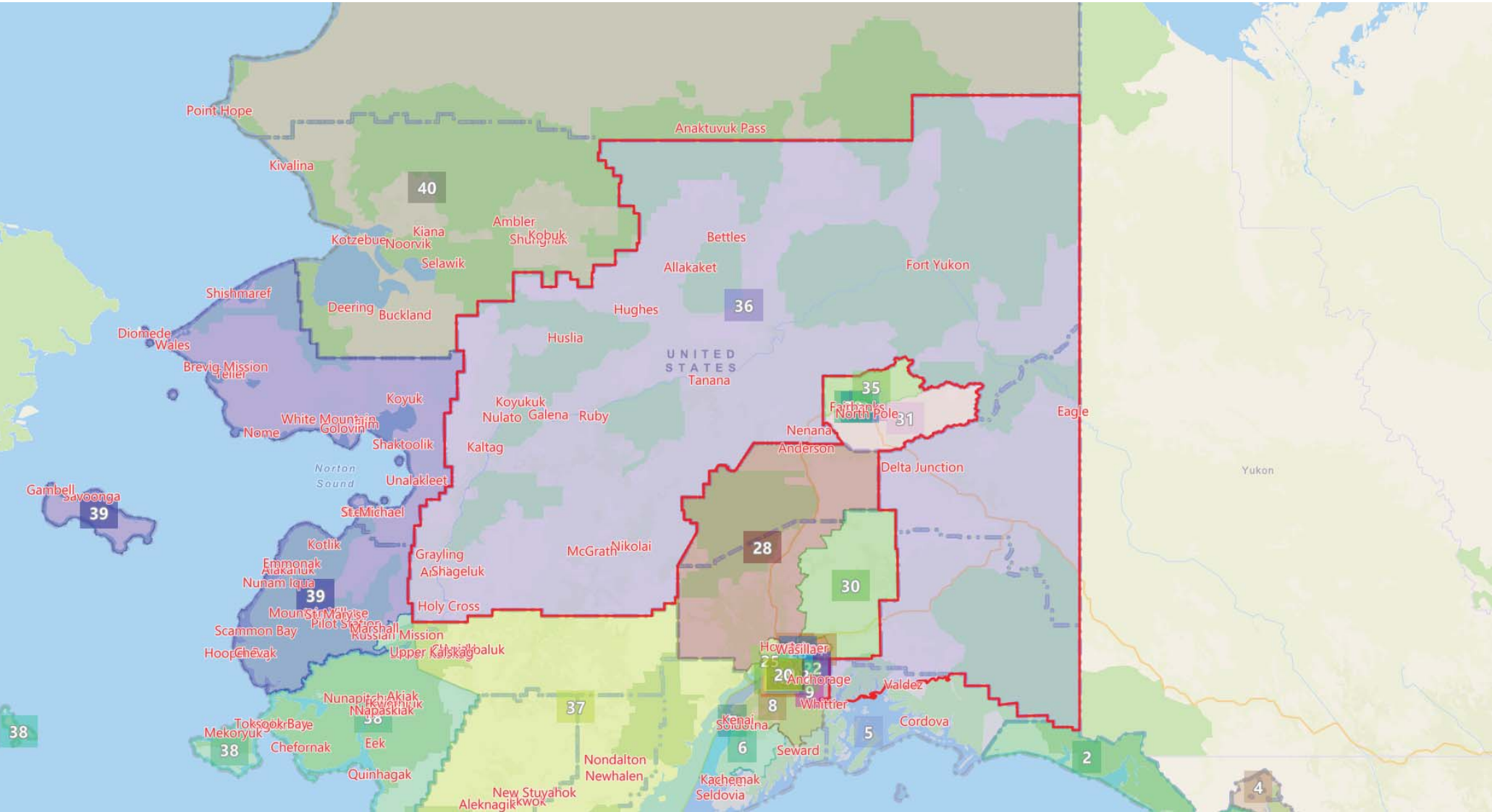


Board Composite v. 2

Proposed Redistricting Plan Adopted by the Alaska Redistricting Board 9/9/2021

District 36

Population: 18,798

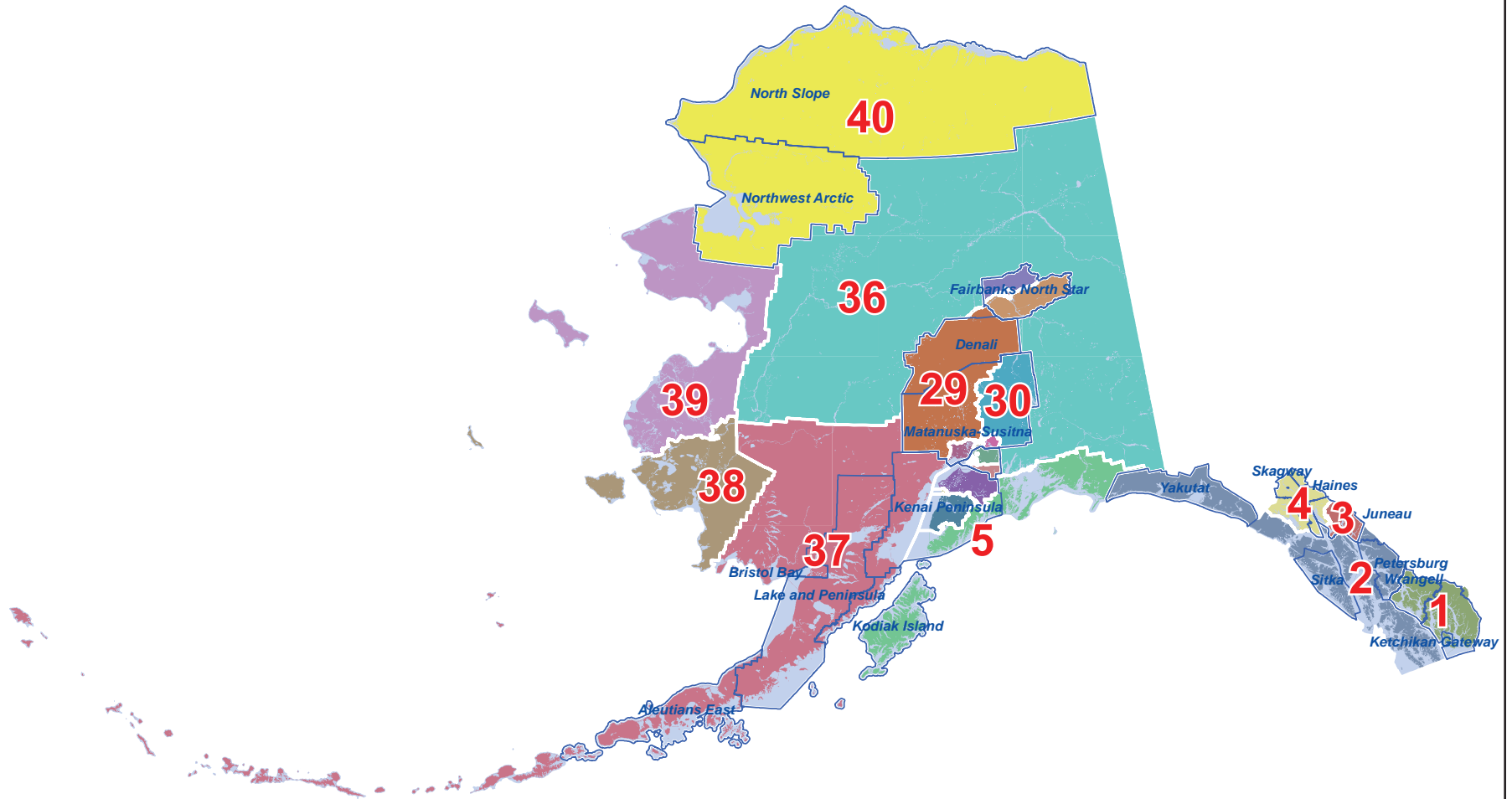


Based on 2020 Census Geography and 2020 PL94-171 Data
Map Gallery link: www.akredistrict.org/maps



Board Proposed v.3 Alaska Statewide

Proposed Redistricting Plan Adopted by the Alaska Redistricting Board 9/20/2021

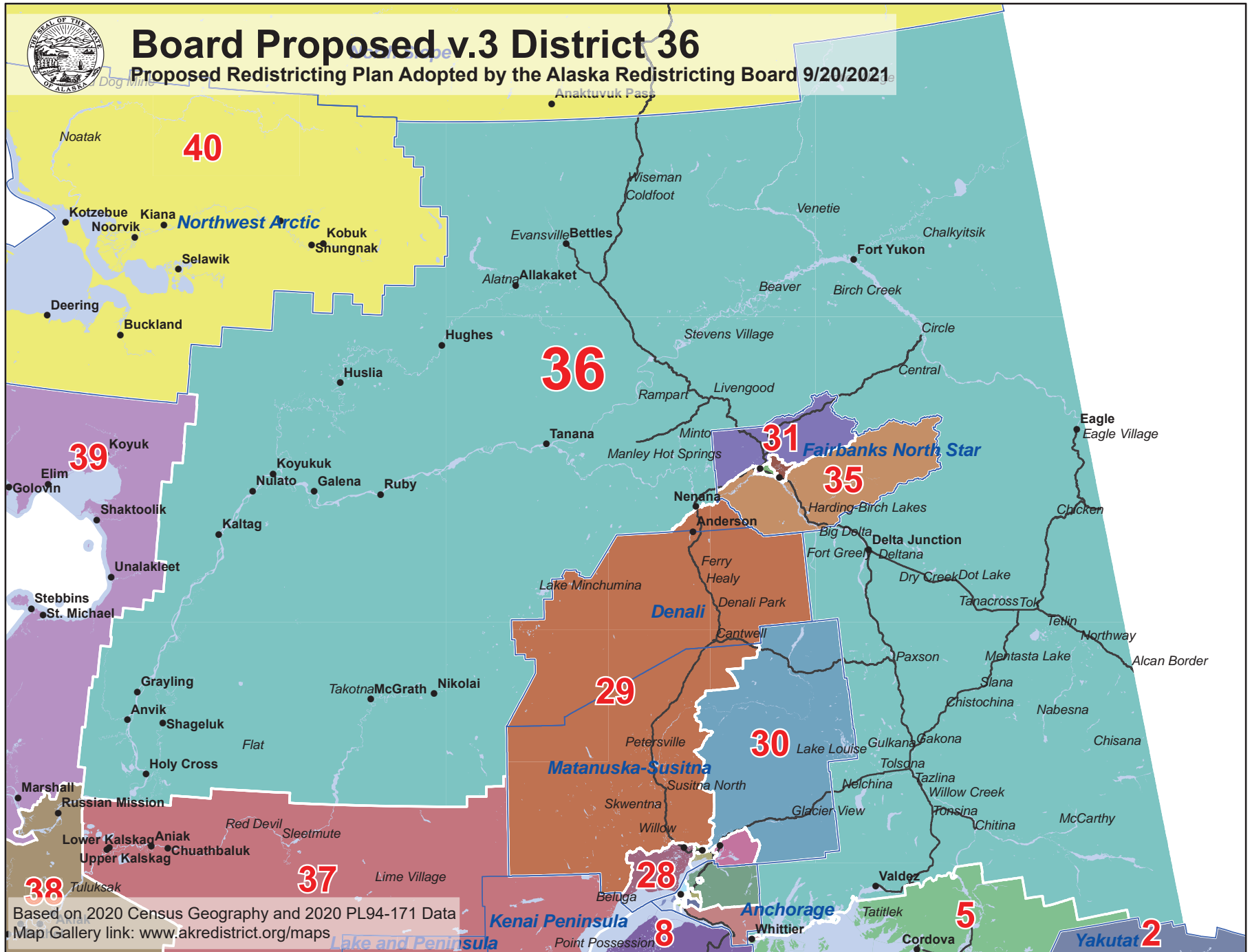


Based on 2020 Census Geography and 2020 PL94-171 Data
Map Gallery link: www.akredistrict.org/maps



Board Proposed v.3 District 36

Proposed Redistricting Plan Adopted by the Alaska Redistricting Board 9/20/2021

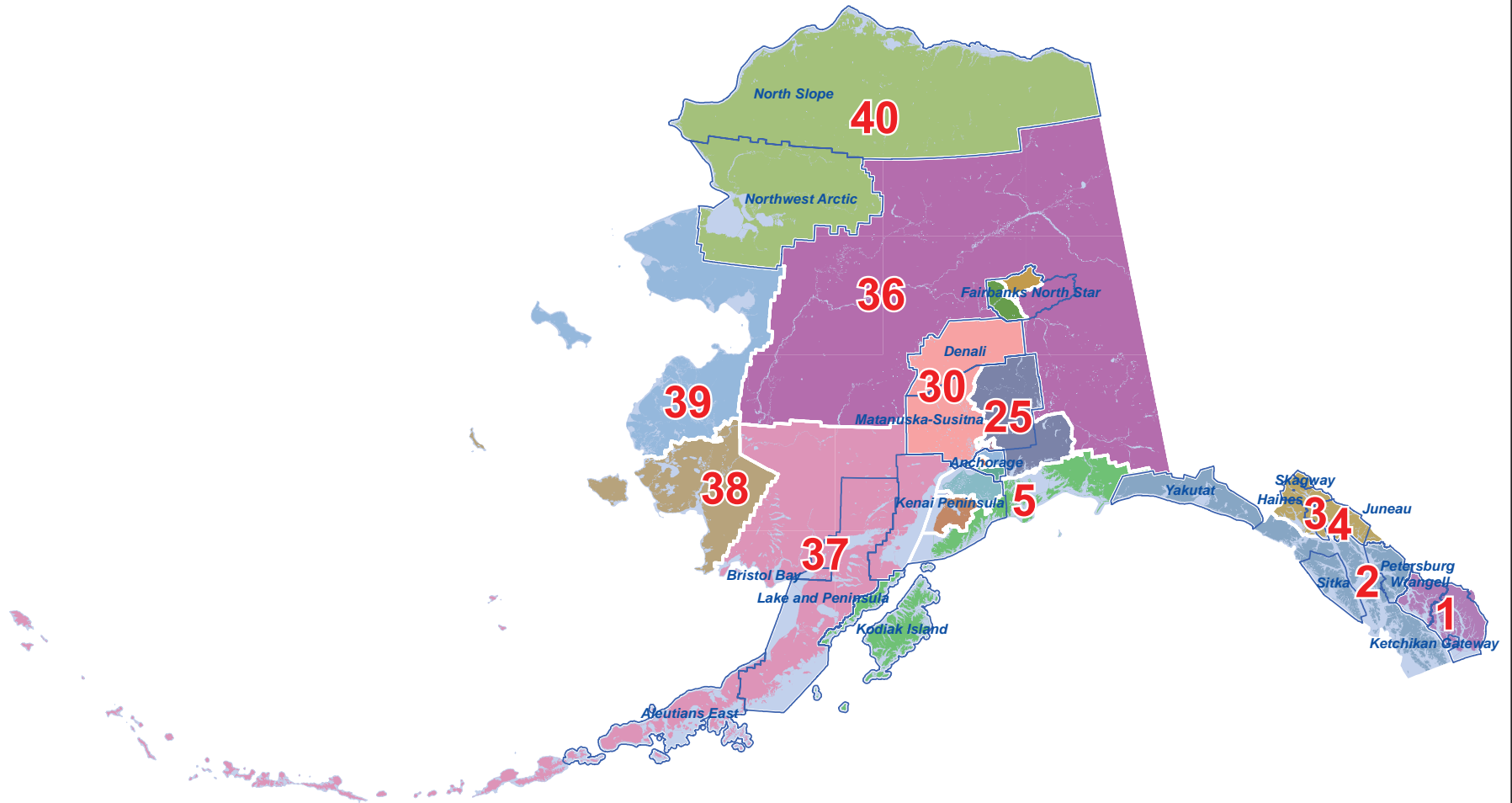


Based on 2020 Census Geography and 2020 PL94-171 Data
Map Gallery link: www.akredistrict.org/maps



Board Proposed v.4 Alaska Statewide

Proposed Redistricting Plan Adopted by the Alaska Redistricting Board 9/20/2021

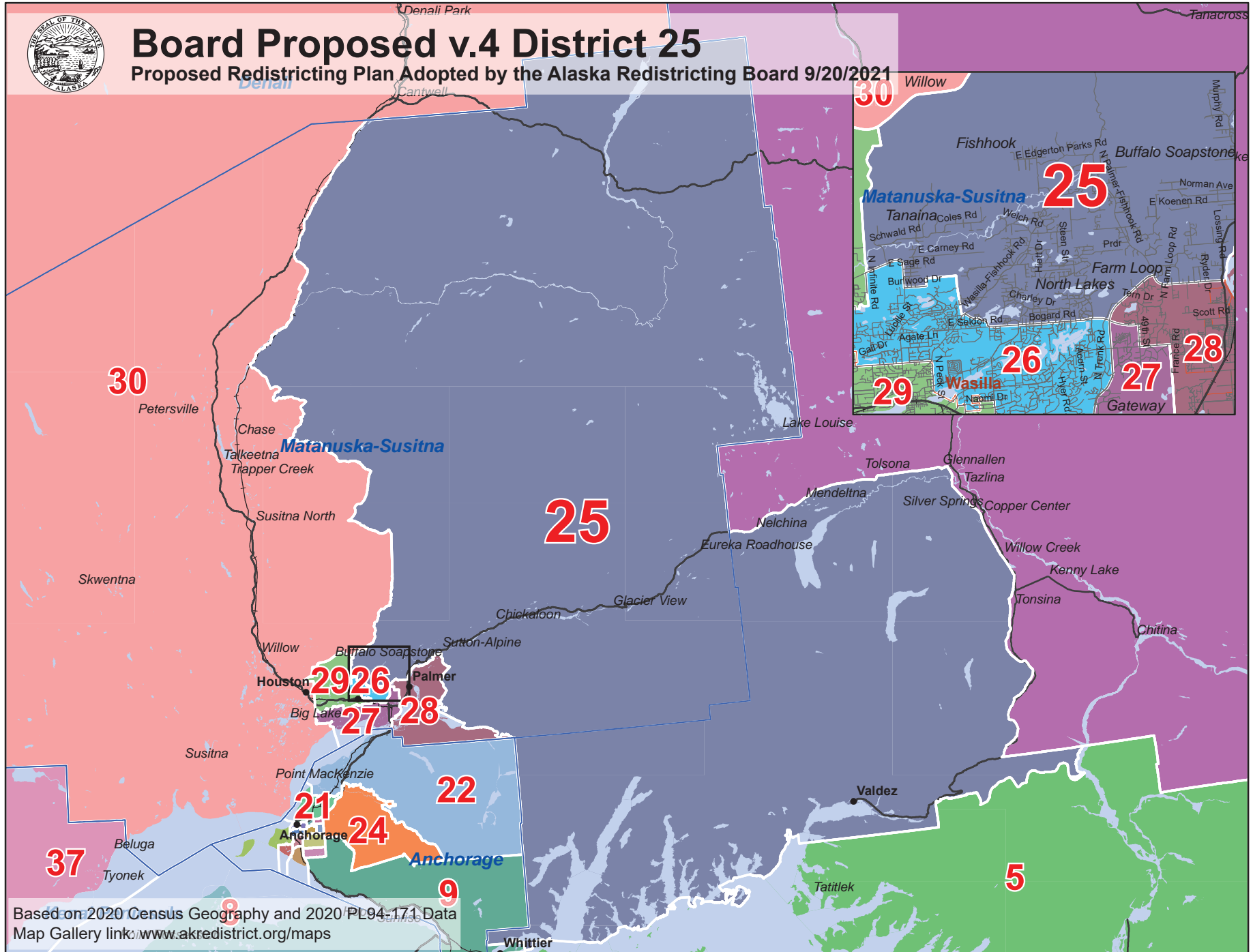


Based on 2020 Census Geography and 2020 PL94-171 Data
Map Gallery link: www.akredistrict.org/maps



Board Proposed v.4 District 25

Proposed Redistricting Plan Adopted by the Alaska Redistricting Board 9/20/2021

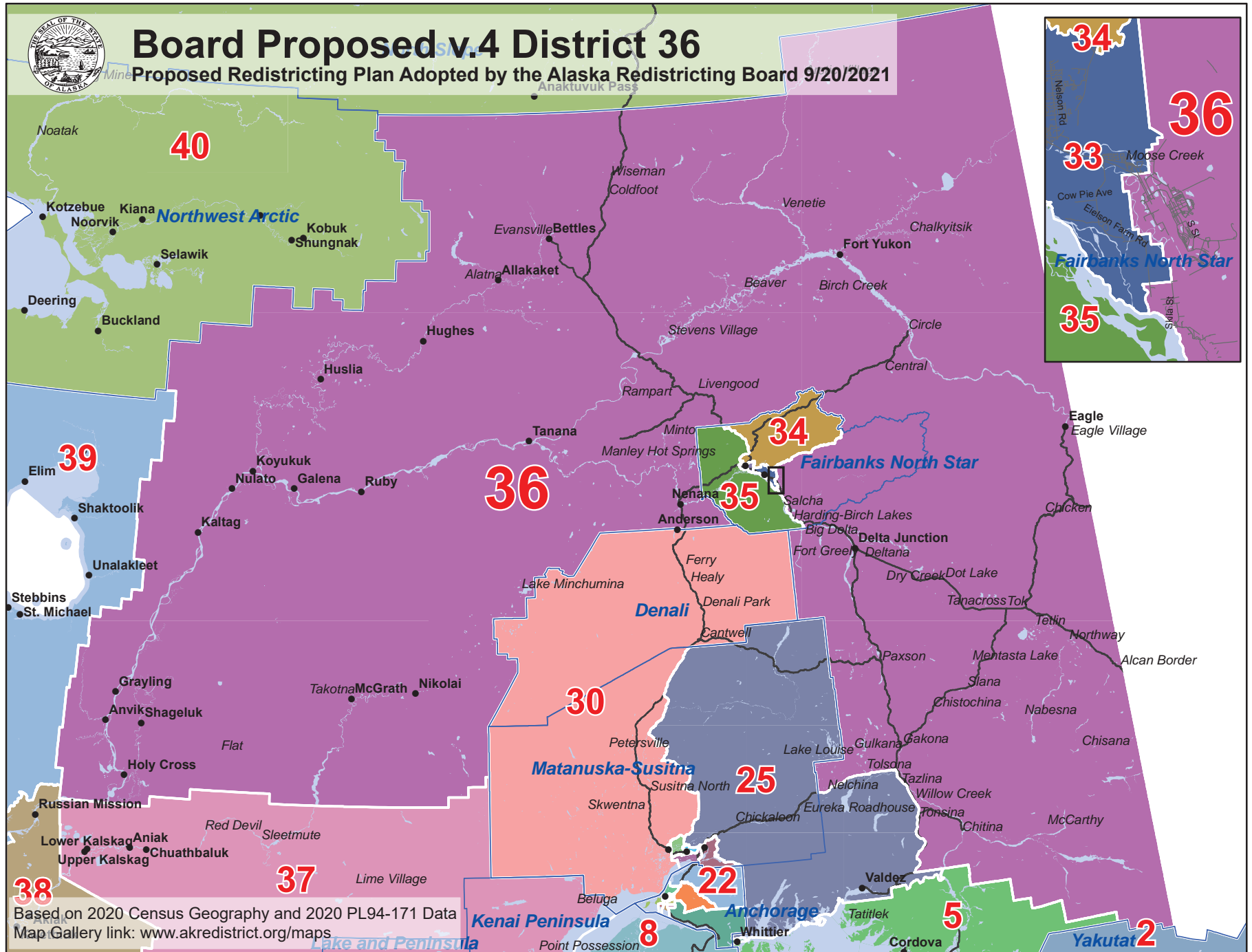


Based on 2020 Census Geography and 2020 PL94-171 Data
Map Gallery link: www.akredistrict.org/maps



Board Proposed v.4 District 36

Proposed Redistricting Plan Adopted by the Alaska Redistricting Board 9/20/2021



Based on 2020 Census Geography and 2020 PL94-171 Data
Map Gallery link: www.akredistrict.org/maps

NOTES REGARDING VALDEZ OPTION 1

Valdez Option 1 is an example of how the Board may draw districts in a manner that best satisfies constitutionally mandated criteria while including Valdez in a district with the communities it is socioeconomically integrated with. The population deviations included for the districts Valdez Option 1 are well below the 10% deviation threshold established by the Alaska Supreme Court.¹ Rather than focus on obtaining minimum possible deviations at the expense of socioeconomic integration, compactness, and contiguity, Valdez Option 1 seeks to establish districts in a manner that keeps communities with strong ties together. A live version of Valdez Option 1 is available at: <https://districtr.org/plan/62741>

Valdez Option 1 does not endeavor to draw district lines within areas such as the Municipality of Anchorage, Mat-Su and Denali Borough, Kenai Peninsula, Fairbanks, or Southeast Alaska where the districts within these areas may be drawn with small population deviations. Valdez defers to the expertise of the Board with regard to drawing specific district boundaries within these areas. Board Version 3 provides a good example of how such boundaries may be drawn.

Details regarding the Districts/Areas identified in Valdez Option 1 are provided below:

District/Area	Color	Number of Districts	Population Per District	Deviation
Municipality of Anchorage	Mint	16	18,219.9	- 0.0063
Mat-Su and Denali Borough	Red	6	18,116.6	- 0.0119
South East	Lt. Blue	4	18,082.3	- 0.0138
FNSB	Purple	4	19,219.8	+ 0.0483
Kenai Peninsula	Brown	3	17,748	- 0.0320
Alaska Peninsula/Aleutians	Pink	1	18,532	+ 0.0107
Yukon Kuskokwim	Drk. Blue	1	18,953	+ 0.0337
Western Alaska	Turquoise	1	18,414	+ 0.0043
North Slope	Gold	1	18,839	+ 0.0275
Interior/Rural FNSB/Eastern Alaska	Lime	1	18,907	+ 0.0311
Richardson Highway/Valdez/Cordova	Dark Green	1	18,632	+ 0.0151
Lower Kenai Peninsula/Kodiak	Yellow	1	18,443	+ 0.0053

The City of Valdez hopes that the Board will consider Valdez Option 1 as an alternative to presently adopted draft redistricting plans and encourages the Board and any interested party to utilize Valdez Option 1 as a starting point for developing a redistricting plan that best satisfies the legal criteria for redistricting.

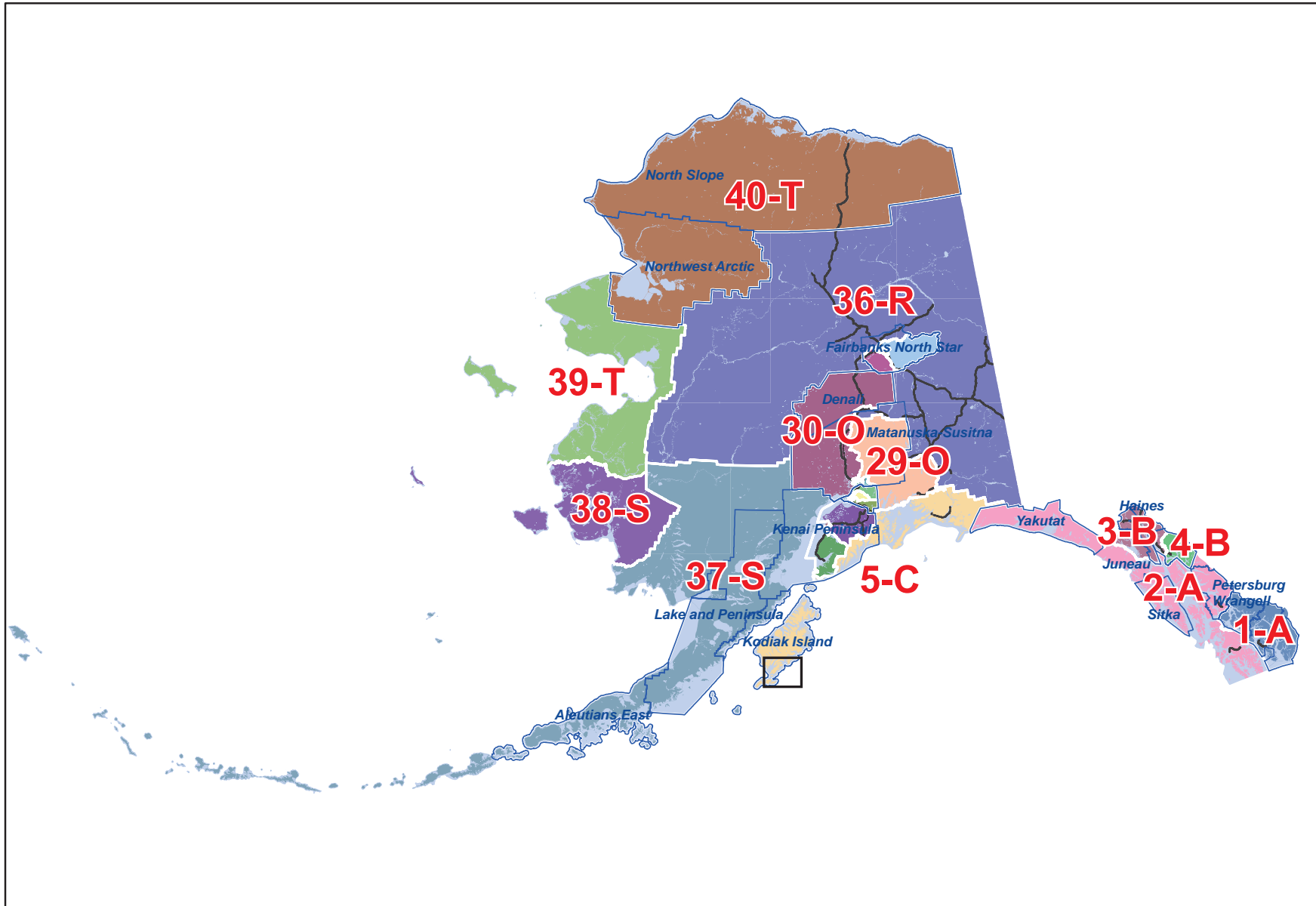
¹ *Hickel v. S.E. Conf.*, 846 P.2d 38, 48 (Alaska 1992), *as modified on reh'g* (Mar. 12, 1993)

[A]s a general matter an apportionment plan containing a maximum population deviation under 10% falls within the category of minor deviations. The state must provide justification for any greater deviation.



2021 Board Proclamation Statewide

Redistricting Plan Adopted by the Alaska Redistricting Board 11/10/2021

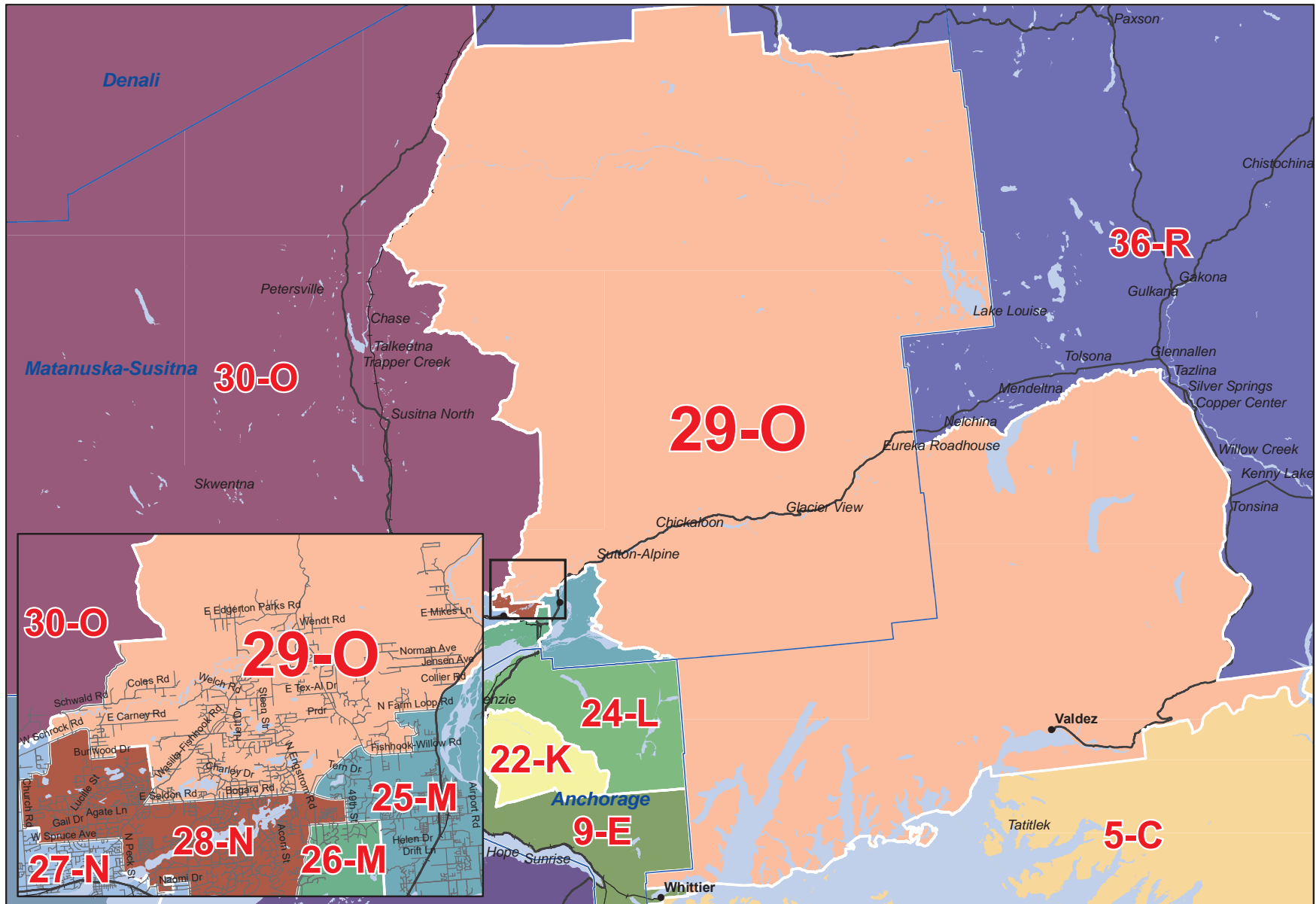


Based on 2020 Census Geography and 2020 PL94-171 Data; Map Gallery link: www.akredistrict.org/maps



2021 Board Proclamation District 29-O

Redistricting Plan Adopted by the Alaska Redistricting Board 11/10/2021



Based on 2020 Census Geography and 2020 PL94-171 Data; Map Gallery link: www.akredistrict.org/maps