

**FILED**

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STATE OF MINNESOTA  
SPECIAL REDISTRICTING PANEL

December 17, 2021

OFFICE OF  
APPELLATE COURTS

A21-0243

A21-0546

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Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting residents of Minnesota similarly situated, and League of Women Voters Minnesota,

Plaintiffs,

and

Paul Anderson, Ida Lano, Chuck Brusven, Karen Lane, Joel Hineman, Carol Wegner, and Daniel Schonhardt,

Plaintiff-Intervenors

**WATTSON PLAINTIFFS'  
MEMORANDUM IN RESPONSE  
TO THE OTHER PARTIES'  
CONGRESSIONAL AND  
LEGISLATIVE REDISTRICTING  
PLANS**

vs.

Steve Simon, Secretary of State of Minnesota; and Kendra Olson, Carver County Elections and Licensing Manager, individually and on behalf of all Minnesota county chief election officers,

Defendants,

and

Frank Sachs, Dagny Heimisdottir, Michael Arulfo, Tanwi Prigge, Jennifer Guertin, Garrison O'Keith McMurtrey, Mara Lee Glubka, Jeffrey Strand, Danielle Main, and Wayne Grimmer,

Plaintiffs,

and

Dr. Bruce Corrie, Shelly Diaz, Alberder  
Gillespie, Xiongpaoo Lee, Abdirazak  
Mahboub, Aida Simon, Beatriz Winters,  
Common Cause, OneMinnesota.org, and  
Voices for Racial Justice,

Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of  
Minnesota,

Defendant.

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## **I. INTRODUCTION.**

Plaintiffs Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting residents of Minnesota similarly situated, and League of Women Voters Minnesota (“Wattson Plaintiffs”) submit to the Minnesota Special Redistricting Panel (the “Panel”) this memorandum of law in Response to the proposed Congressional and Legislative Redistricting Plans submitted by Plaintiff-Intervenors Paul Anderson et al. (Anderson Plaintiffs), Plaintiffs Frank Sachs et al. (Sachs Plaintiffs) and Plaintiff-Intervenors Dr. Bruce Corrie et al. (Corrie Plaintiffs).

The plans submitted by the other parties in this matter fail to adhere to this Panel’s redistricting principles for some obvious reasons, and some not so obvious reasons. For example, an obvious reason is that three districts in the Anderson Plaintiffs’ legislative plan are not contiguous because they are separated by the Mississippi River with no bridge or other mode of transport available to across the river. A less obvious but very important reason is that the plans of the Anderson Plaintiffs and Sachs Plaintiffs were drawn for the purpose of promoting, protecting or defeating an incumbent, candidate or party. The districts created by these parties can be explained on no ground other than attempting to gain a partisan advantage. The Wattson Plaintiffs will point out these partisan gerrymanders to this Panel. Also, the Partisanship reports provided by the Wattson Plaintiffs will demonstrate that the Wattson Plaintiffs’ plan falls between the Sachs and Anderson Plaintiffs’ plans in terms of partisanship.

The Wattson Plaintiffs refer to the partisan lean of districts, political subdivisions

and precincts throughout the memorandum. Plaintiff Peter Wattson thoroughly explains the basis for this partisanship data in both his Affidavit dated December 7, 2021 (Wattson Affidavit I) and his Affidavit dated December 17, 2021 (Wattson Affidavit II). Plaintiff Peter Wattson testified that the partisanship data contained in this memorandum is consistent with and extracted from the partisan index he has created, and when partisanship data is cited in this memorandum, including the partisan lean of a political subdivision, precinct, or district, that data is from his partisan index. Wattson Affidavit II, ¶ 14.

In their legislative plans, the other parties to this proceeding make no effort to preserve precincts which creates a host of issues with respect to convenience, minority representation, communities of interest and partisanship. In this memorandum, the Wattson Plaintiffs demonstrate the importance of preserving precincts and the harm that can be caused when parties make no attempt at preservation.

**II. THE SACHS AND ANDERSON PLAINTIFFS FAIL TO PROVIDE EVIDENCE TO SUPPORT THEIR PLANS AND FAIL TO COMPLY WITH THE PANEL'S PLAN SUBMISSION REQUIREMENTS.**

The Anderson Plaintiffs and the Sachs Plaintiffs have submitted no evidence and have not even identified the creator of their plans. There is no testimony in the record demonstrating that their plans were drawn in an effort to comply with the Panel's redistricting principles and no testimony regarding the intent behind the plans. Instead, these parties rely entirely on argument of counsel and cherry-picked excerpts of resident testimony from the public hearings held by this Panel to support their proposed districts. Arguments of counsel are not evidence. There is no evidence in the record to justify these the proposed changes to the *Hippert* plan. See CIVJIG 10.15 and CIVJIG 10.25; *Poston*



*v. Colestock*, 540 N.W.2d 92 (Minn. Ct. App. 1995), *review denied* (Jan. 25, 1996) (“An attorney may not introduce statements or conclusions unsupported by the evidence in closing argument.”). In contrast, the Wattson Plaintiffs have provided evidence through extensive affidavit testimony in support of their plans and the creators of their plans have been identified and expressly testified as to the reasoning and intent behind the plans. *See* Affidavit of Peter Wattson dated December 7, 2021; Affidavit of Peter Wattson dated December 17, 2021; Affidavit of Joseph Mansky dated December 5, 2021; Affidavit of Nick Harper dated December 3, 2021; Affidavit of Nick Harper dated December 17, 2021.

The public hearings conducted by the Panel are an extremely important part of this process as they have enabled the public to have their opinions and concerns heard. Accordingly, the resident testimony will enhance the Special Redistricting Panel’s understanding of the various communities throughout the state and should be considered and used in drawing plans. However, the Anderson Plaintiffs’ and Sachs Plaintiffs’ use of cherry-picked excerpts to support their proposed plans is not an accurate reflection of the full hearing testimony. There were other members of the public who testified with opinions that differ from the testimony offered to this Panel by the Anderson Plaintiffs and Sachs Plaintiffs.

The Sachs and Anderson Plaintiffs rely heavily on “Communities of Interest” to support their plans, but do not submit any of the information required by the Panel in its Redistricting Principles Order. The Panel’s order states:

Any party asserting that its plan preserves a community of interest must also include the following Maptitude report:

- *Community of Interest Report* identifying any community of interest included as a layer in the plan, the census blocks within the community of interest, and the district or districts to which the community of interest has been assigned. The report must also show the number of communities of interest that are split and the number of times a community of interest is split.

Order Stating Preliminary Conclusions, Redistricting Principles, and Requirements for Plan Submissions (“Redistricting Principles Order”), p. 11.

While the Sachs Plaintiffs do submit some limited (albeit insufficient) communities of interest information with their legislative plan, they submit nothing with their congressional plan. The Anderson Plaintiffs provide virtually none of the information required by the Panel when asserting a community of interest.<sup>1</sup>

In essence, the Anderson Plaintiffs’ plans rely largely on subjective and ambiguous communities of interest, despite the fact that they have submitted none of the required data to the Panel. The Anderson Plaintiffs maintain throughout their memoranda that their proposal preserves communities of interest, including as follows:

- [T]he Anderson Plaintiffs were careful to preserve the communities of interest in the Red River Valley and Western Minnesota, defined by agricultural industries such as the farming of wheat, potatoes, soybeans, and sugar beets. Anderson Congressional Memorandum, p. 23.
- The Eighth congressional district, like the Seventh, represents primarily rural communities of interest. The rural communities of interest in the Eighth district, however, are distinct from those in the Seventh. *Id.* at 30.
- [N]orthwestern and northeastern Minnesota are separate communities of interest. *Id.* at 33.
- The Anderson Congressional Plan also protects the suburban and exurban

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<sup>1</sup> They did submit a reservation splits report, but only to show compliance with the Panel’s reservations principle.

communities of interest in the Second, Third, and Sixth districts. *Id.* at 34.

- In order to preserve communities of interest living near the Red River Valley, the Anderson Legislative Plan creates a longer Senate District 9 and House District 9B. Anderson Plaintiffs' Memorandum of Law in Support of Motion to Approve Legislative Redistricting Plan ("Anderson Legislative Memorandum"), p. 48.
- The Anderson Plaintiffs further sought, to the extent possible, to preserve other communities of interest. For example, House District 60B encompasses the entire University of Minnesota. *Id.* at 53.

The Sachs Plaintiffs use the same approach, except that, in a footnote, they acknowledge to the Panel that they have not provided any of the required information. Sachs Congressional Memorandum, p. 15 n.5. Their claims of communities of interest include:

- In applying the Panel's other redistricting principles, the Sachs congressional plan creates districts that represent natural and well-defined communities of interest that share common social, geographic, political, cultural, ethnic, and economic interests. *Id.* at 14.
- St. Cloud—including its minority communities—are preserved in a single district and kept separated from the distinct communities of northeastern Minnesota and the Iron Range. *Id.* at 24.
- Moreover, many of the communities that are nonetheless preserved in their proposed congressional districts—for example, the community of faculty, students, and workers linked to Carleton College and St. Olaf College in the Second Congressional District, or the Minnesotans who rely on the Seventh Congressional District's Highway 71. *Id.* at 15, n.5.

These broad, subjective and undefined communities of interest are prohibited by the Panel's plan submission requirements and accordingly should be disregarded. These parties have provided no information as to where these communities begin and end. The Wattson Plaintiffs certainly believe that communities of interest should be preserved, but

the subjective claims of communities of interest by the Anderson and Sachs Plaintiffs do not meet this end. As discussed more fully below, the Wattson Plaintiffs’ plan preserves communities of interest naturally by preserving precinct and ward boundaries that are drawn by elected officials who, as required by ordinance or city charter, work with community members and local government employees to identify communities and draw boundary lines to preserve them in a convenient manner. Also, as discussed below, some of these claims of communities of interest by these parties are nothing more than justification for partisan gerrymanders.

### **III. CONGRESSIONAL PLANS.**

#### **A. The Sachs Plaintiffs and Corrie Plaintiffs have failed to draw least-change congressional plans.**

The Sachs Plaintiffs and the Corrie Plaintiffs have offered a wholesale redrawing of Minnesota’s congressional map. The average core of prior district for the Sachs Plaintiffs’ congressional plan is 78% and the Corrie Plaintiffs’ congressional plan is at 75%. Affidavit of Peter Wattson dated December 17, 2021 (“Wattson Affidavit II”), Exhibit C-1. The Wattson Plaintiffs’ congressional plan has an average core of prior district of 94% and the Anderson Plaintiffs’ plan has an average core of 96%. Affidavit of Peter Wattson dated December 7, 2021 (“Wattson Affidavit I), Exhibit C; Wattson Affidavit II, C-1. A wholesale departure from the existing map was rejected by the *Hippert* Panel. *See Hippert v. Ritchie*, 813 N.W.2d 374, 380-81 (Order Adopting a Legislative Redistricting Plan (Minn. Spec. Redist. Panel Feb. 21, 2012) (“the panel utilizes a least-change strategy where feasible”); *see also* 813 N.W.2d 391, 397 (Order Adopted a Congressional Redistricting

Plan) (Minn. Spec. Redist. Panel Feb. 21, 2012) (using a ‘least-change’ approach and “declin[ing] to follow the more sweeping reconfigurations of congressional districts in the plans proposed by the respective plaintiffs to this action”) (“*Hippert*”). Like the *Hippert* panel, this Panel should use a restrained, least-change approach when drawing its maps.

Despite having a core of prior district average of 75%, the Corrie Plaintiffs’ congressional plan still splits 17 counties, 25 minor civil divisions and 43 precincts. Declaration of Amy Erickson in Support of the Corrie Plaintiffs’ congressional Redistricting Plan (“Erickson Cong Affidavit”), Ex. H. Splits are only permitted to meet constitutional requirements. A split involving no population must be justified by some other constitutional requirement, such as that senators be elected from “districts of convenient contiguous territory.” Minn. Const. art. IV, § 3.

**B. The Anderson and Sachs Plaintiffs’ congressional plans were drawn with the purpose of promoting and protecting their respective political parties and defeating the opposing parties.**

The redistricting principles adopted by the Panel prohibit drawing districts for the “purpose of protecting, promoting, or defeating a[...political party.” Redistricting Principles Order, p. 8, ¶ 9. Proving intent or “purpose” can realistically only be done with the use of data. The second part of this principle states, “The panel...will not consider past election results when drawing districts.” *Id.* As discussed in the Wattson Plaintiffs’ Proposed Congressional and Legislative Districting Principles Memorandum, the Wattson Plaintiffs use an index of prior election results to enforce the Panel’s principle regarding partisanship, however, these reports and data are not submitted for the Panel to use in drawing its plans. Rather, this data is provided to test the plans of the parties to this action

to determine whether any party has submitted a plan that has the “purpose of protecting, promoting, or defeating any incumbent, candidate or party.”

Throughout this memorandum, the Wattson Plaintiffs cite to the partisan “lean” of a district. Any time a partisan lean is discussed, that data is taken from the Wattson Plaintiffs’ Index of election results. Wattson Affidavit II, ¶¶ 12-14. These partisan lean measures were created using the Index data and applying it to every precinct in the state. If the Wattson Plaintiffs discuss the partisan lean of a county or city, they calculated that partisan lean by aggregating the partisan lean of every precinct within that city or county. Thus, any time that the partisan advantage of a party is discussed in terms of percentage in a district, city, county, town or precinct, the data is pulled from the Index created by the Wattson Plaintiffs. *Id.* This is the same approach that was used to create the partisan reports, as more fully discussed the Wattson Plaintiffs Memorandum dated December 7, 2021, pp. 77-80.

Minnesota has four congressional districts that have a partisan makeup that significantly favors one party over another. CD 4 currently leans 30% Democrat and has been held by a Democrat since 1949 and CD 5 leans 54% Democrat and has been held by a Democrat since 1963. Wattson Affidavit I, Exhibit H, p. 11. CD 6 currently leans 17% Republican and has been held by a Republican since 2003, when the district was dramatically redrawn by the panel in *Zachman v. Kiffmeyer*, No. C0-01-160 (order adopting a Congressional Redistricting Plan) (order adopting a Legislative Redistricting Plan) (Minn. Spec. Redist. Panel March 19, 2002) (“*Zachman*”) (CD 6 formerly covered the territory in the Southeast, East and Northeast Twin Cities suburbs). Wattson Affidavit

I, Exhibit H, p. 11. While CD 7 was represented by a Democrat for 30 years, it leans 16% Republican, most recently elected a Republican (by 14 points) and covers overwhelmingly Republican territory. Wattson Affidavit I, Exhibit H, p. 11 The Wattson Plaintiffs’ Base Plan, which is the *Hippert* Panel’s map with reports run using the 2020 Census data, shows the advantage (or disadvantage) each party has in each congressional district. Wattson Affidavit I, Exhibit H, p. 11. This Partisan Index, which was created using the Index of statewide election results from 2012 through 2020, is below. A positive number favors Democrats and a negative number favors Republicans.

District	Index Votes	Dem Plurality	Dem Index %	Rep Index %	Third Index %
1	3,995,669	(5)	44.6	49.3	6.1
2	4,518,683	2	48.4	46.1	5.6
3	4,839,078	7	51.2	44.0	4.8
4	4,372,290	30	62.1	32.2	5.7
5	4,448,440	54	74.1	19.9	5.9
6	4,343,416	(17)	38.6	55.6	5.8
7	3,990,968	(16)	39.2	55.3	5.5
8	4,390,783	(2)	46.3	48.0	5.7
<b>State Total:</b>	<b>34,899,327</b>		17,736,165	15,201,653	1,961,508
			<b>51</b>	<b>44</b>	<b>6</b>

Wattson Affidavit I, Exhibit H, p. 11.

Not surprisingly, a Republican currently represents CD 1, CD 6, CD 7, and CD 8, and a Democrat currently represents CD 2, CD 3, CD 4, and CD 5. The Wattson Plaintiffs present this information to show the Panel that the districts in which the political parties, Democrats and Republicans, are likely looking to gain an advantage are the four competitive districts, CD 1, CD 2, CD 3 and CD 8. For this reason, the Wattson Plaintiffs’ partisanship analysis focuses on these districts and what the parties have done to shape

them.

The partisan maps submitted by these political parties, and the Index measurements provided by the Wattson Plaintiffs, show that these political parties have drawn maps with the purpose of favoring their respective political parties.

1. The Anderson Plaintiffs' congressional plan was drawn for the purpose and effect of promoting the Republican Party and defeating the Democratic Party. Their changes are not supported by evidence.

The Anderson Plaintiffs' congressional plan maintains a very high average core of prior district, about 96%. Wattson Affidavit II, Exhibit C-1. That said, all the material changes that the Anderson Plaintiffs have made to the *Hippert* congressional plan would have the effect of benefitting the electoral chances of Republicans and harming the electoral chances of Democrats. Further, the changes to the *Hippert* congressional plan are not supported by evidence.

- a. The Anderson Plaintiffs have provided no evidence to justify their decision to move heavily Republican Benton County into the competitive CD 8.*

CD 8 is a competitive district, with the Wattson Plaintiffs' Index showing a 2% Republican lean. Wattson Affidavit I, Exhibit H, p. 11. CD 8 is the second most underpopulated congressional district in the state, with a deviation of -37,375, or -5.24%. Wattson Affidavit, Exhibit H, p. 2. The Anderson Plaintiffs chose to move the entire County of Benton, with a population of 41,379, into CD 8 and remove certain cities in Beltrami County.

Under the Wattson Plaintiffs' Index, Benton County leans Republican by 21%. 2020 Republican Presidential Nominee Donald J. Trump carried Benton County by 32%.



Because Benton County moved 4,004 more people into CD 8 than were needed for population equality, adjustments had to be made elsewhere. The Anderson Plaintiffs chose Beltrami County, which leans Democratic by 2% according to the Wattson Plaintiffs' Index and was carried by Mr. Trump by 3%. The Anderson Plaintiffs chose to make those adjustments by removing Precinct W-3 P-2 in the city of Bemidji from Beltrami County (1,136 people in a precinct that leans Republican by 1%).

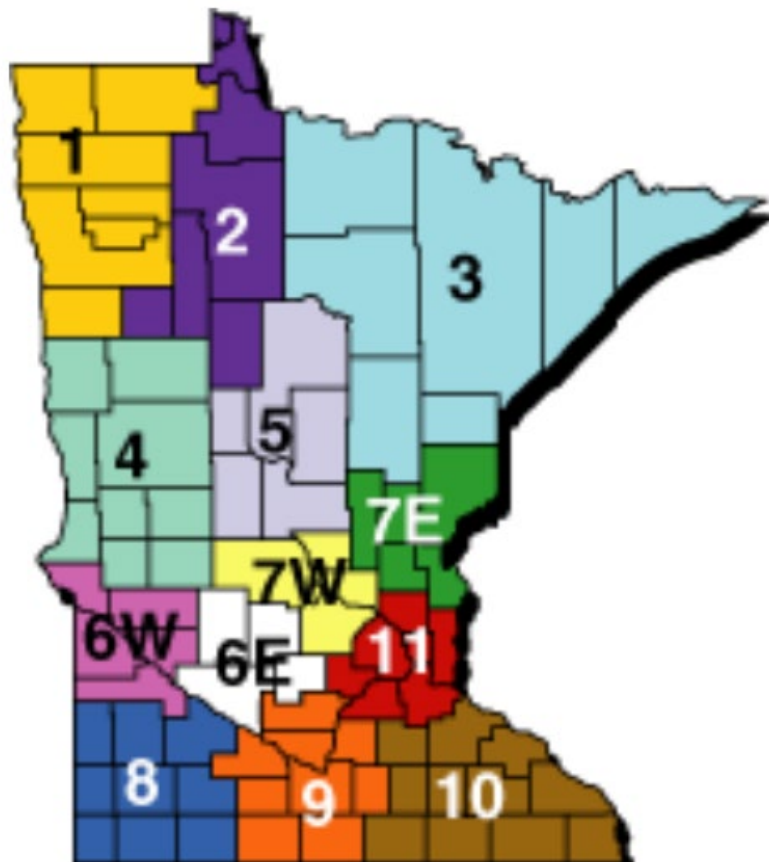
The Anderson Plaintiffs rely on the State of Minnesota Department of Economic and Employment Development ("DEED") website to justify many of their purported "communities of interest." Anderson Congressional Memorandum, pp. 19, 23, 31. But they do not rely on or cite it when discussing their decision to include Benton County in CD 8. That is because that resource would show the Panel that Benton County does not belong in CD 8. On the website, DEED lists Benton County as part of the "Central Region" of Minnesota. Central Region, Minnesota Employment and Economic Development, <https://mn.gov/deed/data/regional-lmi/central-lmi.jsp>. Specifically, it lists Benton County in Region 7W along with Sherburne County, Stearns County and Wright County. The Anderson Plaintiffs do not include any of Sherburne, Stearns or Wright County in CD 8. In fact, not one party in this proceeding includes any of the other three counties in CD 8, and the Anderson Plaintiffs are the only party to include Benton County in CD 8.

The Anderson Plaintiffs justify their proposed inclusion of Benton County in CD 8 by asserting,

**Moreover, Benton County's "primary economic driver" is agriculture,** which is similar to counties already included in the Eighth district. *Id.* Although this approach results in splitting the city of St. Cloud between the

Sixth and Eighth districts, the vast majority of St. Cloud remains in the Sixth district (61,795 of its 68,891 residents), and many of the areas of St. Cloud that are moved into the Eighth district are non-contiguous.

Anderson Congressional Memorandum, p. 33 (emphasis added). However, data from the same Minnesota DEED website relied upon by the Anderson Plaintiffs shows that this statement is not accurate as CD 8 is not agricultural in any sense. On DEED's website, Benton County is located in Region 7W. A map of the DEED Regions is below.



Economic Development Region 7W: Central, DEED Labor Market Information Office, [https://mn.gov/deed/assets/rp\\_edr7w\\_2020\\_tcm1045-133247.pdf](https://mn.gov/deed/assets/rp_edr7w_2020_tcm1045-133247.pdf), p. 1. Region 7W, including Benton County, contains 20% of the farms in Minnesota. *Id.* at 17. The three other counties in Region 7W, Sherburne, Stearns, and Wright Counties, are included in CD

6 or CD 7 by every map submitted to the Panel by the parties, including the Anderson Plaintiffs.

In DEED's regional plan map above, CD 8 consists of Regions 3, 5 and 7E. DEED's website states the following about these three regions.

- The Region 3 profile states, "Unlike other parts of Greater Minnesota, agriculture is not a key industry in Northeast Minnesota." Northeast Minnesota Planning Region, DEED Labor Market Information Office, [https://mn.gov/deed/assets/2021\\_NortheastRP\\_CG\\_tcm1045-133251.pdf](https://mn.gov/deed/assets/2021_NortheastRP_CG_tcm1045-133251.pdf), p. 17.
- "Unlike other parts of Greater Minnesota, agriculture is not a key industry in Region 5." Economic Development Region 5: North Central, DEED Labor Market Information Office, [https://mn.gov/deed/assets/2021\\_EDR5RP\\_EW\\_tcm1045-133255.pdf](https://mn.gov/deed/assets/2021_EDR5RP_EW_tcm1045-133255.pdf), p. 17.
- "Unlike other parts of Greater Minnesota, agriculture is not a key industry in Region 7E" Economic Development Region 7E: East Center, DEED Labor Market Information Office, [https://mn.gov/deed/assets/rp\\_edr7e\\_2020\\_tcm1045-133246.pdf](https://mn.gov/deed/assets/rp_edr7e_2020_tcm1045-133246.pdf), p. 17.

Thus, contrary to the claims made by the Anderson Plaintiffs, agriculture is not a "primary economic driver" in CD 8. Benton County does not belong in CD 8. It belongs in CD 7. The DEED website does not support the Anderson Plaintiffs' justification of their community of interest.

In contrast, the CD 8 offered by the Wattson Plaintiffs is supported by the Panel's principles and evidence. The changes made by the Wattson Plaintiffs to CD 8 serve four ends: (1) they help achieve population equality; (2) they protect the opportunity of racial, ethnic, and language minorities to participate in the political process and elect candidates of their choice, whether alone or in alliance with others, by combining the largest American

Indian reservations in the State into one congressional district; (3) they remove the split to Beltrami County and (4) they keep the St. Cloud area more convenient by not splitting it into three congressional districts.

The Wattson Plaintiffs added the Red Lake and White Earth American Indian Reservations to CD 8 by adding Lake of the Woods County, the remainder of Beltrami, Clearwater, and Mahnomen Counties, and a portion of Becker County. This would give CD 8 an American Indian voting-age population in the state of (4%), twice as large as that proposed by the Anderson and Sachs Plaintiffs. Wattson Affidavit II, Exhibit A.

The net partisan effect of the Wattson Plaintiffs' changes to CD 8 is relatively neutral. The 2020 CD 8 leans Republican by 2% according to the Wattson Plaintiffs' Index. Their proposed 2022 CD 8 would lean Republican by 1%.

The population added to CD 8 by the Wattson Plaintiffs has the following partisan data:

- Clearwater leans Republican by 28%;
- Mahnomen leans Democratic by 11%;
- Lake of the Woods leans Republican by 27%;
- The precincts added to CD 8 in Becker County lean Republican by 2%;
- The balance of Beltrami County added to CD 8 leans Democratic by 8%.

The population removed from CD 8 by the Wattson Plaintiffs has the following partisan data:

- Wadena County leans Republican by 32%;
- The 992 people in Motley, Motley Township and Swanville in Morrison County lean Republican by about 25%.

While the Anderson Plaintiffs may take issue with moving CD 8 further west, the information they have supplied to the Panel in the DEED website actually supports the

Wattson Plaintiffs’ plan. The Anderson Plaintiffs argue that their approach:

Preserv[es] “the agricultural interests that largely define the balance of the seventh congressional district.” *Id.* Indeed, expanding the Seventh district southward preserves the separation of northwestern and northeastern Minnesota, which, as discussed below, have unique interests. See Testimony of Debra Taylor, Duluth Hearing at 22:7-14 (Oct. 19, 2021) (“Do not draw a congressional district across the whole northern part of the state. For 125 years . . . we’ve had two very distinct economies in the northern part of the state. [T]he Red River Valley . . . is primarily agricultural. [T]he north central and northeastern part of the state is tourism, forestry . . . and . . . mining.”).

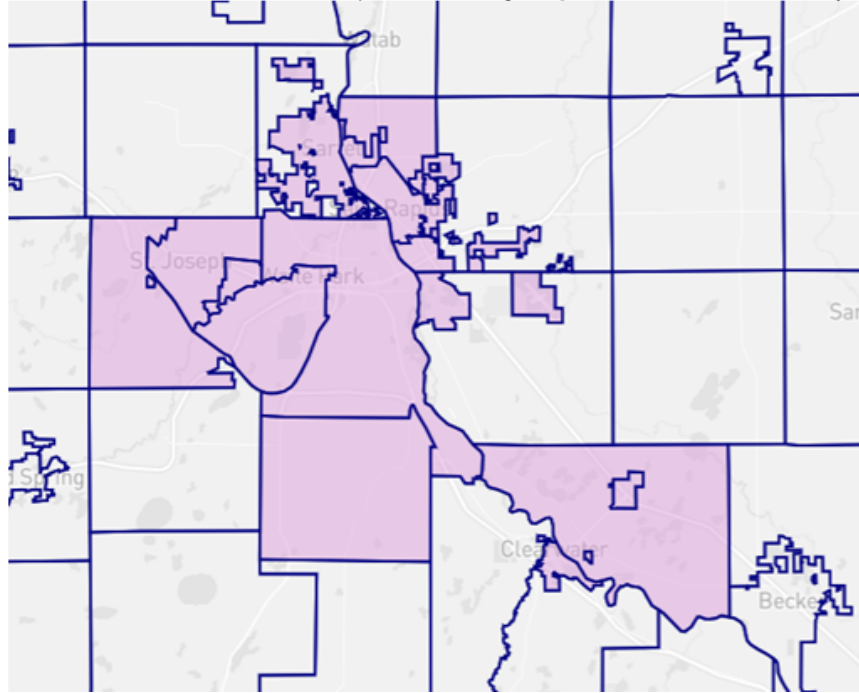
Anderson Congressional Memorandum, p. 25. The DEED website relied upon by the Anderson Plaintiffs does not support these conclusions.

According to the Regional Profile for Region 1 on the DEED website, “Like other parts of Greater Minnesota, agriculture is a key industry in Region 1.” Economic Development Region 1: Northwest, DEED Labor Market Information Office, [https://mn.gov/deed/assets/2021\\_EDR1RP\\_EW\\_tcm1045-216551.pdf](https://mn.gov/deed/assets/2021_EDR1RP_EW_tcm1045-216551.pdf), p. 17. Region 1 is included in CD 7 in both the Anderson Plaintiffs’ and the Wattson Plaintiffs’ plans. The parties differ as to Region 2. The Regional Profile for Region 2 states, “Unlike other parts of Greater Minnesota, agriculture is not a key industry in Region 2.” Economic Development Region 2: Headwaters, DEED Labor Market Information Office, [https://mn.gov/deed/assets/2021\\_EDR2RP\\_EW\\_tcm1045-133253.pdf](https://mn.gov/deed/assets/2021_EDR2RP_EW_tcm1045-133253.pdf), p. 17. Region 2 includes Beltrami, Clearwater, Hubbard, Lake of the Woods and Mahnommen, all counties that the Wattson Plaintiffs included in their CD 8. Thus, if the Anderson Plaintiffs believe that CD 7 should be an agricultural district, then the Region 2 counties (as defined by DEED) should not be in CD 7. Rather, they should be in CD 8 with the other non-agricultural interests in Regions 3, 5 and 7E.

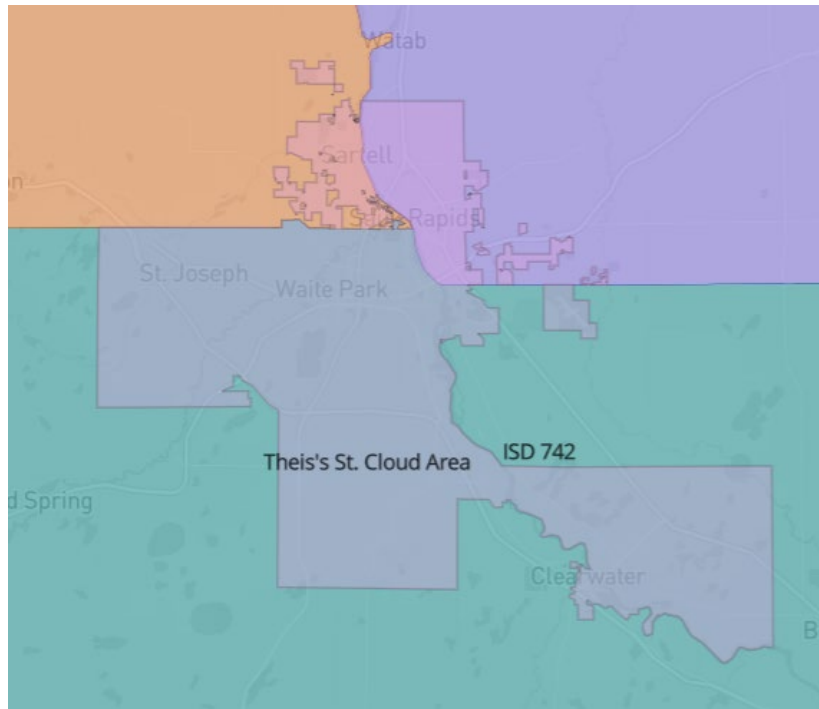
The Wattson Plaintiffs do not discuss the DEED website excerpts to support their own congressional plan. Instead, they do so to show that if a party does not provide evidence and fails to adhere to the Panel's requirement that the parties submit reports, blocks files, and map overlays to support communities of interest, any party can argue a subjective community of interest that has no basis in fact. The Anderson Plaintiffs have offered no evidence of their purported communities of interest in CD 7 and CD 8 and have not submitted the required information to the Panel to argue for these communities of interest. In fact, the DEED resources relied upon by the Anderson Plaintiffs show how easily the communities-of-interest argument can be manipulated and twisted in any which way to support a party's partisan goals. While one snippet on the DEED website may support their districts, as shown above, most other pages on the same website do not. Although the Panel wisely required data and reports from the parties to argue for preserving a community of interest, the Anderson Plaintiffs failed to meet this requirement. Accordingly, the Anderson Plaintiffs' approach of using subjective communities of interest with no supporting evidence is of little value to the Panel and their arguments should be disregarded.

The Anderson Plaintiffs' plan also unnecessarily divides the St. Cloud area into three districts. This division was done with no evidence or factual justification. The public testimony that the Anderson Plaintiffs so heavily rely on does not support this division. Testimony of Linda Kotschvar, (Oct. 21, 2021) ("Because of [St. Cloud Area School District 742's] uniqueness and diverse population, it needs to remain intact to prevent losing representation in a cohesive voice in Congress.").

In fact, Representative Tama Theis of the Minnesota House of Representatives (14A-R) described the St. Cloud Area and advocated that the entire area remains in CD 6 in a discussion during a legislative hearing on September 13: “Waite Park, St. Augusta, St. Cloud, Sartell, Sauk Rapids, St. Joseph, even times we work with Clearwater, Clear Lake because of the school district. But we also have different [...] local sales tax in which they have common community projects that happen, and they work together in that. So keeping the area in District 6 as it is would certainly be a benefit. It would be very hard for us to do some of the projects that we do if we had to split up those areas and not be seen as a community. [...] Keeping us together really is very beneficial, not only school district-wise, but I said also with the cities because a lot of our projects that happen in the different cities are local, regional, different projects. And to split it apart would be quite disastrous to say the least.” Minnesota House Redistricting Committee, Sept. 13, 2021, <http://www.house.leg.state.mn.us/hjvid/92/895159> (Representative Theis’ cited testimony starting at 47:30.) A screenshot of the map of the St. Cloud area as described by Representative Theis is shown as follows:



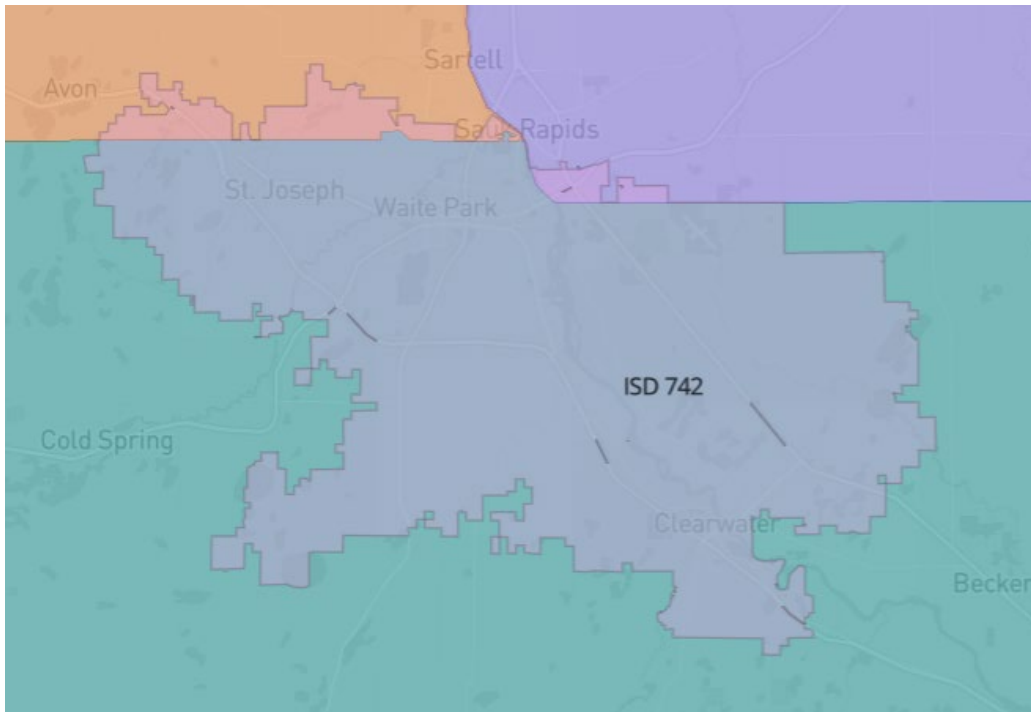
The St. Cloud area described by Representative Tama Theis as overlaid on the Anderson Plaintiffs' proposed congressional plan and showing their three-way split of it is as follows:





Affidavit of Nick Harper dated December 17, 2021 (“Harper Affidavit II”), ¶¶ 3-4.

ISD 742 as overlaid on the Anderson Plaintiffs’ proposed congressional plan and showing their three-way split of it is as follows:



Harper Affidavit II, ¶¶ 5-6.

The Anderson Plaintiffs’ proposed plan of splitting St. Cloud is also contrary to the *Hippert* Panel’s decision, “The interests of Saint Cloud and Saint Anthony are better served by keeping those cities intact in one congressional district than splitting them on county lines. The panel’s decision to do so also is consistent with the corresponding congressional districts adopted in *Zachman* ten years ago. (When a city or township is split on a county boundary, Mapitude does not count it as a split.)” 813 N.W.2d 391, 402 fn. 12. And in the *Hippert* Panel’s description of CD 7, it explained why it was not appropriate to place St. Cloud in an agricultural district: “[P]ortions of Saint Cloud are located in Sherburne

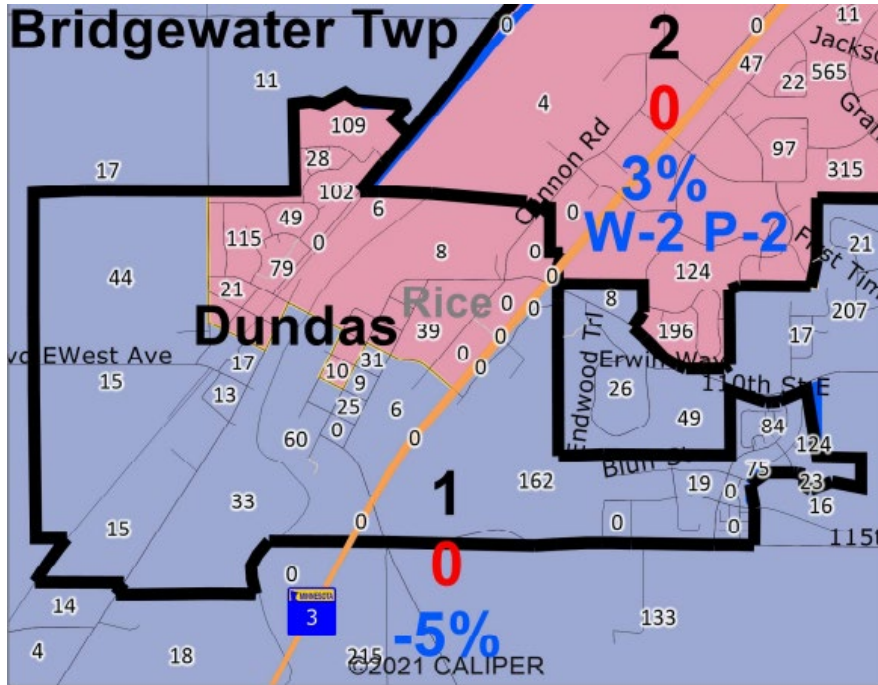
County, which is part of the eleven-county metropolitan area, and Saint Cloud shares the interests of the exurban communities to its east.” *Id.* at 398. While the Anderson Plaintiffs rely on these *Hippert* communities in some parts of the memoranda, they ignore the *Hippert* panel in others.

The Anderson Plaintiffs’ changes in the competitive CD 8 were made for the purpose of promoting the Republican Party and defeating the Democratic Party. They chose to include the heavily Republican Benton County over counties with partisan balance such as Beltrami, Mahnomen, and others. Their plans should be rejected.

b. *The Anderson Plaintiffs’ CD 1 is not supported by evidence and is a partisan gerrymander.*

Like their CD 8, the Anderson Plaintiffs’ CD 1 makes small changes, but the changes are not supported by any evidence. They only serve to protect the Republican Party and defeat the Democratic Party. CD 1 is underpopulated by 22,586 people. The easiest, and most logical way to achieve population equality for CD 1 is to eliminate the county split in Cottonwood County by moving that into CD 7 (-3,625 people), adding the rest of Rice County to CD 1, making it whole (+26,084) and picking up 127 people in order to achieve perfect equality. This was the approach taken by the Wattson Plaintiffs when they added 127 people from Plainview to CD 1 to achieve population equality.

The Anderson Plaintiffs added some of Rice County, but only the most Republican portions. They specifically excluded the northeast part of the county, which favors Democrats. Not only did they split Rice County to achieve their partisan goals, but they also split cities and even precincts.



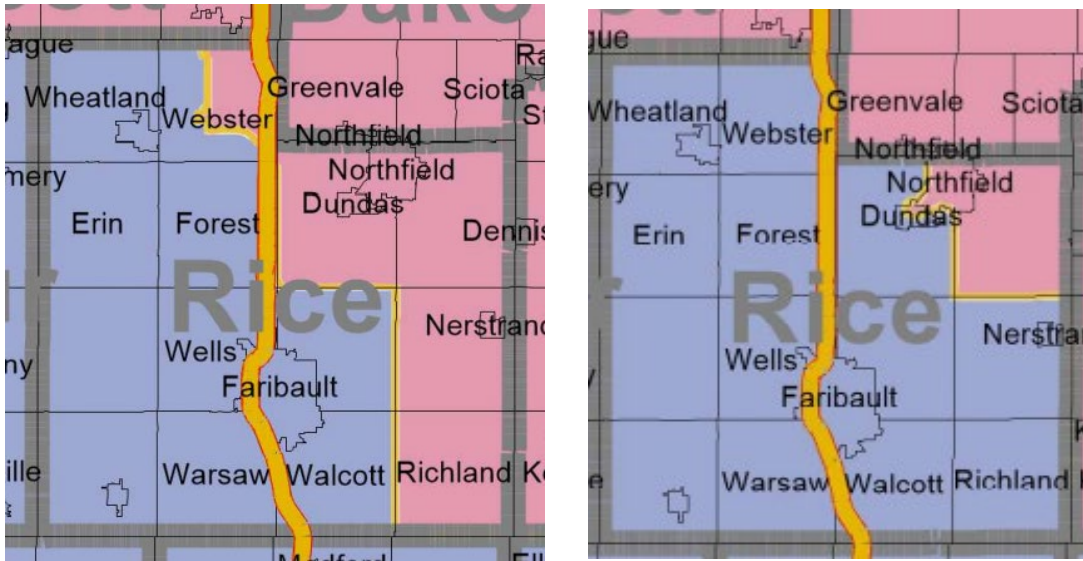
Watson Affidavit II, ¶ 17. The Anderson Plaintiffs added the following portions of Rice County to their proposed CD 1:

- Bridgewater – (population 1,830 and 4% Democratic);
- Part of Dundas (additional 862 people and 4% Democratic);
- Nerstrand – (population 273 and 9% Republican);
- Richland – (population 376 and 11% Republican);
- The remainder of Webster (additional 954 people and 23% Republican); and
- Wheeling (population 525 and 21% Republican).

What the Anderson Plaintiffs omitted from Rice County is more important:

- Northfield City (Population 19,539 and 44% Democratic);
- Northfield Township (population 857 and 7% Republican);
- Dennison (population 14 and 15% Republican); and
- Dundas (part) (850 people and 4% Democratic).

The current map of Rice County (left) and Anderson Plaintiffs’ proposal for Rice County (right) are below.



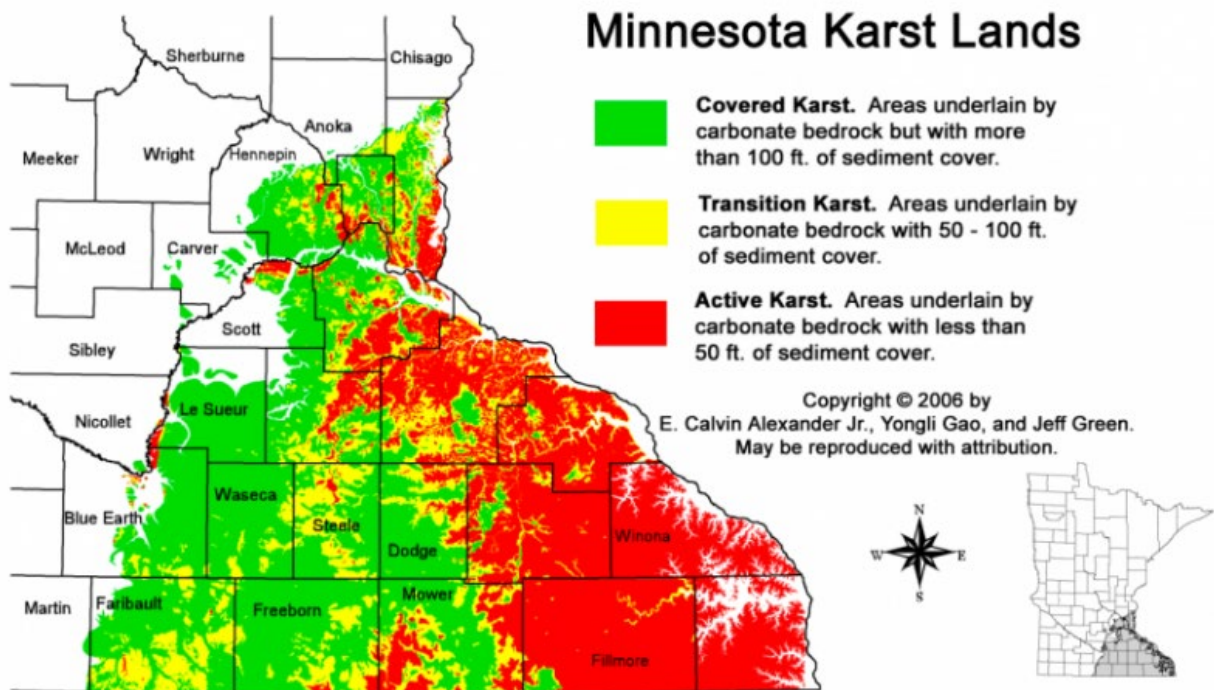
Northfield contains the college campuses of St. Olaf and Carleton and is heavily Democratic. Instead of including this college area in CD 1, the Anderson Plaintiffs included only part of Dundas so they could keep all of Wabasha County (17% Republican) in CD 1.

To justify these shifts in population, the Anderson Plaintiffs rely on broad, subjective, and poorly defined communities of interest, using general industries that are present in almost all parts of the state, including “agricultural,” “technological,” “medical business,” “farming,” and “manufacturing goods such as computers and electronic products.” Anderson Congressional Memorandum, p. 19. Allowing the use of such broad, subjective communities of interest would allow any party to justify any map for any reason, without any evidence.

The Anderson Plaintiffs again take advantage of conflicting public hearing testimony to justify the exclusion of heavily Democratic Northfield and inclusion of heavily Republican Wabasha County. *See* October 13, 2021 Testimony of Paul McDowall,

pp. 19-21 (discussing among other things, Wabasha and stating, “I would hope that you will see fit to maintain the status of CD-2”). They also rely on their flawed analysis of the DEED website, but the DEED website includes all of both Rice and Wabasha Counties in Region 10.

The Anderson Plaintiffs further maintain that the location of karst in Minnesota justifies their plan. However, karst is located all along the Mississippi River, up to the Twin Cities.



Karst In Minnesota, Minnesota Pollution Control Agency, <https://www.pca.state.mn.us/water/karst-minnesota>. Accordingly, any county in all of southeast Minnesota could make an argument to be in CD 1 or CD 2 based on the location of karst. Northeast Rice County, which was excluded from the Anderson Plaintiffs’ CD 1, could make the same argument. The Anderson Plaintiffs’ flawed reliance on this karst

community of interest without the required reports, maps and census blocks underscores the important of compliance with the Panel's community of interest report requirements.

There is no persuasive evidence supporting the Anderson Plaintiffs' changes to CD 1. Adding only part of Rice County in order to keep all of Wabasha County in CD 1 was done to promote the Republican Party. The Anderson Plaintiffs rely on public testimony regarding CD 1, asserting that it supports their proposal for a plan that encompasses southwest Minnesota as well as southeast Minnesota. But the Anderson Plaintiffs ignore the testimony of multiple residents who encourage the Panel to separate the southwest area of Minnesota out of CD1: Testimony of Teresa O'Donnell-Ebner, (Oct. 21, 2021) ("CD-1 is wide and narrow. ... It takes me four hours to travel from my end of the district to the other. ... [K]eeping districts as convenient and as compact as possible is an important consideration."); Testimony of Christine DeVries (Oct. 21, 2021) ("In Fillmore County, we do not experience south Minnesota, an area reaching from the Mississippi across the western prairies to South Dakota, such as we see in the map of our current congressional district. For responses to issues and service to constituents, southeast Minnesota should be kept together."); Testimony of Julie Fryer, (Oct. 21, 2021) ("We do not feel that the western counties in our district; specifically, Rock, Nobles, Martin, Jackson, Watonwan, and Cottonwood, are similar enough to us in tourism interest to make them part of our alignment."). Thus, the public hearing testimony argument for many versions of CD 1 and CD 2 that are very different from what is presented by the Anderson Plaintiffs.

The Wattson Plaintiffs' plan would make Rice County whole on the basis of limiting political subdivision splits and achieving population equality. The Corrie Plaintiffs offered

the Declaration of Cecilio Palacio wherein she offered sworn testimony under oath arguing that Northfield and Faribault represent Latino communities that should not be separated. She testified that “Northfield and Faribault are cities in Southeast Minnesota that have seen significant growth in their Latino population over the last few decades. Northfield is partly in Rice County and leads the region in the number of Latino families establishing roots. Most of the Latino communities living in Northfield are on the Rice County side and not in Dakota County. The City of Faribault is also in Rice County and shares many resources and needs.” ¶ 7. Her sworn testimony offers support that including Northfield in CD 1 is convenient (*See* Minn. Const. Art. 4, § 3) and that including Northfield in CD 1 protects “the equal opportunity of racial, ethnic, and language minorities to participate in the political process and elect candidates of their choice, whether alone or in alliance with others.” Redistricting Principles Order, p. 6, ¶ 3. Accordingly, the “evidence” in this case supports including Northfield in CD 1.

2. The Sachs Plaintiffs Have Drawn Maps with the Purpose of Favoring the Democratic Party.

The Anderson Plaintiffs and the Sachs Plaintiffs entered this lawsuit with the stated intention of protecting and preserving the interests of their political parties. Anderson Complaint in Intervention, ¶ 10; Sachs Complaint, ¶ 6. If the congressional plan from either of them were adopted by this Panel, it would achieve that goal. While the Anderson Plaintiffs were less obvious in promoting their partisan goals, the Sachs Plaintiffs were not. They preserved the cores of prior districts at an average rate of only 78%. Wattson Affidavit II, Exhibit C-1. Focusing on the four most competitive congressional districts in the state

shows that the Sachs Plaintiffs have drawn maps with the purpose of favoring the Democratic Party.

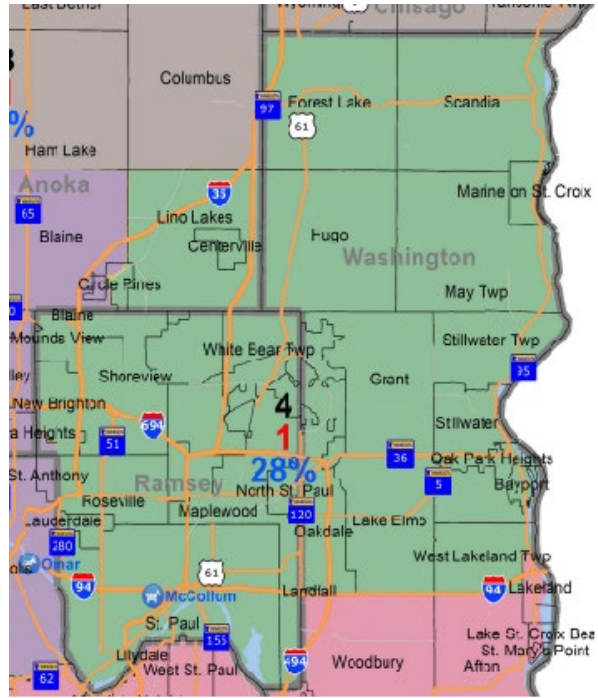
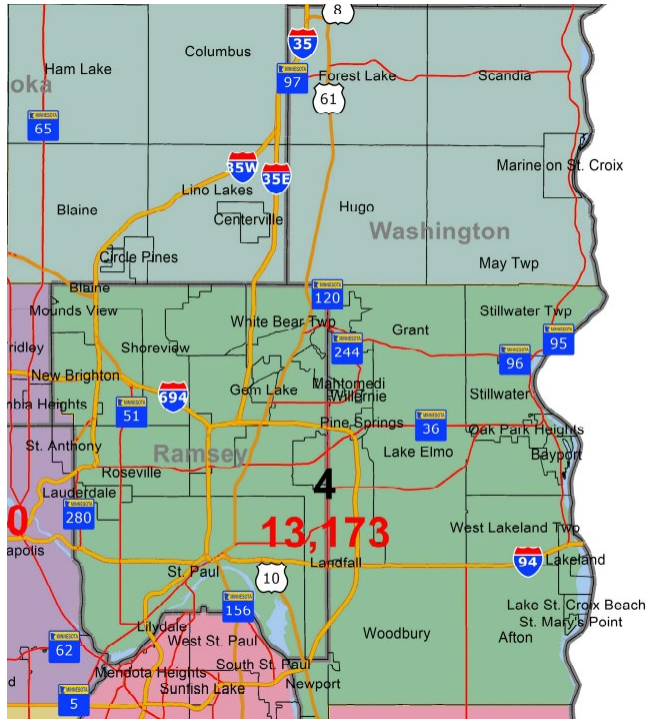
*a. The Sachs congressional plan shifts CD 2 from a competitive 2% Democratic lean to a strong 11% Democratic lean.*

The Sachs Plaintiffs' CD 2 shifts population around the entire Twin Cities metropolitan area in an effort to pull Democratic counties, cities and precincts into CD 2 and move Republican areas out.

CD 2 is overpopulated by 18,646 people. The Sachs Plaintiffs would remove all of Scott County and its population of 150,928 (12% Republican) from CD 2 to CD 6. They would also remove Wabasha County (population 21,387, 13% Republican) and Goodhue County (population 47,938, 9% Republican). Then, approximately 200,000 people short of an ideal district, the Sachs Plaintiffs would add Bloomington (population 89,997, 19% Democratic) and Richfield (population 36,994, 38% Democratic).

To achieve population equality, they also would make major adjustments to CD 4, all favoring the Democratic Party. Despite CD 4 being overpopulated, the Sachs Plaintiffs would add the cities of Forest Lake (population 20,611, 15% Republican), Scandia (population 3,984, 6% Republican), Hugo (population 15,766, 13% Republican), May Township (population 2,670, 3% Republican) and Marine on St. Croix (population 664, 41% Democratic). The current CD 4 is heavily Democratic (30%). Democrats in CD 4 would not be hurt by this influx of Republican cities and townships, reducing its Democratic lean by only 2% (30% to 28%). The current CD 4 (left) and Sachs' proposed CD 4 (right) are below.





Wattson Affidavit I, Exhibit H, p. 1; Wattson Affidavit II, Exhibit H-1. In the current districts shown on the left, these Republican cities and townships were formerly in CD 6, which is a heavily Republican district. Accordingly, losing these cities and townships would not hurt Republicans in CD 6 (currently leans 17% Republican). After adding this Republican territory to CD 4, the Sachs Plaintiffs then would shift from CD 4 to CD 2 the cities of Woodbury (population 75,082, 9% Democratic), Afton (population 2,955, 4% Democratic), Lake St. Croix Beach (population 1,050, 15% Democratic) and St. Mary's Point (population 346, 5% Democratic). The end result of all this shifting of population would be a CD 2 that would strongly favor Democrats (by 11%) and would no longer be competitive. It currently leans 2% towards Democrats. Wattson Affidavit II, Exhibit J.

The Sachs Plaintiffs rely almost entirely on the public comments received by the Panel to support their new CD 2, creating this illusion of unopposed support for their

districts. But, as discussed above, cherry-picking public testimony is not a redistricting principle ordered by this Panel. For each piece of transcript testimony that supports the Sachs Plaintiffs’ position, there is testimony that does the opposite. *See* October 15, 2021 Testimony of Mikki Murray, p. 25 (“And I actually speak in favor of retaining and recognizing the strength of the communities of interest that Woodbury has with Lake Elmo and Oakdale as opposed to Cottage Grove.”); October 11, 2021 Testimony of Christopher Johnson, p. 25 (Forest Lake resident stating, “But, being a resident of the northern part of the county, I guess, looking historically, we belong more with the communities to the north of us and down to Stillwater.”). Testimony of Christopher Brandt (Oct. 21, 2021) (“I think the current shape of the first district makes sense and should be maintained as much as possible. Our district is bordered on three sides by other states, which is a very logical boundary.”).<sup>2</sup>

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<sup>2</sup> There is a substantial amount of testimony that does not support the Sachs congressional plan, including: Testimony of Dory Shonagon (Oct. 13, 2021) (“[I]f you look at CD-3 ... it flows through all of Bloomington, which I’m glad, of course, that Bloomington is not split up, up into the western suburbs. And that, to me, is a natural flow. A lot of those communities are, I think, of a similar nature, which is why I say pull Edina in, but also keep those cities in with Bloomington instead of pulling Bloomington down into another CD.”); Testimony of Joe Ward (Oct. 11, 2021) (“We’re hearing a lot about communities of common interest. Woodbury is one. There are those who would slice, dice, and apportion this out based on political advantage. I urge your Honors not to do this. We need fair, competitive districts where people, live, work, and grow together. Woodbury has long been known as a swing district. Let’s keep it that way.”); Testimony of Mikki Murray (Oct. 15, 2021) (“So I actually speak in favor of not shifting Woodbury further to the south, which would probably be Congressional District 2 today, but to let it stay where it is because it is a very strong anchor within Congressional District 4.”); Testimony of Christopher Johnson (Oct. 11, 2021) (“And I’ve got to say that the sixth is the one that I’m really most concerned about, the splitting of the community.”).

Any party can cherry-pick from the substantial public testimony heard by the Panel. The Wattson Plaintiffs believe that this testimony is vitally important to this process and to the plans drawn by the Panel, but that the parties should not be using selected portions of this testimony to support their partisan maps.

The Sachs Plaintiffs have provided no evidence to support their partisan drawing of CD 2, which was clearly drawn to promote the Democratic Party and defeat the Republican Party.

*b. The Sachs' Plaintiffs also managed to make CD 3 much more favorable to the Democratic Party by shifting population from CD 5 to CD 3 and leaving CD 5 in the shape of a hammer or the letter "T."*

According to the Index created by the Wattson Plaintiffs, the Anderson Plaintiffs and the Wattson Plaintiffs would both create a CD 3 that leans towards Democrats by 9%. Wattson Affidavit II, Exhibits D-1, G-1 The Sachs Plaintiffs, on the other hand, would create a CD 3 that favors Democrats by 12%. Wattson Affidavit II, Exhibits D-1, H-1. Every change to CD 3 by the Sachs Plaintiffs would favor Democrats at the expense of Republicans. Despite the fact that CD 3 needs to shed population, the Sachs Plaintiffs would move the following Hennepin County cities from CD 5 into CD 3:

- Crystal (population 23,414, 26% Democratic);
- The portion of Edina currently in CD 5 (population 14,470, 19% Democratic);
- Golden Valley (population 22,552, 41% Democratic);
- Hopkins (population 19,097, 39% Democratic);
- New Hope (population 21,902, 27% Democratic);
- Robbinsdale (population 14,646, 40% Democratic); and
- St. Louis Park (population 50,010, 45% Democratic).

They would move the following cities or parts of cities from CD 3 into CD 5:

- Part of Brooklyn Park (population 33,029, 28% Democratic);
- Coon Rapids (population 63,599, 4% Democratic); and
- Bloomington (population 89,997, 19% Democratic).

Finally, they would move the following territory from CD 3 to CD 6:

- Laketown Township (population 1,963, 31% Republican);
- Dahlgren Township, P-2 (population 83, 26% Republican); and
- Victoria, P-3 (population 1,632, 21% Republican).

While it makes sense that CD 3 might become slightly more Democratic as it moves inward toward the Cities to fill the gap left by CD 5 contracting, the large number of people who were unnecessarily moved shows that this was not merely CD3 “naturally” becoming more Democratic as a consequence of CD 5 getting geographically smaller. The Wattson Plaintiffs’ plans (and Anderson Plaintiffs) illustrate this shift by both creating a CD 3 that leans 9% towards the Democratic party. It is not as if the Sachs Plaintiffs’ CD 3 served other legitimate state interests or relied on the redistricting principles ordered by the Panel. The net effect of these changes is that CD 5 is much less convenient. It is sandwiched between CD 3 and CD 4 and is shaped like a “T” or a hammer.

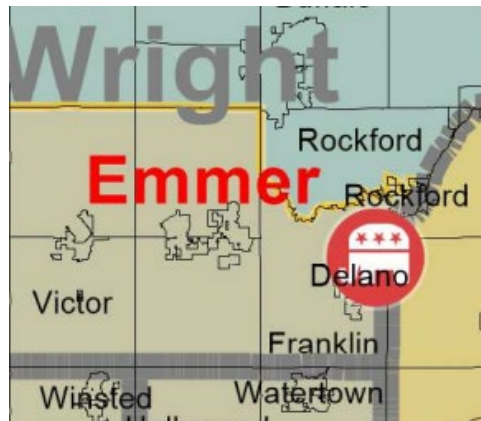
The Sachs Plaintiffs assert that their CD 3 would be “largely consistent with the enacted district.” Sachs Congressional Memorandum, p. 21. This is hardly the case. They cite three public hearing testimony excerpts and leave it at that. They do not note that CD 5 would no longer have Minnesota Highway 100 and U.S. Highway 169 to traverse the district north and south, which leaves only one main corridor, Interstate 35W, to travel through this densely populated district. CD 5 has become substantially less convenient.

They also fail to note or justify why Coon Rapids and Blaine have been moved from CD 3 and CD 6, respectively, into CD 5. No other evidence or justification is provided to

justify this new district. It was clearly drawn to protect the Democratic Party and defeat the Republican Party.

**C. The Corrie Plaintiffs’ plan pairs three Republicans in CD 7 and the Sachs Plaintiffs’ plan pairs two Republican incumbents in CD 6. These pairings violate the redistricting principles adopted by the Panel.**

The Corrie Plaintiffs’ congressional plan places three Republican members of Congress in CD 7. Wattson Affidavit II, Exhibit I-1. While the Corrie Plaintiffs do offer sworn affidavit testimony in support of their congressional map, this testimony relates to southwestern Minnesota and CD 7 (Declaration of Jovita Francisco) and the inclusion of northwestern Ramsey County in CD 3 (Declaration of Ngawang Dolker). They do not explain why Representative Emmer was removed from CD 6 (just barely) when the Corrie Plaintiffs split Wright County and placed approximately half of it in CD 6 and half of it in CD 7.



Wattson Affidavit II, Exhibit I-1.

The Sachs Plaintiffs paired two Republican incumbents and do not explain why Representative Michelle Fischbach of CD 7 was narrowly included in CD 6 by adding the town of Paynesville in Stearns County. The inclusion of Paynesville is merely justified on

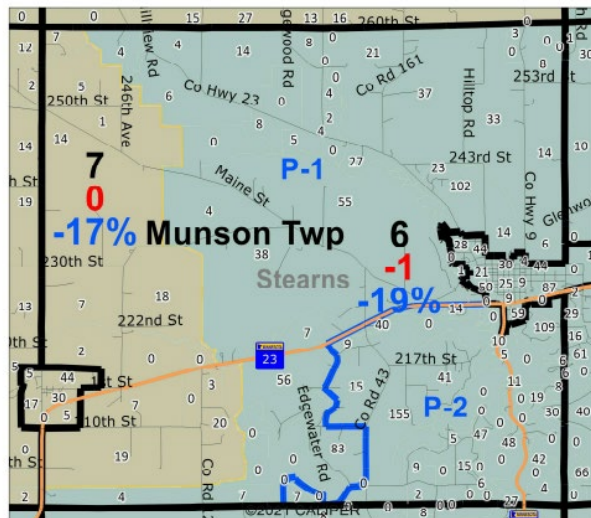
population equality grounds and could have easily been avoided. Sachs Congressional Memorandum, p. 12.



Wattson Affidavit II, Exhibit H-1.

The split by the Sachs Plaintiffs is especially troublesome considering they split a precinct in Munson, the town adjacent to Paynesville. That split could have just as easily occurred in Albany, Stearns County, which has a greater population than Munson and Michelle Fischbach's Paynesville and borders the Sachs Plaintiffs' proposed CD 6.

## Munson Twp P-1



Wattson Affidavit II, ¶ 15.

By just narrowly including Representative Emmer in CD 7 (Corrie Plaintiffs' Plan) and narrowly including Representative Fischbach in CD 6 (Sachs Plaintiffs' Plan), with no justification other than population, it is apparent that these pairings were done to defeat Republican incumbents.

#### **D. Partisanship reports of the parties.**

The Wattson Plaintiffs provided the Panel with descriptions of the Partisanship reports that it ran against its own plans and the Base Plan in its December 7, 2021 Memorandum to the Panel. This Memorandum will not repeat those arguments, but will remind the Panel what those measures were:

- *Districts with a plurality* shows the number of districts likely to be won by the Democratic and Republican parties under a plan.
- *Proportional seat gap* subtracts from the districts with a Plurality measure the number of seats the party would receive if it were proportional to the party's share of the statewide vote. The difference, if any, is the Gap, which may be positive or negative. The ideal is no Gap.
- *Competitive districts* are those that have an average historical winning margin of 8% or less.
- *Safe districts* are those that have an average historical winning margin of 20% or more.
- *Mean-Median Gap* measures the difference between the mean and the median vote for each party and compares the two parties to each other with a single number. The ideal is zero, with a positive number showing a bias in favor of Republicans and a negative number showing a bias in favor of Democrats.
- *Lopsided wins gap* measures the difference between the average winning margin in districts won by each party. A party whose average winning margin is higher than the other party may be wasting its votes, making it unable to

win as many districts. The ideal is zero, with a positive number showing a bias in favor of Republicans and a negative number showing a bias in favor of Democrats.

- *Declination* measures partisan bias by comparing on a graph the vote totals with which a party loses or wins each district. The ideal is zero, with a positive number showing a bias in favor of Republicans and a negative number showing a bias in favor of Democrats.
- *Efficiency Gap* is a measure of the number of votes for the candidates of each party that are “wasted.” “Wasted” votes are those cast for a losing candidate and those cast for a winning candidate in excess of the number necessary to win. The ideal is zero, with a positive number showing a bias in favor of Republicans and a negative number showing a bias in favor of Democrats.

A chart showing the Partisanship report results for all the parties’ congressional plans using the Wattson Plaintiffs’ Index of statewide elections (51% Democratic and 44% Republican) is below.

<b>Partisanship</b>	<i>Hippert</i> Plan (Base Map)	Wattson	Anderson	Sachs	Corrie
Districts with a Plurality	Rep: 4 Dem: 4	Rep: 4 Dem: 4	Rep: 4 Dem: 4	Rep: 4 Dem: 4	Rep: 4 Dem: 4
Proportional Seat Gap	Rep. +1	Rep. +1	Rep. +1	Rep. +1	Rep. +1
Competitive Districts	4	3	3	2	3
Safe Districts	2	2	2	2	2
Mean-Median Gap	7%	6%	7%	3%	4%
Lopsided Wins Gap	13%	14%	14%	14%	14%
Declination	16%	17%	17%	17%	17%
Efficiency Gap	9%	10%	10%	10%	10%

Wattson Affidavit II, Exhibit A, D-1.



Positive numbers in the last four measures indicate Republican bias. The Anderson Plaintiffs’ plan is slightly more Republican than the Wattson Plaintiffs’ plan according to the Mean-Median gap, and the Sachs Plaintiffs’ plan and Corrie Plaintiffs’ plan are more favorable to Democrats than the Wattson Plaintiffs’ Plan. As discussed above, the partisan bias in these plans is made apparent when looking at specific counties, cities and precincts shifted by the parties in drawing their congressional plans.

While the Anderson Plaintiffs’ plan is slightly more Republican than the Wattson Plaintiffs’ Plan, no plan should become *more* Republican when the overpopulated districts are overwhelmingly districts that favor Democrats, meaning population needs to move out of these Democratic districts and into the more rural, Republican leaning districts.

District	Population	Deviation	% Devn.
1	690,726	-22,586	-3.17%
2	731,958	18,646	2.61%
3	737,523	24,211	3.39%
4	726,485	13,173	1.85%
5	736,022	22,710	3.18%
6	734,359	21,047	2.95%
7	673,484	-39,828	-5.58%
8	675,937	-37,375	-5.24%
<b>State Total:</b>	<b>5,706,494</b>		

The population growth in the state occurred in the Safe Democratic CD 4 and CD 5 (+35,883), the strong Democratic CD 3 (+24,211) and the competitive Democratic CD 2 (+18,646). Republican districts have gained only in the strong CD 6 (+21,047) and have lost in the strong CD 7 (-39,828) and competitive CD 1 and CD 8 (-59,961). The Republican advantage shown by the Partisan measures above should not be exacerbated by any plan.

#### IV. LEGISLATIVE PLANS.

##### A. **By not splitting precincts, the Wattson Plaintiffs maintain a high average core of prior district and provide a significant benefit to Minnesotans.**

While splitting precincts can at times be necessary, minimizing precinct splits provides a significant benefit to the local governments that have drawn precinct boundaries with convenience, communities, and other local interests in mind. A review of the other parties' plans shows that the Anderson Plaintiffs, the Sachs Plaintiffs, and the Corrie Plaintiffs made little to no effort to preserve precincts. Precinct boundaries are created with the intent of making voting convenient for the public. *See* Affidavit of Joseph Mansky, ¶ 5 (“my goal was to create precinct boundaries that eliminated to the greatest extent possible the need for the voters, in particular elderly and disabled voters, from having to cross a freeway, arterial street, railroad track or major body of water in order to reach their polling place”). Accordingly, as convenience is a constitutional requirement and a redistricting principle in this case, the Wattson Plaintiffs' senate and house plans intentionally minimizes precinct splits.

Leaving precincts intact also helps to preserve communities, including minority communities. *See id.*, ¶ 6. (“To maintain the integrity of the communities of interest in the City of Saint Paul, I sought to the greatest extent possible to create precinct boundaries that were coterminous with the 17 district council boundaries, which define Saint Paul's neighborhoods.”). Preserving these communities in St. Paul, which has a minority population that exceeds 40% of total population, will protect the equal opportunity of racial, ethnic, and language minorities to participate in the political process and elect

candidates of their choice, whether alone or in alliance with others. *See* Redistricting Principles Order, p. 6.

Because convenience is a constitutional requirement and a redistricting principle in this case, the Wattson Plaintiffs' senate plan splits only one precinct and their house plan splits only 28. And while the Panel did not mandate that precinct splits be minimized; the Panel did mandate that the parties report their precinct splits in the Political Subdivision Splits report. A review of those reports shows that the Anderson Plaintiffs, the Sachs Plaintiffs, and the Corrie Plaintiffs made little to no effort to preserve precincts.

The other parties' willingness to divide precinct boundaries in the cities of Minneapolis and St. Paul defies their purported interest in creating convenient districts that promote minority opportunities and naturally preserve communities of interest. The Minneapolis City Charter establishes the process of establishing convenient precinct boundaries in Minneapolis:

“For the convenient administration of elections, the City Council must divide each ward into precincts and designate a polling place in each precinct. Each precinct must lie wholly within a single ward and park district.” Minneapolis City Charter, § 2.4

“If the Commission reestablishes ward boundaries before the legislature has been redistricted, the ward boundaries may be modified after the legislature has been redistricted for the purpose of establishing precinct boundaries. If ward boundaries are modified, the Commission will determine whether any additional hearings will be held to consider the modifications.” 2.2(c)(3)(B).

The Minneapolis Charter Commission and Redistricting Advisory Group created principles for redistricting for the City of Minneapolis.<sup>3</sup> Included in these principles is the following:

The Redistricting Group shall receive support from the Department of Neighborhood & Community Relations and the Race & Equity office at the inception of the redistricting planning and throughout the entire process. A comprehensive outreach, education, and engagement strategy will be developed and disseminated across the City to inform and involve residents. The City of Minneapolis commits to implementing an authentic community engagement strategy which includes cultivated cultural competency, inclusive meetings, and follow-through.

Accordingly, the Redistricting Group will preserve communities of interest in one ward whenever possible. In addition, the city of Minneapolis appoints an “Advisory Group who will bring a diverse perspective to the Redistricting Group, are active residents, have knowledge of the many communities within the city, and will serve on a non-partisan basis.” These Advisory Group members “participate on an equal basis with members of the Charter Commission in discussing and drawing proposed maps for the redistricting of Minneapolis Wards and Park Districts.”<sup>4</sup>

St. Paul has established a ward redistricting process similar to the legislative and congressional redistricting processes. On October 14, 2020, the city of St. Paul adopted “a

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<sup>3</sup> Redistricting Process Timeline, City of Minneapolis, <https://www.minneapolismn.gov/government/programs-initiatives/redistricting/redistricting-process/>.

<sup>4</sup>Redistricting Principles, City of Minneapolis, <https://www.minneapolismn.gov/government/programsinitatives/redistricting/redistricting-process/redistricting-principles/>

resolution providing standards for redistricting in 2021.” Wattson Affidavit, Exhibit K. Requirements include population equality, compactness, contiguity, and the use of block population census data. The following requirements are also included:

Recognizable physical features. Ward boundaries should follow clearly recognizable physical features that are easily identifiable by the voters, including but not limited to freeways, arterial or commercial streets, railroad tracks, and bodies of water.

Communities of interest. The location of ward boundaries should attempt to preserve neighborhoods where they exist; recognize new and emerging neighborhoods resulting from development, population growth or demographic changes; and encompass other significant communities of interest in the city, including voters sharing similar social, economic and cultural affinities or characteristics, where it is practicable to do so. Downtown does not necessarily need to be considered one neighborhood.

Promote civic participation. Where it is practicable to do so, ward boundaries should be designed in a manner that encourages civic participation and fosters civic identity, including voting, participation in public school activities and engagement in other civic activities that unite the community.

The creation of ward boundaries should not be used to favor one candidate, political party or political philosophy over any other.

Wattson Affidavit, Exhibit K.

Other major cities in this state have likewise codified ward redistricting processes that follow the legislative and congressional redistricting processes, including Rochester (City Charter, Section 1.02); and St. Cloud (Home Rule Charter of the City of St. Cloud, Section 1.40).

Precinct boundaries are nested within ward boundaries. The nesting of precincts into wards is made apparent in the Plan Components report and Political Subdivision Splits

report provided to the Panel. For example, all precincts in Fridley, Coon Rapids, Bloomington, Brooklyn Park, Rochester, Plymouth, Richfield, St. Louis Park, Brainerd, St. Cloud and many others begin with a ward number (e.g., Plymouth W-1 P-5). In Minneapolis, the nesting of precincts into wards is required pursuant to City Charter. Minneapolis City Charter, § 2.4. When precinct boundaries are divided, the wards that have been drawn by these local governments will also likely need to be divided. These ward boundaries are drawn by local elected officials with significant attention to communities and convenience. And as Joseph Mansky testified, the precincts nested within these wards are also drawn with great care and an eye towards preserving communities and providing convenience. *See* Mansky Affidavit, ¶¶ 5, 6. The time, effort and knowledge previously utilized in drawing precinct and ward boundaries is an asset that can be used by this Panel.

Because precincts must be nested in legislative districts pursuant to Minn. Stat. § 204B.14, subd. 3(f), and precincts are also nested in wards, if a district line divides a precinct or ward, that ward can no longer remain whole. Whether communities were intentionally included within a ward for convenience or due to their minority or socioeconomic status, those reasons must take a back seat to the district lines drawn by this Panel.

The other parties fail to give consideration to these established precinct and ward boundaries. Instead, in their senate plans, the Anderson Plaintiffs divided 98 precincts, the Sachs Plaintiffs divided 56 and the Corrie Plaintiffs divided 229. The Wattson Plaintiffs, however, only divided one. In their house plans, the Anderson Plaintiffs divided 187, the

Sachs Plaintiffs divided 113 and the Corrie Plaintiffs divided 357. The Wattson Plaintiffs divided only 28.<sup>5</sup>

In their senate plan, the Anderson Plaintiffs split 23 precincts in Minneapolis, 8 in St. Paul, 8 in St. Cloud and 3 in Rochester. In their house plan, the Anderson Plaintiff split 29 precincts in Minneapolis, 18 in St. Paul, 8 in St. Cloud, and 11 in Rochester. In their senate plan, the Sachs plaintiffs split 10 precincts in Minneapolis, 6 in St. Paul, and 3 in Rochester, and in their house plan they split 18 precincts in Minneapolis, 11 in St. Paul, and 5 in Rochester. In their senate plan, the Corrie Plaintiffs split 24 precincts in Minneapolis, 11 in St. Paul, and 8 in Rochester. In their house plan they split 33 precincts in Minneapolis, 20 in St. Paul, 7 in Bloomington, 10 in Brooklyn Park, and 12 in Rochester. These splits were not justified on any specific ground and go far beyond what is required to bring every district's population deviation to within 2% of the ideal.

The Wattson Plaintiffs' deviations are within the Panel's 2% limit and serve the important state purpose of allowing local officials to have discretion and autonomy in how they draw their wards and precincts. The Wattson Plaintiffs were able to minimize precinct splits while staying competitive with the parties in all relevant measures while exceeding the other parties in several.

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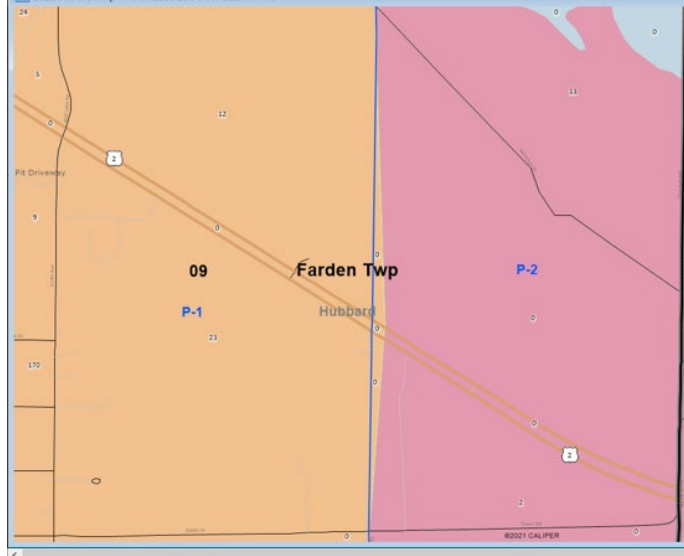
<sup>5</sup> For unknown reasons, the Corrie Plaintiffs Political Subdivision splits report did not capture all of the precinct splits. The senate political subdivision reports shows 140 splits when there are actually 229. Their house political subdivision report shows only 236 precincts split when there are actually 357. Declaration of Amy Erickson in Support of Corrie Plaintiffs Legislative Redistricting Plan, Exhibit D. The Wattson Plaintiffs provided a new political subdivision splits report in Wattson Affidavit II, Exhibit F.

**B. The maps of the parties who were not mindful of precinct splits have significant errors.**

Despite all their efforts, the maps of the parties who were not mindful of precinct splits have significant errors that will create administrative burdens for local governments around the state. The Anderson, Sachs and Corrie Plaintiffs created numerous precinct splits that did not even involve population. In their senate plans, the Anderson Plaintiffs have 24, the Sachs Plaintiffs have 11 and the Corrie Plaintiffs have 95. In their house plans, The Anderson Plaintiffs have 47, the Sachs Plaintiffs have 22, and the Corrie Plaintiffs have 132. Wattson Affidavit II, Exhibit F. Between both plans, the Wattson Plaintiffs have only one (an unpopulated block on the east side of MN 22, which is the eastern boundary of the Mankato house District). Some of the zero population splits are justified, such as when a non-contiguous, unpopulated portion of a city or township is surrounded by the adjacent city or township and the district includes them both. The Wattson Plaintiffs reviewed a sampling of these precinct splits with no population to provide the Panel with insight as to how these can impact local governments and show that working too much at the block level increases the chances of making these errors when making assignments.

The first example is from Farden Township in Hubbard County in the Sachs Plaintiffs' proposed senate plan. The map image of Farden Township shown below demonstrates how the precinct was split when an assignment was made at the block level, taking into SD 9 three no-population blocks east of the P-2 precinct boundary.

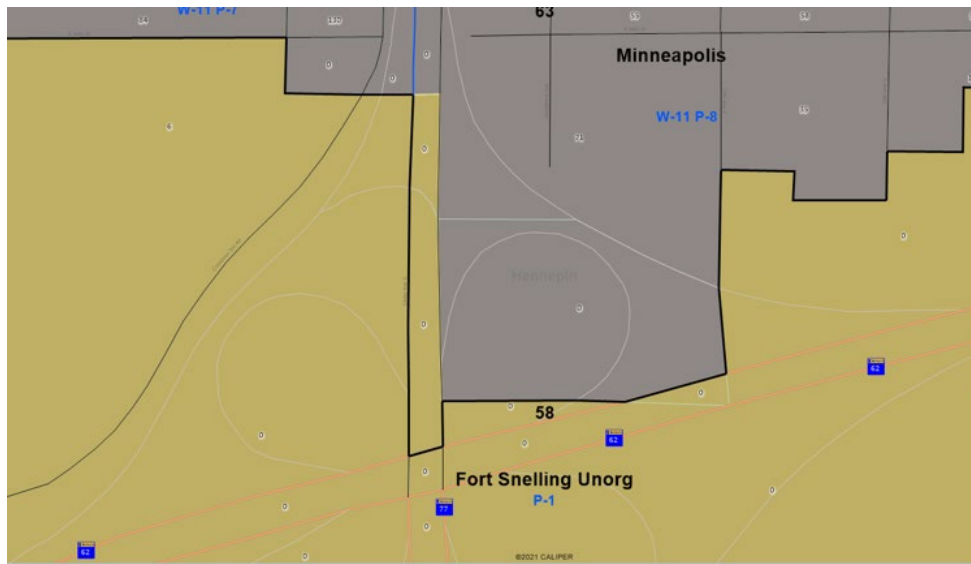


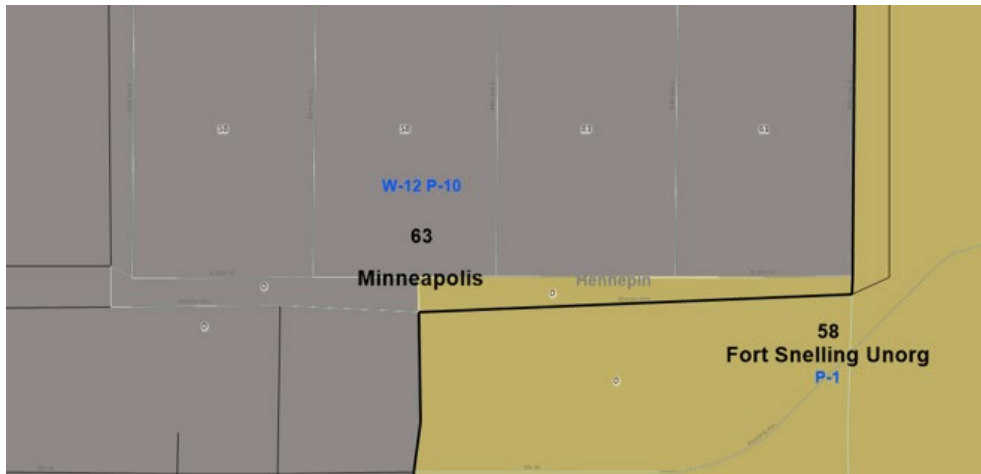


The following satellite image of Farden Township shows no identifiable physical feature that forms the block boundaries. If the district were enacted as the Sachs Plaintiffs propose, the township would be obligated under Minn. Stat. § 204B.14, subd. 3(f) to adopt an ordinance shifting the precinct boundary to conform to the district boundary. In the alternative, the township could apply to the Secretary of State for correction of a boundary error under Minn. Stat. § 2.91, subd. 2.



The images below of the Sachs Plaintiffs' SD 58 in Fort Snelling and SD 63 in Minneapolis show two precinct that were presumably split when making assignments at the block level. These splits mistakenly added to the Fort Snelling SD 58 two unpopulated blocks of Ward 11, Precinct 8 and one unpopulated block of Ward 12, Precinct 10 in Minneapolis. They should have been left in SD 63. Under the statutes cited above, Minneapolis would be required to create a new precinct (or two) to encompass those three unpopulated blocks in SD 58 or, in the alternative, could apply to the Secretary of State for a boundary error correction.





These three errors are based on only a small sample from the plans of one party, the Sachs Plaintiffs. The sample provides evidence that drawing at the block level results in errors and should be done only when necessary. Preserving precincts, as the Wattson Plaintiffs have done, prevents these errors and creates districts that are more convenient, keeps communities together and defers to the thousands of local governments that have previously determined where to logically create a boundary.

**C. Despite splitting only one precinct in the senate and 28 in the house, the Wattson Plaintiffs were able to meet and exceed the other parties in compliance with redistricting principles.**

The Wattson Plaintiffs' senate and house plans show that a plan can be drawn that complies with all the Panel's redistricting principles while also preserving precincts.

1. The Anderson Plaintiffs' districts are not convenient or contiguous.

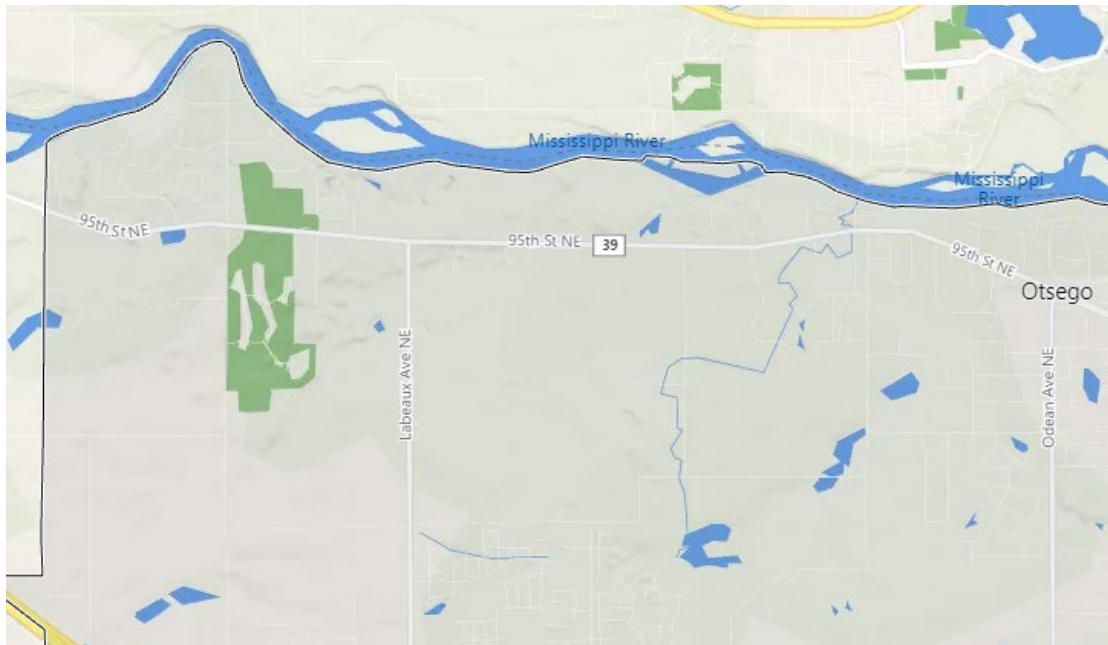
The Anderson Plaintiffs ask the Panel to adopt their Legislative plan in its entirety, but their plan is unconstitutional because it contains three districts that are not contiguous. They claim that all their legislative districts are convenient because "they are within reach and easily accessible." Anderson Legislative Memorandum, p. 22. They assert, "This

convenience is assured by the Anderson Plaintiffs’ focus on the preservation of political subdivisions and consideration of existing roadways and highway in drawing district lines.” *Id.* However, not only is this alleged “focus” not supported by any evidence whatsoever (they have not even disclosed who drew their map!), but also their arguments of convenience are not supported by their map.

*Senate District 29*

Under the Panel’s redistricting principles, “Contiguity by water is sufficient if the body of water does not pose a serious obstacle to travel within the district.” Redistricting Principles Order, p. 6-7. The Anderson Plaintiffs SD 29 is separated by the Mississippi River and cannot be crossed within the district. The district, in blue, is below, followed by a zoom in to show the lack of even a local street crossing the river within the district.



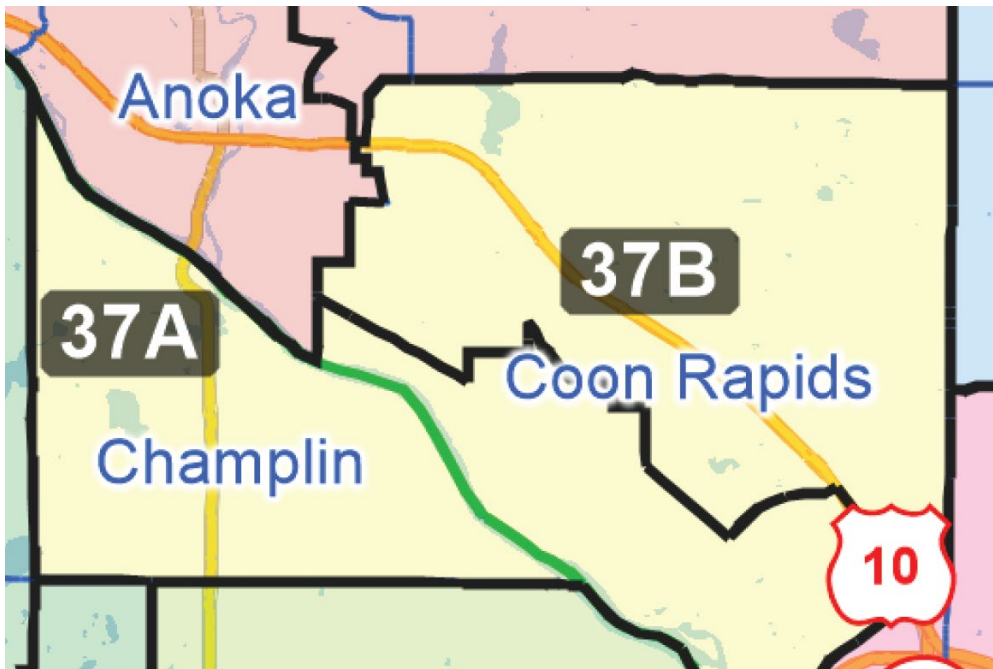
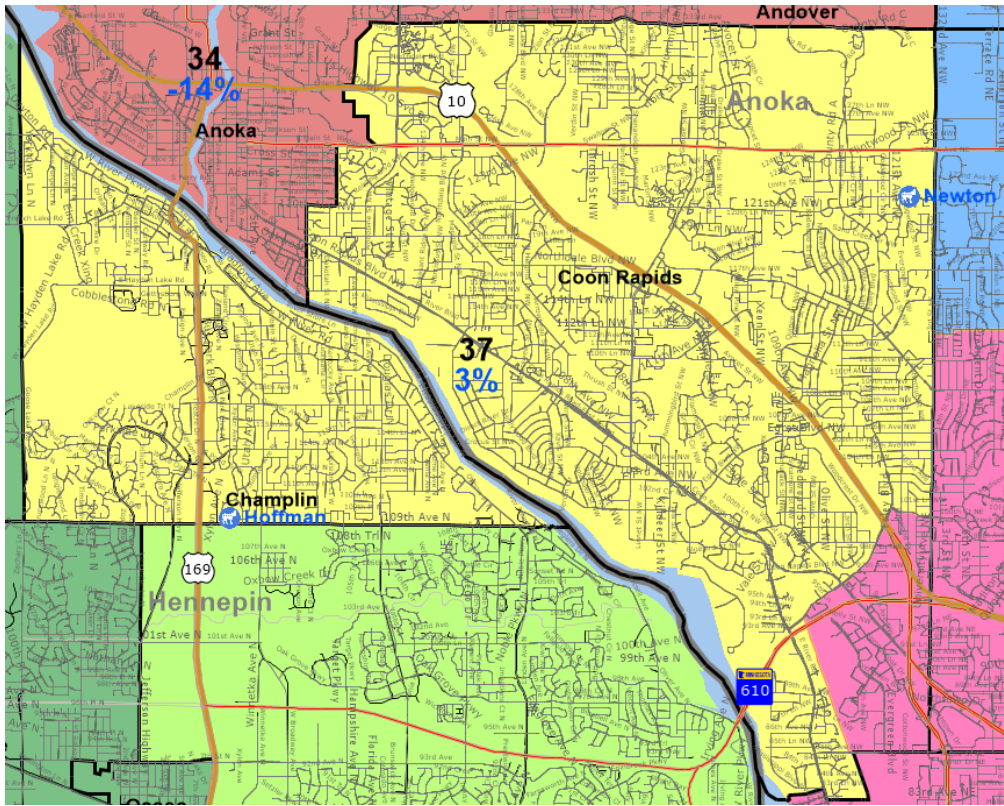


The map above shows there are no bridges or other modes of travel over the river. SD 29 in the Anderson Plaintiffs' legislative plan is not contiguous or convenient and is, therefore, unconstitutional. Minn. Const. Art. IV, § 3.

*House District 37A and Senate District 37.*

Like SD 29, the Anderson Plaintiffs' SD 37 and HD 37A are not contiguous or convenient.

These districts are divided by the Mississippi River with no bridge or mode of travel available to cross the river. Maps of SD 37 and HD 37A are below.



SD 37 and HD 37A in the Anderson Plaintiffs’ legislative plan are unconstitutional. Minn. Const. Art. IV, § 3. This Panel cannot, under the laws of this state, adopt the legislative plan presented by the Anderson Plaintiffs.

Rectifying this constitutional deficiency without a wholesale redrawing of the entire map will likely require splits of numerous counties, cities and towns to meet population and other requirements. Thus, the Anderson Plaintiffs’ plan will require more splits than are shown in the Political Subdivision Splits Report in order to remedy the constitutional violations in these three districts.

2. The Wattson Plaintiffs’ plans achieve significant minority representation while still preserving the minority communities within the ward and precinct areas created by local officials.

The Wattson Plaintiffs’ senate plan creates as many minority-majority districts as any other parties’ plan. The statistics for each party using 2020 Census Data (the Base Plan), as well as those for the 2002 panel, 2012 panel and the *Hippert* panel’s map, are shown below:

	2002 Court	2012 Court	2020 PW LBase202	2022 PW L10	2022 Anderson L	2022 Sachs L	2022 Corrie L
<b>Minority Districts -Voting Age Population</b>							
SENATE DISTRICTS							
Majority-Minority Districts	2	1	4	4	4	3	5
Minority-Opportunity Districts	3	6	9	10	9	9	10
Largest total minority population	53.9%	53.5%	62.1%	62.6%	61.6%	62.6%	63.5%
Largest Black population	35.7%	34.6%	30.1%	30.6%	29.2%	31.6%	32.6%
Largest Asian population	11.6%	19.2%	30.1%	30.5%	30.1%	30.5%	32.3%
Largest Hispanic population	18.4%	20.8%	18.4%	17.9%	18.8%	16.1%	19.1%
Largest American Indian population	12.0%	14.0%	12.0%	11.0%	8.0%	18.0%	18.0%

The Anderson Plaintiffs' minority representation measures do not achieve the level of representation that the plans submitted by the other parties do. They only have nine minority-opportunity districts as opposed to the 10 created by the plan submitted by the Wattson Plaintiffs and the Corrie Plaintiffs. Further, they are the only party to not create a district with a 30% Black voting-age population, and their plan is the lowest in terms of largest total minority population, largest Asian population and largest American Indian population. Accordingly, the Anderson Plaintiffs' senate plan is the most deficient in terms of minority representation among all of the parties.

In contrast, the Wattson Plaintiffs' plan, which would only split one precinct in the senate, achieves the second highest majority-minority districts (4, one less than the Corrie Plaintiffs) and ties for the most minority-opportunity districts (10, like the Corrie Plaintiffs).

Likewise, the Anderson Plaintiffs' house plan measures are not as competitive as the plans submitted by the other parties. The house statistics for each party using 2020 Census Data (the Base Plan), as well as those for the 2002 panel, 2012 panel and the *Hippert* panel's map using 2020 Census data, are shown below:



	2002 Court	2012 Court	2020 PW LBase202	2022 PW L10	2022 Anderson L	2022 Sachs L	2022 Corrie L
<b>Minority Districts -Voting Age Population</b>							
HOUSE DISTRICTS							
Majority-Minority Districts	4	5	8	9	9	9	9
Minority-Opportunity Districts	9	13	20	21	18	24	24
Largest total minority population	66.1%	56.4%	65.5%	66.8%	64.6%	65.7%	65.4%
Largest Black population	45.8%	35.2%	36.1%	35.5%	35.1%	33.1%	34.9%
Largest Asian population	19.8%	23.1%	34.5%	35.4%	33.5%	34.6%	35.1%
Largest Hispanic population	19.0%	21.5%	19.2%	27.3%	26.4%	24.2%	20.9%
Largest American Indian population	15.0%	16.0%	15.0%	21.0%	14.0%	21.0%	32.0%

The Anderson Plaintiffs’ claim that their legislative plan “results in more minority-opportunity districts that the current legislative map.” Anderson Legislative Memorandum, p. 15. This is not the case. The map currently in place, using 2020 Census data, has nine minority-opportunity senate districts and 20 minority-opportunity house districts, for a total of 29 minority-opportunity districts. The Anderson Plaintiffs’ plan actually decreased the number of minority-opportunity house districts from 20 to 18 and has the same number of minority-opportunity senate districts at nine. Thus, the Anderson Plaintiffs have 27 minority-opportunity districts to the current map’s 29, potentially diluting the ability of minority voters to elect candidates of their choice. In contrast, the minority-opportunity districts under the plans of all of the other parties increased. The Anderson Plaintiffs’ house plan also measures lowest in terms of largest minority population, largest Asian population, and largest American Indian population. The Anderson Plaintiffs’ plan does not serve Minnesota’s minority communities well.

Despite splitting only 28 precincts, the Wattson Plaintiffs’ house plan ties for the most majority-minority districts (nine) and has the largest total minority voting-age

population in a district (66.8% in HD 67A), the largest Black voting-age population in a district (35.5% in HD 62A), the largest Asian voting-age population in a district (35.4% in HD 67A) and the largest Hispanic voting-age population in a district (27.3% in HD 62B).

The Anderson Plaintiffs attempt to create a new measure for minority-opportunity districts, focusing on “minority opportunity districts based on total population.” Anderson Legislative Memorandum, p. 16. However, total population has no applicability to the Voting Rights Act. Instead, the Voting Rights Act focuses on voting-age population. *See Thornburg v. Gingles*, 478 U.S. 30, 47 (1986) (“This Court has long recognized that multimember districts and at-large voting schemes may ‘operate to minimize or cancel out the voting strength of racial [minorities in] the voting population.’”); *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 436 (2006) (discussing “the proportionality inquiry, comparing the percentage of total districts that are Latino opportunity districts with the Latino share of the citizen voting-age population.”). The voting-age population is the relevant measure, and the Anderson Plaintiffs’ attempt to conflate total population and voting-age population should be disregarded.

The Wattson Plaintiffs’ house and senate plans achieve high minority representation while also allowing cities like Minneapolis to “[implement] an authentic community engagement strategy which includes cultivated cultural competency, inclusive meetings, and follow-through”<sup>6</sup> and St. Paul to draw boundaries that “follow clearly recognizable

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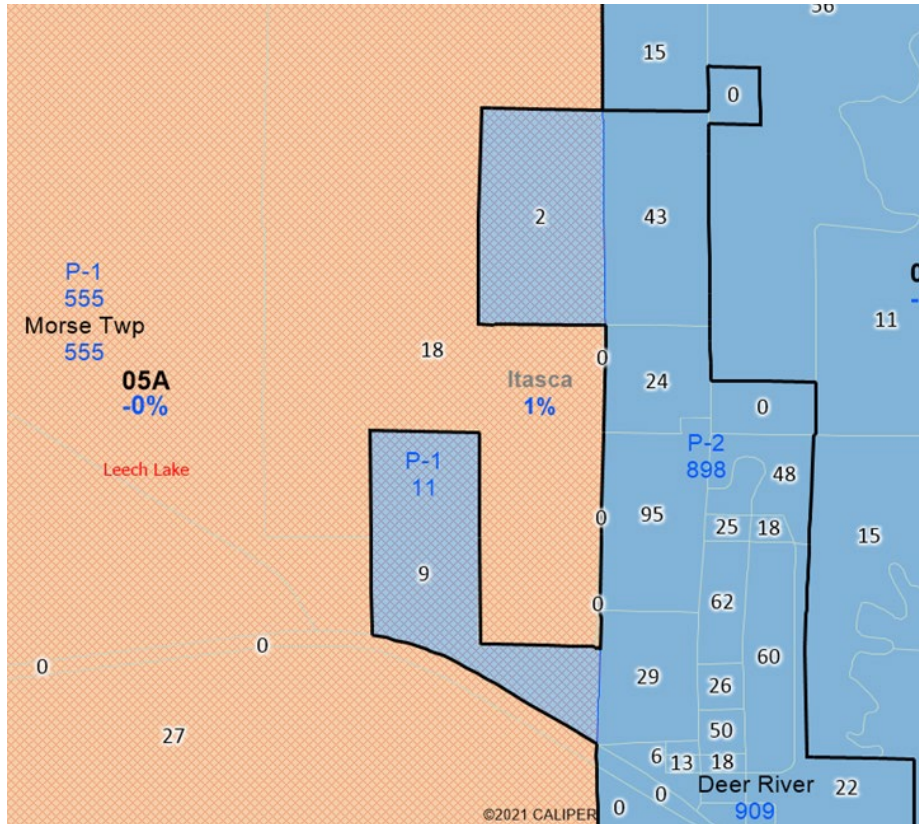
<sup>6</sup> Redistricting Process Timeline, City of Minneapolis, <https://www.minneapolismn.gov/government/programs-initiatives/redistricting/redistricting-process/>.

physical features that are easily identifiable by the voters” and “preserve neighborhoods where they exist.” Wattson Affidavit II, Exhibit K. The Wattson Plaintiffs’ plan is the only plan that achieves both of these outcomes of maximizing minority representation and deferring to local community interests.

3. The Wattson Plaintiffs were able to preserve American Indian reservations while still preserving precincts.

The Wattson Plaintiffs did not divide any populations within contiguous American Indian reservations and still managed to minimize precinct splits. They also managed to keep all portions of the Bois Forte reservation in HD 2A, whereas the Anderson Plaintiffs and the Sachs Plaintiffs divided the non-contiguous portions of this reservation. The Anderson Plaintiffs divided the American Indian reservations in northwestern Minnesota among SD 2 (Red Lake), SD 4 (White Earth), and SD 5 (Leech Lake). This unnecessary division minimizes the ability of American Indians to participate in the political process and elect candidates of their choice, whether alone or in alliance with others. Redistricting Principles Order, p. 6. The Wattson Plaintiffs encompass these American Indian reservations within two senate and house districts (HD 4A and HD 5A). The Sachs Plaintiffs encompass them in one senate district and two house districts (HD 2A and HD 2B).

The Anderson Plaintiffs also split 11 people from the Leach Lake reservation “in order to avoid splitting a political subdivision.” Anderson Legislative Memorandum, p. 19. These 11 individuals separated from their reservation and community are shown below.



Political subdivision can be split in order to comply with the constitution. Minn. Stat. § 2.91. The Wattson Plaintiffs believe that the Anderson Plaintiffs should have divided the City of Deer River on the constitutional requirement of convenience and included these 11 people with the rest of the Leech Lake American Indian reservation. Instead, the Anderson Plaintiffs surrounded them by HD 5A but left them in district 5B to minimize political subdivision splits.

The Corrie Plaintiffs include all the American Indian reservations in northwest Minnesota in one house district, but this district splits three counties, 15 minor civil divisions and 18 precincts and fails for lack of convenience and division of political subdivision under Minn. Stat. § 2.91. The Corrie Plaintiffs' HD 2B is below.



4. The Wattson Plaintiffs only divided political subdivisions when necessary to meet constitutional requirements.

The number of political subdivision splits by the Wattson Plaintiffs is similar to that of the *Hippert* panel, which split 39 counties and 41 county sub-divisions in their senate plan. The Wattson Plaintiffs split 45 counties and 38 county sub-divisions in their senate plan. While the Anderson Plaintiffs and Sachs Plaintiffs split a somewhat lower 33 counties in their senate plan, the number of times counties are split is very close among the three parties, with the Wattson Plaintiffs splitting counties 97 times, the Anderson Plaintiffs 91 times and the Sachs Plaintiffs 85 times. The Sachs and Anderson Plaintiffs also split a slightly lower 31 and 36 county sub-divisions in their senate plans as compared to the Wattson Plaintiffs' 38, but they split these county sub-divisions 40 times (Anderson Plaintiffs) and 51 times (Sachs Plaintiffs), as compared to the Wattson Plaintiffs' 47 times. The Corrie Plaintiffs split one more county (46) than the Wattson Plaintiffs and substantially more county sub-divisions (129).

With respect to the house plans, the Anderson Plaintiffs split less political subdivisions than the rest of the parties, but once they split a political subdivision, they were much more likely to split it multiple time.<sup>7</sup> The Wattson Plaintiffs house plans were comparable to the Sachs Plaintiffs' plans as far as political subdivisions, and the Wattson Plaintiffs had significantly less splits than the Corrie Plaintiffs. While the Wattson

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<sup>7</sup> The political subdivision splits in the Anderson Plaintiffs' plans will increase to remedy their noncontiguous districts discussed above.

Plaintiffs’ political subdivision splits in their senate and house plan are comparable to the other parties, all the other parties split substantially more precincts.

5. The Wattson Plaintiffs’ districts are compact.

The Wattson Plaintiffs’ senate districts are the most compact among the parties in each category. The compactness score for the parties’ senate plans using 2020 Census Data (the Base Plan), as well as those for the 2002 panel, 2012 panel and the *Hippert* panel’s Base map as used for the 2020 election, are shown below:<sup>8</sup>

	2002 Court	2012 Court	2020 PW LBase202	2022 PW L10	2022 Anderson L	2022 Sachs L	2022 Corrie L
<b>Compactness</b>							
SENATE DISTRICTS							
Reock Mean (higher is better)	.44	.45	.45	.45	.42	.43	.44
Polsby-Popper Mean (higher is better)	.41	.41	.41	.40	.40	.37	.39
Convex Hull (higher is better)	.79	.80	.80	.79	.78	.78	.79
Population Polygon (higher is better)	.76	.77	.77	.76	.76	.76	.76
Population Circle (higher is better)	.45	.49	.49	.48	.44	.44	.46

The Wattson Plaintiffs’ house districts are slightly less compact than the others, but that is the result of minimizing precinct splits, which, as stated above, makes districts more convenient and increases minority representation as determined by local community leaders. The compactness score for the parties’ house plans, as well as those for the 2002 panel, 2012 panel and the *Hippert* panel’s Base map, are shown below:

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<sup>8</sup> The Hippert Panels map has changed since 2012 due to boundary corrections and annexations which is why its compactness scores are slightly different than they were in 2012

	2002 Court	2012 Court	2020 PW LBase202	2022 PW L10	2022 Anderson L	2022 Sachs L	2022 Corrie L
HOUSE DISTRICTS							
Reock Mean (higher is better)	.44	.44	.44	.42	.44	.43	.45
Polsby-Popper Mean (higher is better)	.42	.41	.41	.38	.43	.39	.41
Convex Hull (higher is better)	.80	.79	.79	.77	.80	.78	.79
Population Polygon (higher is better)	.76	.75	.75	.73	.78	.75	.76
Population Circle (higher is better)	.45	.45	.45	.43	.45	.44	.45

Overall, the Wattson Plaintiffs’ legislative districts are compact.

6. The Anderson Plaintiffs and Sachs Plaintiffs rely on broad, subjective claims of communities of interest to support their legislative districts and selective testimony from the Panel’s public hearings.

Similar to their proffered justification for their congressional plan, the Anderson Plaintiffs and the Sachs Plaintiffs pick and choose public hearing testimony excerpts and rely on subjective and undefined communities of interest to justify their legislative district plans. While the Sachs Plaintiffs provide some community of interest reports, they admit that they are just to “highlight a few regions.” Sachs Legislative Memorandum, p. 34. The Sachs Plaintiffs even acknowledge that some of the communities of interest they rely on are “the more broadly defined communities of interest by maintaining the distinction between predominantly urban and rural areas in Greater Minnesota, in order to recognize the unique interests of the communities.” *Id.* at 35. Neither the Sachs Plaintiffs nor the Anderson Plaintiffs even tell this Panel who drew their maps, how they are qualified to do so, or offer any testimony to justify any of their districts. They rely wholly on argument of counsel and, in limited cases, selected excerpts of public hearing testimony.



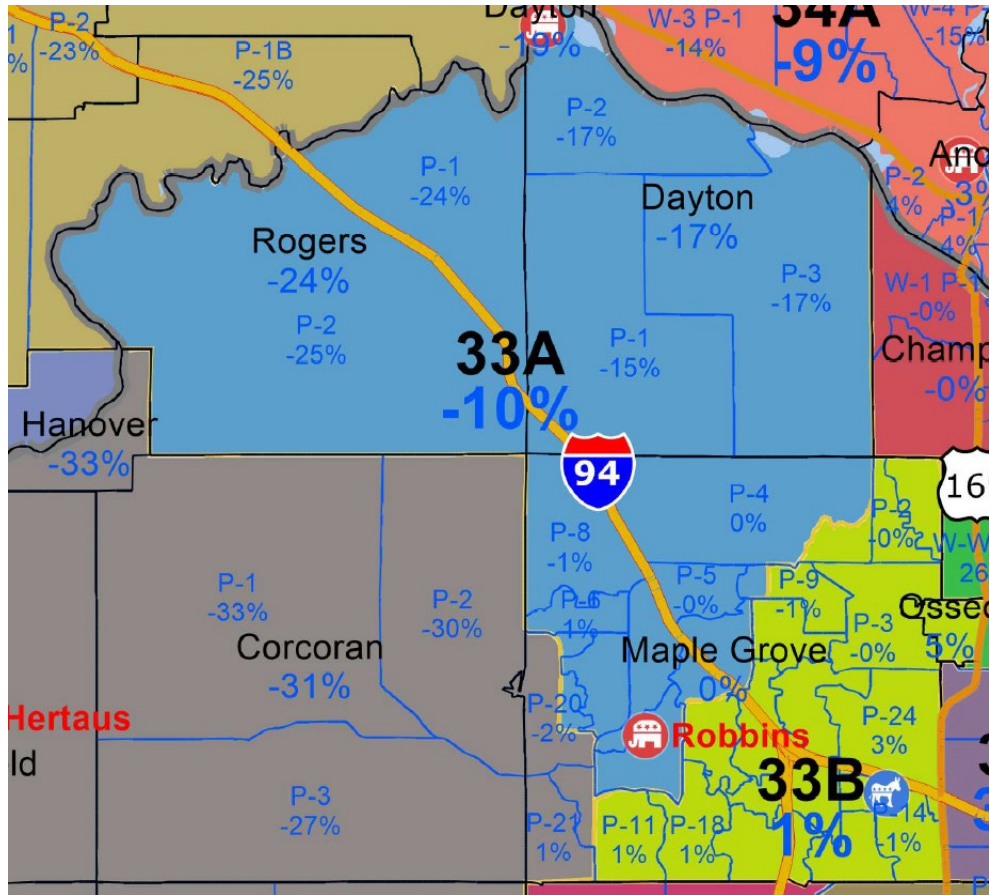
The Anderson Plaintiffs' claims of communities of interest are unsupported by any evidence. For example, they assert that in drawing Rochester they focused on "dividing that city along as few roads as possible – namely, County Road 22, Hwy 14/Civic Center Drive, Broadway, 7th Street, 14th Avenue and Viola Road – to avoid, to the greatest extent possible, cutting through neighborhoods and communities." Anderson Legislative Memorandum, p. 13. But these assertions are without basis as their map is not based on any community of interest reports or other evidence defining these communities.

The Sachs Plaintiffs similarly make broad assertions of maintaining communities of interest in Rochester, stating "redrawing Rochester's districts similarly to how they are currently enacted would split off what are essentially bedroom communities." Sachs Legislative Memorandum, p. 21. The Sachs Plaintiffs, however, provide no evidence as to where these "bedroom communities" begin or end, or quite frankly fail to explain what they even mean by this phrase. And despite their supposed intent to preserve communities of interest, they proceed to split five precincts in the City of Rochester in their house and senate plans.

7. The Anderson Plaintiffs' and Sachs Plaintiffs' plans were drawn with the intent to protect, promote or defeat an incumbent, candidate, or party.

a. Anderson Plaintiffs.

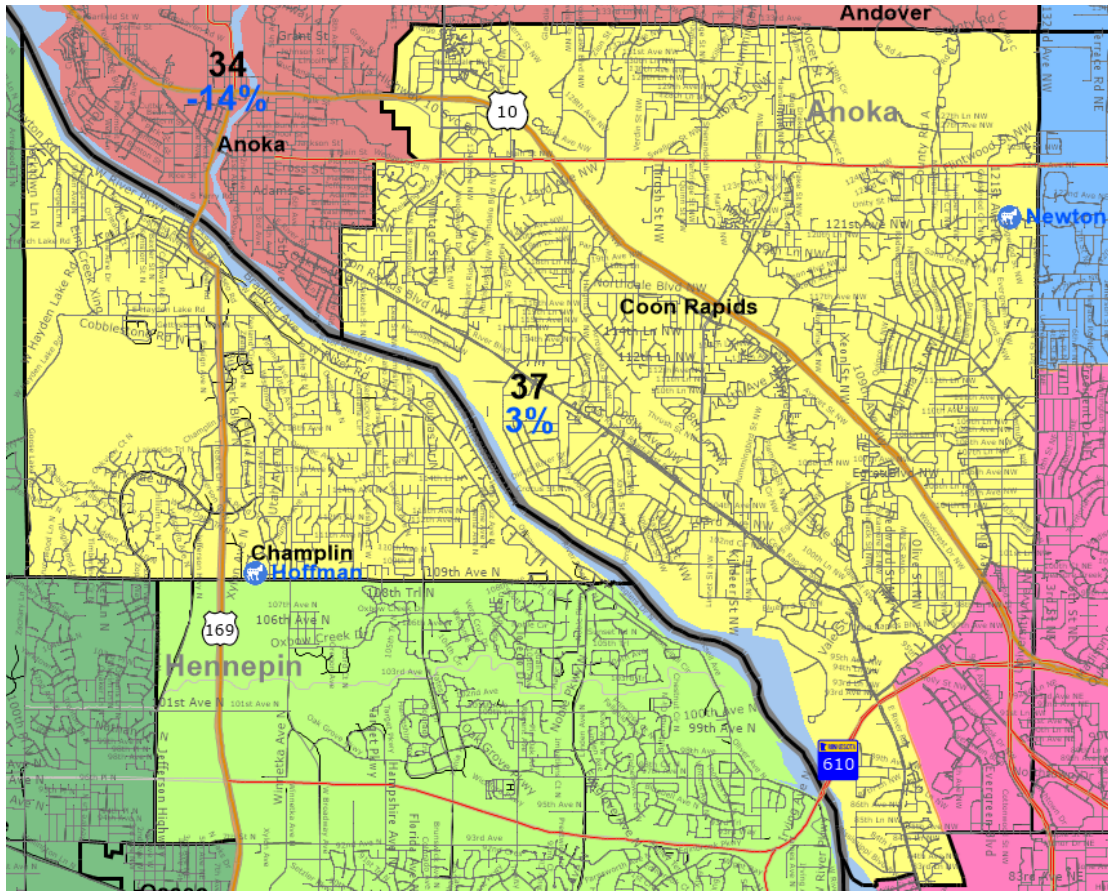
The Anderson Plaintiffs' SD 32 and 33 provide one example of where other parties in this case split precincts for partisan gain. In SD 32 and 33, the Anderson Plaintiffs split Maple Grove Precincts P-11 and P-20. *See* the map below.



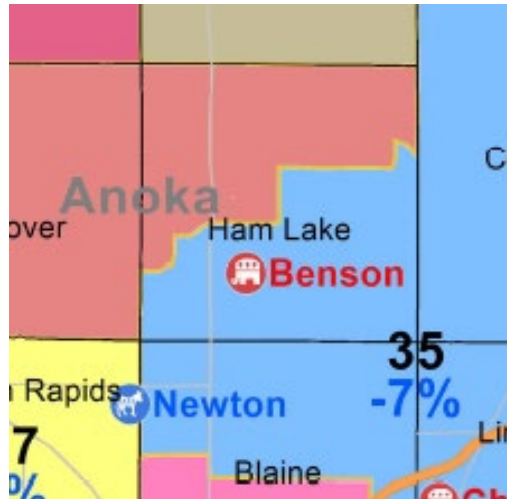
SD 32 is the grey district in Corcoran. Under the Wattson Plaintiffs’ Index, the Anderson Plaintiffs’ SD 32 leans 12% Republican and SD 33 leans 4% Republican. Wattson Affidavit II, Exhibit D-2. In equalizing the populations between SD 32 and SD 33, the Anderson Plaintiffs had two choices. They could move population to SD 32 from Maple Grove or from Rogers, leaving the remaining population in SD 33. The Anderson Plaintiffs chose Maple Grove by pulling in all of P-21 (4,084 people), part of P-20 (2,186 people) and part of P-11 (2,403 people). They could have pulled in all of P-2 in Rogers (8,045 people) to achieve an appropriate population within the allowed deviation without splitting a precinct. The effect would have been the same number of city splits, but fewer precinct splits.

However, the Anderson Plaintiffs chose to pull population from Maple Grove because it would benefit their political party. Rogers leans 24% Republican, while P-20 in Maple Grove leans 2% Republican and P-11 and P-21 in Maple Grove each lean 1% Democratic. By pulling from Maple Grove precincts instead of Rogers, the Anderson Plaintiffs left the strongly Republican Rogers in the competitive SD 33 and pulled the partisan neutral precincts in Maple Grove into SD 32. This choice makes the competitive SD 33 more Republican as it keeps the approximately 8,000 Republican votes from Rogers in SD 33 instead of the 8,500 partisan neutral votes from Maple Grove. And as SD 32 would still lean strong Republican, moving the partisan neutral votes from Maple Grove to that district would likely not affect the outcome of any race. This is one example of the way that the other parties can and have used precinct splits to favor their political party, and it provides a compelling reason why this Panel should follow the Wattson Plaintiffs' approach of minimizing precinct splits.

The Anderson Plaintiffs attempts to promote the Republican party did not end in SD 32 and SD 33. The Anderson Plaintiffs' SD 37 pairs two Democratic senators located on the far opposite sides of this noncontiguous, inconvenient district.



In the map above, these incumbents would be located on the far opposite ends of SD 37 in the districts drawn by the Anderson Plaintiffs. This pairing was not done to prevent a political subdivision split as Coon Rapids is already split. Rather, the map drawn by the Anderson Plaintiffs pulled Senator John Hoffman from a strong Democratic district (current SD 36 leans 11% Democrat) and paired him with Senator Jerry Newton from a competitive district (current SD 37 leans 3% Democrat). The new district crafted by the Anderson Plaintiffs to the east of Senator Newton now leans Republican by 7%.



Furthermore, the Anderson Plaintiffs split Ham Lake in order to pull a Republican senator into this new Republican-leaning SD 35. Accordingly, their drawing of these districts shows an intent to defeat Democrat incumbents.

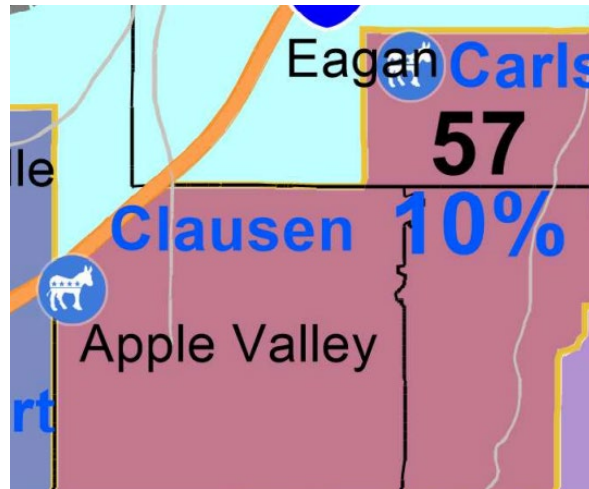
The Anderson Plaintiffs’ senate plan contains four pairings of Democrats against other Democrats, three Republicans against other Republicans, and three Democrats against three Republicans. Those three sets of Republicans against Republicans include two Republican Senators who are running for governor, Paul Gazelka<sup>9</sup> and Michelle Benson,<sup>10</sup> meaning one or both will likely not run for a senate seat.

The Anderson Plaintiffs’ SD 57 splits Precinct P-13 in Eagan in order to pair Senator Clausen and Senator Carlson (Democrat-Democrat pairing). This one example of the many ways precinct splits can be used as a partisan weapon. The splitting of the precinct and the sheer optics of the location of these incumbents in this district shows partisan intent.

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<sup>9</sup> Gazelka for Governor, <https://gazelkaforgovernor.com>.

<sup>10</sup> Michelle for Minnesota, <https://www.michelle4mn.com>.



Further evidence of the Anderson Plaintiffs’ strategy to benefit from incumbent pairing is shown with their SD 13 and SD 14. In crafting those districts, the Anderson Plaintiffs not only split the City of St. Cloud, coincidentally right along the outskirts of the St. Cloud University Campus, but also split several precincts. The reason for this is unclear as this split of St. Cloud is not within their stated goal of keeping cities that cross county boundaries together. Anderson Legislative Memorandum, p. 25 (“Additionally, where Minnesota cities cross county lines, the Anderson Plaintiffs endeavored to keep those cities together instead of preserving county lines.”) Further, the way SD 13 is drawn pairs a Democratic incumbent, Senator Aric Putnam, with a Republican incumbent, Senator Jeff Howe, in a strong Republican district.

Despite relying on the communities of interest identified by the *Hippert* panel throughout its memorandum, the Anderson Plaintiffs abandon this approach in an effort to split Detroit Lakes from Moorhead. The *Hippert* panel stated, “Moorhead and Detroit Lakes continue to share a senate district.” *See, e.g., id.* at 15–17 (describing strong ties between Moorhead and Detroit Lakes).” 813 N.W.2d at 385. The Anderson Plaintiffs claim

that their intent is to preserve Becker County. Anderson Legislative Memorandum, p. 61. However, the Anderson Plaintiffs' plan creates a new pairing of Democratic-Republican incumbents in SD 1 in a strong Republican district, which all but guarantees a Republican win. This is evidence of the Anderson Plaintiffs' efforts to promote the Republican Party and defeat the Democratic party.

*b. Sachs Plaintiffs.*

*i. House Incumbents.*

While the Sachs Plaintiffs' plan pairs more Democratic incumbents than Republican, this does not tell the whole story. First, the Democratic pairing in 53B may not be a true pairing because Representative Winkler plans to run for Hennepin County Attorney and, therefore, may not seek re-election. The Swing to Lose Pendulum attached as Exhibit E-3 to the Wattson Affidavit shows that the Sachs Plaintiffs' pairing of house incumbents was done to achieve an outcome favorable to Democrats.

The Swing to Lose Pendulum for the Base Plan (Wattson Affidavit I, Exhibit K) shows four Democrats won the 2020 election in a Republican district (Representatives Marquart, Morrison, Christensen, and Wazlawik). The Wattson Plaintiffs' plan places three in a Republican district (Representatives Marquart, Morrison, and Wolgamott), as does the Anderson Plaintiffs' plan (moving Representative Wolgamott from a 2% Swing Democratic district to a 7% Swing Republican district, and Representative Ecklund from a 5% Swing Democratic district to a 3% Swing Republican district paired with Representative Grossell). The Sachs Plaintiffs' plan, however, leaves only Representative

Marquart in a competitive 4% Swing Republican district, thus reducing the risk of Democrat losses.

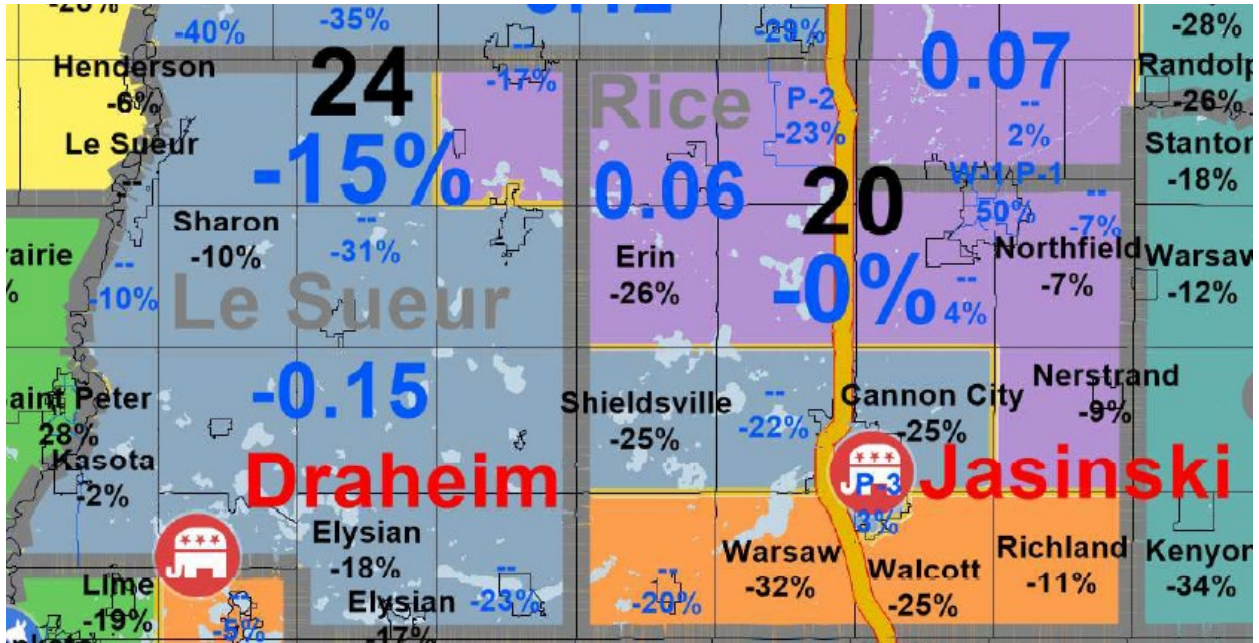
The Base Plan (Wattson Affidavit I, Exhibit K) shows five Republicans who won the 2020 election in Democratic districts (Representatives Franke, Ackland, Mueller, West, and Jurgens). All things being equal, one would expect them to win again in districts with a similar lean. However, the Sachs Plaintiffs' plan moves Representative West from a 1% Swing Democratic district to a 3% Swing Democratic district, and paired him with Democratic incumbent Senator Erin Koegel. The Sachs Plaintiffs' plan moves the following Republican incumbents to Democratic districts: Representatives Quam (3% Swing), Pierson (2% Swing and paired with Liebling), Theis (2% Swing), Raleigh (2% Swing), Igo (1% Swing), Mortensen (1% Swing), and Heinrich (1% Swing). None face certain defeat, but their campaigns have certainly been made more difficult.

Accordingly, these pairings show that the Sachs Plaintiffs' house plan was "drawn with the purpose of protecting [and] promoting" Democratic incumbents and defeating Republican incumbents.

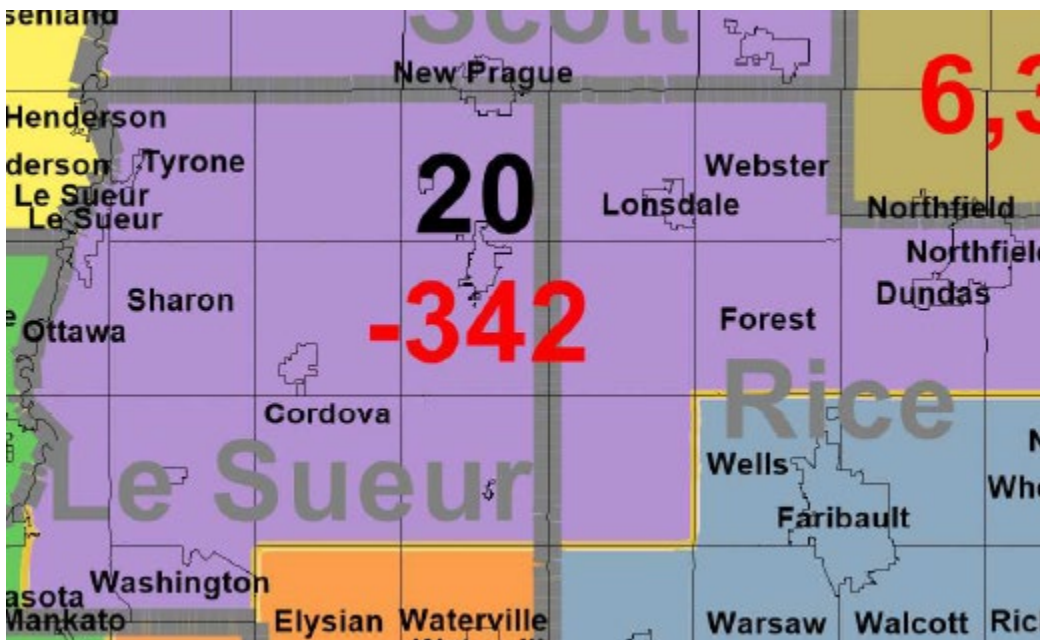
*ii. Senate Incumbents.*

The Sachs Plaintiffs' odd district shapes with its pairings further evidences an intent to benefit the Democratic party. The Sachs Plaintiffs' SD 24 is shown below.

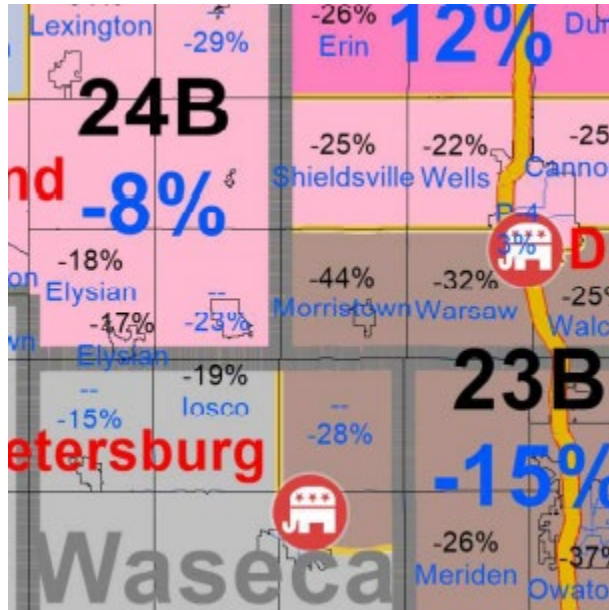




This district reaches into Rice County and grabs Senator Jasinski from the ultra-competitive SD 20 (0% partisan lean) and pulls him into a strong Republican district with Senator Draheim. The current *Hippert* districts are below.



This odd shape also has the effect of barely pairing two Republican incumbents in strong Republican HD 23B.



Wattson Affidavit II, Exhibit H-6. The odd shape of this district that results in multiple incumbent pairings is evidence that the Sachs Plaintiffs intentionally drew these districts to pair Republican incumbents in a strong Republican district and to create an open district for Democrats, including in the ultra-competitive SD 20.

*c. Wattson Plaintiffs.*

- i. The Wattson Plaintiffs’ house plan falls almost exactly between the Anderson Plaintiffs’ and Sachs Plaintiffs’ house plans on almost all partisan measures.*

It comes as no surprise that, based on partisan Index measurements, the Anderson Plaintiffs have presented a plan that favors Republicans more than the Wattson Plaintiffs’ plan and, likewise, the Sachs Plaintiffs have presented a plan that favors Democrats more than the Wattson Plaintiffs’ plan. The Partisanship measures are below.

	2002 Court	2012 Court	2020 PW LBase202	2022 PW L10	2022 Anderson L	2022 Sachs L	2022 Corrie L
<b>Partisanship</b>	<b>1998 Index</b>	<b>2006-10 Index</b>	<b>2012-20 Index</b>	<b>2012-20 Index</b>	<b>2012-20 Index</b>	<b>2012-20 Index</b>	<b>2012-20 Index</b>
Democratic Vote Statewide	45%	48%	51%	51%	51%	51%	51%
Republican Vote Statewide	46%	45%	44%	44%	44%	44%	44%
Third Party Vote Statewide	9%	7%	6%	6%	6%	6%	6%
<b>HOUSE DISTRICTS</b>							
Democratic Plurality	58	59	71	75	72	78	75
Democratic Seat Gap (Districts with a plurality minus proportional seats)	(2)	(6)	3	7	4	10	7
Republican Plurality	76	75	63	59	62	56	59
Republican Seat Gap (Districts with a plurality minus proportional seats)	14	15	5	1	4	-2	1
Competitive (plurality 8% or less)	51	44	28	27	27	32	23
Safe (plurality 20% or more)	35	40	55	58	53	56	57
Mean-Median Gap (Democratic minus Republican mean plurality minus median plurality. Ideal is 0.)	3%	5%	5%	3%	6%	3%	3%
Lopsided Wins Gap (Democratic average winning plurality minus Republican average winning plurality. Ideal is 0.)	3%	14%	12%	10%	12%	8%	10%
Declination (Losing and winning Democratic pluralities graphed from smallest to largest. Ideal is 0.)	10%	21%	11%	6%	10%	1%	6%
Efficiency Gap (Democratic wasted votes minus Republican wasted votes. Ideal is 0.)	5%	13%	8%	5%	7%	3%	5%

The Anderson Plaintiffs project 72 Democratic house and 62 Republican house seats, the Sachs Plaintiffs project 78 Democratic house and 56 Republican seats and the Wattson Plaintiffs' projection falls right in between with 75 Democratic house and 59 Republican house seats. The Wattson Plaintiffs' plan has the same Mean-Median Gap as the Sachs Plaintiffs' plan, but the Wattson Plaintiffs' measures on Lopsided Wins,

Declination, and Efficiency Gap fall exactly halfway between the Anderson Plaintiffs’ and the Sachs Plaintiffs’ measures.

With their partisan measures midway between the two parties who intervened in this lawsuit for the stated purpose of advocating for the two major political parties, the Wattson Plaintiffs clearly did not draw their house districts with the purpose of protecting, promoting, or defeating any incumbent, candidate, or political party.

*ii. Likewise, the partisan data for the Wattson Plaintiffs’ Senate plan largely falls between the Anderson Plaintiffs and the Sachs Plaintiffs.*

	2002 Court	2012 Court	2020 PW LBase202	2022 PW L10	2022 Anderson L	2022 Sachs L	2022 Corrie L
<b>Partisanship</b>	<b>1998 Index</b>	<b>2006-10 Index</b>	<b>2012-20 Index</b>	<b>2012-20 Index</b>	<b>2012-20 Index</b>	<b>2012-20 Index</b>	<b>2012-20 Index</b>
Democratic Vote Statewide	45%	48%	51%	51%	51%	51%	51%
Republican Vote Statewide	46%	45%	44%	44%	44%	44%	44%
Third Party Vote Statewide	9%	7%	6%	6%	6%	6%	6%
SENATE DISTRICTS							
Democratic Plurality	28	29	38	38	37	38	38
Democratic Seat Gap (Districts with a plurality minus proportional seats)	(2)	(3)	4	4	3	4	4
Republican Plurality	39	38	29	29	30	29	29
Republican Seat Gap (Districts with a plurality minus proportional seats)	8	8	0	0	1	0	0
Competitive (plurality 8% or less)	27	23	16	13	17	15	16
Safe (plurality 20% or more)	15	17	25	25	27	28	27
Mean-Median Gap (Democratic minus Republican mean plurality minus median plurality. Ideal is 0.)	3%	7%	5%	4%	5%	4%	2%
Lopsided Wins Gap (Democratic average winning plurality minus Republican average winning plurality. Ideal is 0.)	4%	14%	9%	9%	11%	9%	10%
Declination (Losing and winning Democratic pluralities graphed from smallest to largest. Ideal is 0.)	12%	22%	4%	5%	7%	4%	5%
Efficiency Gap (Democratic wasted votes minus Republican wasted votes. Ideal is 0.)	6%	13%	4%	4%	6%	4%	4%

The Wattson Plaintiffs' measures of partisanship for their senate plan are either equal with or between Anderson Plaintiffs and Sachs Plaintiffs. While the Wattson Plaintiffs' measures of competitive and safe seats fall outside those parties' measures, that does not indicate partisan bias. Accordingly, the Wattson Plaintiffs clearly did not draw their senate districts with the intent to favor a political party.

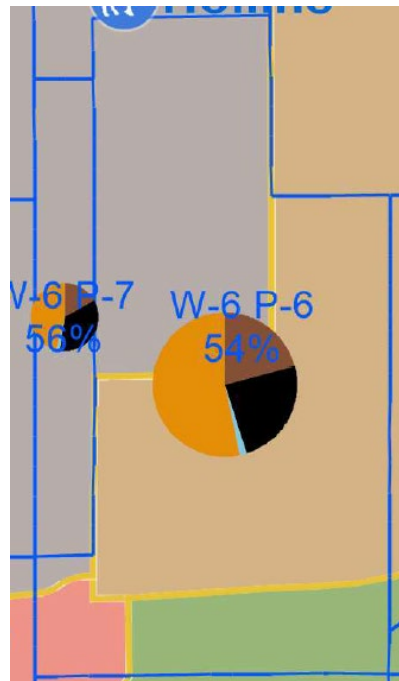
8. The other parties' precinct splits were not constitutionally necessary to meet equal population requirements, made districts less convenient, and separated minority and other communities. The Wattson Plaintiffs' preservation of precincts fulfilled the Panel's redistricting principles.

The Political Subdivision Splits reports provided by the parties show the enormous number of precinct splits in the other parties' house and senate plans. These precinct splits create administrative burdens and make districts less convenient. *See* Mansky Affidavit. It is clear that the Anderson Plaintiffs were willing to split precincts in any way necessary in order to stay under their arbitrary 1% threshold, even though this is not required by the Panel or the constitution and makes districts less convenient, separates communities (including minority communities), and increases their ability to create partisan gerrymanders.

Examples of the Anderson Plaintiffs splitting precincts to stay under a self-imposed 1% limit are easy to find. One example is the precinct split in Otsego, P-3. This entire precinct could have been left in HD 29B, but the Anderson Plaintiffs' 29B has a deviation of -0.99%. By leaving P-3 intact in District 29B, the Anderson Plaintiffs would have had an extra 238 people in District 29B and deviation of -660 people, or -1.55%. District 30A,

where the Anderson Plaintiffs sent these 238 people also would have had a deviation over one percent without this split as it is currently underpopulated by 405 people, and without this 238 people, it would have been underpopulated by 643 people, or -1.51%.

Another example is in St. Paul, where the Anderson Plaintiffs split Precinct W-6 P-6 four ways to stay under their arbitrary 1% limit.



Wattson Affidavit, Exhibit G-7.

In the above map, the red is HD 66B, the green is HD 67B, the brown is HD 67A and the grey is HD 64B. HD 64B had a deviation of -418, or -0.98%; HD 66B had a deviation of -261, or -0.61%; HD 67A had a deviation of -273, or -0.64%; and HD 67B had a deviation of -352, or -0.83%. The Anderson Plaintiffs unnecessarily moved small parts of HD 66B and HD 67B in order to add 262 people to SD 66B and 141 people to HD 67B. This was done simply because the deviations in one or both of HD 67A and HD 64B would have been slightly over 1% had these people been included in those districts. Furthermore,

the Anderson Plaintiffs' plan unnecessarily follows side streets between HD 65 and HD 66, rather than the arterial streets of Hamline Avenue and Selby Avenue.

Not only did this have the effect of splitting these precincts, but this also had the effect of placing Ward 5, Ward 6, and Ward 7 all in the same precinct. As discussed above, these wards are created through an elaborate process that involves community volunteers and leads to creating communities that represent the cities. This careless division of precincts to come under an arbitrary 1% limit has real-world ramifications for St. Paul and its residents. The Corrie Plaintiffs' plan also includes careless divisions as it contains more than one legislative district that crosses the St Paul (47 and 67) and Minneapolis (58 and 59) municipal boundaries. Neither is necessary – and the other parties limit these cross-city districts to one each.

The Sachs Plaintiffs' plan also fails to logically draw districts that account for the geography in this St. Paul area. W1 P3 has an existing boundary of a railroad track that does not have grade-level crossings in that area. This would be a real barrier for the voters, who under Sachs Plaintiffs' proposal would have to vote in W1 P16. Further, for W4 P3, it would be better to use Territorial Road as the precinct boundary straight across as this precinct has had a huge population increase since 2010 and has few potential polling place locations.

The Wattson Plaintiffs' preservation of precincts, which defers to decisions made by local officials, makes districts more convenient, and creates a host of other benefits related to the Panel's redistricting principles. This was the proper way to approach drawing their plans. While local redistricting will likely create newly designed wards and the post-

redistricting process will likely create newly designed precincts, those changes will be made by the local redistricting authorities and city councils in consultation with their local election officials and local community members. It is not prudent for legislative or judicial redistricting to force changes to ward or precinct boundaries that the local jurisdiction would not make on its own. The parties and the Panel simply do not have the information available to make these decisions and should take advantage of all of the hard work and effort that has been poured into creating these districts by these local government and their communities.

## **V. CONCLUSION.**

The Wattson Plaintiffs' legislative and congressional plans comply with all the Panel's principles. They were clearly not drawn with the purpose to promote, protect or defeat a political party. The Partisanship report numbers of the Wattson Plaintiffs' plan fall even with or between the Anderson Plaintiffs' and Sachs Plaintiffs' plans on nearly all measures. Their plans do not contain the obvious political gerrymanders that are included in the maps of the other parties.

The Wattson Plaintiffs' preservation of precincts would create convenient districts and the preservation of communities by deferring to local governments and their discretion in determining what is best for their community. The Wattson Plaintiffs were able to preserve these precincts while still minimizing political subdivision splits, drawing compact districts, maximizing minority representation, and complying with all other principles. The other parties gave no deference to local communities, instead dividing them up to achieve partisan advantage and arbitrary talking points.



The Wattson Plaintiffs' plan provides a logical and thoughtful foundation for this Panel to draw nonpartisan plans that are convenient and best represent the local communities throughout this state. Accordingly, the Wattson Plaintiffs respectfully request that the Panel adopt the Wattson Plaintiffs' Congressional and Legislative Redistricting Plans.

Dated: December 17, 2021

Respectfully Submitted,

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