

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT AT BETHEL

CALISTA CORPORATION, WILLIAM )  
NANENG, individually, and HARLEY )  
SUNDOWN, individually, )  
 )  
Plaintiffs, )  
 )  
vs. ) Case No.: 4BE-21-\_\_\_\_\_ Civil  
 )  
ALASKA REDISTRICTING BOARD, )  
 )  
Defendant. )  
 )  
 )  
 )

**COMPLAINT AND EXPEDITED APPLICATION TO COMPEL  
CORRECTION OF ERRORS IN REDISTRICTING**

Plaintiffs Calista Corporation, William Naneng, and Harley Sundown individually, through their attorneys of record Ashburn & Mason P.C., allege the following pursuant to Alaska R. Civ. P. 90.8:

**PARTIES**

1. Plaintiff Calista Corporation is an Alaska Native Regional Corporation created by the Alaska Native Claims Settlement Act of 1971 and organized under the laws of Alaska. It serves shareholders in the Yukon-Kuskokwim region, including along the Bering Sea coast (“Calista Region”). The Calista Region is home to 56 villages.

2. Plaintiff William Naneng (“Naneng”) is a citizen and qualified voter of the State of Alaska, a Calista shareholder, and a resident of Hooper Bay, a village in the

Calista Region.

3. Plaintiff Harley Sundown is a citizen and qualified voter of the State of Alaska, a Calista shareholder, and a resident of Scammon Bay, a village in the Calista Region.

4. Defendant Alaska Redistricting Board (“Board”) is an entity established by article VI, section 6 of the Alaska Constitution.

5. This is a civil action concerning the establishment, protection, or enforcement of a right under the Alaska Constitution or the United States Constitution within the meaning of AS 09.60.010(c).

### JURISDICTION

6. This Court has jurisdiction over this action pursuant to article VI, section 11 of the Alaska Constitution.

7. Venue is proper in this judicial district under Civil Rule 3 because this is the judicial district in which the claim arose.

### GENERAL ALLEGATIONS

8. The Board is responsible for periodically redistricting the Alaska House of Representatives and the Alaska Senate, following the completion of the decennial United States Census. The Board adopts a proposed plan or plans, considers public testimony, and then adopts a final plan in accordance with the requirements of article VI of the Alaska Constitution, Title 15 of the Alaska Statutes, and precedent from the Alaska

Supreme Court. Among other criteria, the districts must be contiguous, compact, and socio-economically integrated.

9. On November 10, 2021, the Board issued a Final Proclamation of Redistricting (“2021 Proclamation”) that adopted a final redistricting plan (“2021 Plan”). A true and correct copy of the 2021 Proclamation is attached as Exhibit 1.

10. The 2021 Plan included a Statewide Map, attached as Exhibit 2, and, among others, maps for House Districts 37 & 38 (Senate District S) and House Districts 39 & 40 (Senate District T). True and correct copies of these house district maps are attached as Exhibits 3, 4, 5, and 6, respectively.

11. These maps adversely affected all plaintiffs as explained below.

12. Under the prior redistricting map adopted in 2013 (“2013 Redistricting Map”), the Calista Region’s population comprised all of Bethel District 38, 39% of Nome District 39, and 1% of District 37. District 37 covered Lake and Peninsula Borough, Bristol Bay Borough, East Aleutians Borough, Aleutians West Census Area, Dillingham Census Area, seven Doyon, Limited precincts, and Calista’s Sleetmute Precinct.

13. The 2020 US Census revealed that Alaska’s population grew 3.3% adding 23,160 people since the 2010 Census. Population growth from 2010 to 2020 in the two census areas that form the Calista Region far outpaced the rate of growth for the State as a whole: the Bethel Census Area population grew 9.71% and the Kusilvak Census Area population grew 12.18%.

14. As part of the 2021 Plan, the Board calculated the ideal population for each State House District at 18,335 people by dividing the state’s population by 40. Based on this ideal population, the Calista Region’s 2020 Census population of 27,034 is entitled to 1.474 State House Districts.

15. The District 37 population declined by 343 people in the past decade while the ideal district population increased to 18,335 in 2021, or an increase of 579 people over the 2010 ideal district. The local population decline coupled with the increased ideal district size required that the Board add additional populated areas totaling 922 people to District 37.

16. At public hearings held by the Board, Calista representatives and members of the affected communities testified that the villages of Hooper Bay, Scammon Bay, and Chevak are tightly tied to each other and to the City of Bethel. Hooper Bay, Scammon Bay, and Chevak are socio-economically integrated with Bethel, which is their hub community, providing critical social, medical, and economic support for their communities. A Bethel representative and senator is best situated to understand and address the concerns of these villages.

17. Reflecting these ties, Calista requested Hooper Bay, Scammon Bay, and Chevak be moved from District 39 to District 38 and that, to maintain District 38’s proper population, the southwestern Calista villages of Kwigillingok, Kongiganak, Quinhagak, Goodnews Bay, and Platinum be assigned to District 37. It further requested that additional Calista villages along the Kuskokwim River form the northern District 37

boundary.

18. In the 2021 Plan, the Board moved Tyonek (632 People), located in the Kenai Peninsula Borough, into District 37; moved Chevak (961 People) from District 39 into District 38; moved Goodnews Bay and Platinum (318 People) from District 38 into District 37; and moved Crooked Creek (144 People), Chuathbaluk (104 People), Aniak (514 People), Lower Kalskag (278 People) and Upper Kalskag (212 People) Precincts to join the Sleetmute Precinct in District 37.

19. A total Calista population of 1,570 was added to District 37. The aggregate 2021 Calista District 37 population is 1,774 people, or 9.73%. When combined with the Calista population in District 38, Calista provides 54.87% of the Senate District S population.

20. However, rather than utilize only Calista villages to build District 37, which would have resulted in greater socio-economic integration, the Board added the Tyonek Precinct from the Kenai Peninsula Borough to District 37. Had these 632 people been selected from Calista villages, the aggregate 2021 Calista District 37 population would be 2,436 people, or 13.36%. When combined with its District 38 population, Calista would have provided 56.68% of the Senate District S population.

21. The Board's action in adding the Tyonek Precinct thus inappropriately dilutes Calista's Senate District S advantage from 6.2% to 4.4%.

22. Moving Hooper Bay (1,375 People) and Scammon Bay (685 People) to

District 38 would allow for District 37 to be adequately populated by Calista villages in the lower Kuskokwim Delta without moving Tyonek into District 37. This would also appropriately increase the Calista Region's advantage in Senate District S, better reflecting the Region's population total of nearly 1.5 ideal house districts.

23. Further, the Board broke the Kenai Peninsula Borough boundary twice to dilute its voting strength: it assigned the Seward Precinct to District 5 and moved Tyonek Precinct to District 37. The Board may not divide a borough's excess population into two different districts when it is possible to direct that excess into one district.

### **COUNT I VIOLATION OF REDISTRICTING CRITERIA**

24. Plaintiffs incorporate all preceding allegations into this Count.

25. Article VI, section 6 of the Alaska Constitution requires the Board to establish districts that contain integrated socio-economic areas and to consider local government boundaries.

26. By excluding Hooper Bay and Scammon Bay from District 38, the Board failed to recognize that they are crucial to creating an integrated socio-economic area within that district given their strong ties to Bethel and Chevak.

27. By breaking the Kenai Peninsula Borough boundary more times than necessary, specifically by moving Tyonek into District 37 when it could have been included in District 8, which is part of the same borough and where it has stronger socio-

economic ties, the Board failed to give due regard to local government boundaries, improperly spread the Borough's excess population among two additional house districts, and unnecessarily introduced an additional local government's area into Senate District S.

## COUNT II VIOLATION OF EQUAL PROTECTION

28. Plaintiffs incorporate all preceding allegations into this Count.

29. Article I, section 1 of the Alaska Constitution provides that all persons are equal and entitled to equal rights, opportunities, and protection under the law.

30. The Fourteenth Amendment to the United States Constitution provides that no state shall deny to any person within its jurisdiction the equal protection of the laws.

31. The Board's 2021 Plan creates house and senate districts that dilute the voting strength of Calista's Alaska Native shareholders, including by placing them in districts with different social, political, and economic concerns.

32. The dilution inherent in the Board's 2021 Plan deprives the Plaintiffs and the other citizens of the Calista Region their right to an equally effective vote and therefore violates the equal protection clauses of the Alaska and United States Constitutions.

## COUNT III VOTING RIGHTS ACT

33. Plaintiffs incorporate all preceding allegations into this Count.

34. Section 2 of the Voting Rights Act of 1965, as amended, 52 U.S.C. § 10301

prohibits enforcement of any voting qualification, prerequisite to voting, standard, practice, or procedure that either has a purpose of denying or abridging the right to vote on account of race, color, or membership in a language minority group or results in the denial or abridgement of the right to vote on account of race, color, or language minority status.

35. A violation of Section 2 “is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by [Section 2] in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” 52 U.S.C. § 10301(b).

36. The Board’s 2021 Plan results in a denial or abridgment of the right of the Plaintiffs and the other citizens of the Calista Region to vote on account of race, color, or membership in a language minority group, in violation of Section 2 of the Voting Rights Act, 52 U.S.C. § 10301.

### REQUEST FOR RELIEF

Plaintiffs accordingly request that the Court enter an order:

37. Declaring the 2021 Plan to be invalid, that it violates the Alaska and United States Constitutions, and that it violates Section 2 of the Voting Rights Act, 52 U.S.C. § 10301;

38. Returning the matter to the Board for correction and development of a new plan, with the direction that Scammon Bay, Hooper Bay, and Chevak be included in District 38 and that Kwigillingok, Kongiganak, and Quinhagak be included in District 37;
39. Awarding Plaintiffs their costs and attorney's fees; and
40. Providing any other relief as the interests of justice may require.

ASHBURN & MASON, P.C.  
Attorneys for Plaintiff

DATED: December 10, 2021

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## ALASKA REDISTRICTING BOARD

### PROCLAMATION OF REDISTRICTING

**WHEREAS**, Article VI of the Alaska Constitution requires the Alaska Redistricting Board to reapportion the House of Representatives and the Senate immediately following the official reporting of each decennial census of the United States; and

**WHEREAS**, the United States Bureau of the Census conducted a census of the United States on April 1, 2020 and reported the results of the census to the State of Alaska on August 12, 2021; and

**WHEREAS**, the Alaska Redistricting Board was duly constituted in August 2020 and undertook its constitutional responsibilities for preparing a redistricting plan for the State of Alaska; and

**WHEREAS**, the Alaska Redistricting Board adopted draft redistricting plans on September 9, 2021, in conformity with Article VI, section 10 of the Alaska Constitution, requiring that the Board adopt a draft plan or plans within 30 days of the reporting of the Census results for Alaska; and

**WHEREAS**, the Alaska Redistricting Board held numerous public hearings throughout the state in conformity with Article VI, section 10 of the Alaska Constitution; and

**WHEREAS**, the Alaska Redistricting Board strictly adhered to the requirements of Article VI, Section 6 of the Alaska Constitution and the "Hickel process" outlined by the Alaska Supreme Court to draw districts consisting of contiguous and compact territory containing as nearly as practicable relatively integrated socio-economic areas and a population as near as practicable to 18,335; and

**WHEREAS**, adhering to Article VI, Section 3 of the Alaska Constitution, the Board did not adjust, alter or modify the Census enumerated population or Census block geography; and

**WHEREAS**, the Alaska Redistricting Board adopted by this Final Plan and Proclamation of Redistricting today, November 10, 2021 in conformity with the constitutional requirement that it do so within 90 days of the reporting of the Census results for Alaska.

**NOW, THEREFORE, THE ALASKA REDISTRICTING BOARD, hereby does PROCLAIM, ON THIS DAY NOVEMBER 10, 2021**

First, that the state house election districts described in this Redistricting Proclamation and in the report accompanying this Redistricting Proclamation, shall be implemented for legislative elections in the year 2022, and thereafter, until a valid Redistricting Proclamation has been adopted following the next decennial census; and

Second, that the terms of Senate incumbents – B, D, F, H, J, and N under the 2013 Redistricting Proclamation labeling system be truncated because those Senate Districts have been substantially changed by this Redistricting Proclamation, and that the term of the incumbent of Senate District T, not be truncated because that Senate District is substantially unchanged; and

Third, that Senate districts be assigned to election cycles according to the following schedule, using the 2021 Senate District designations in this Redistricting Proclamation:

Elected in 2022, 2026, 2030

A  
C  
E  
G  
I  
K  
M  
O  
Q  
S

Elected in 2024, 2028, 2032

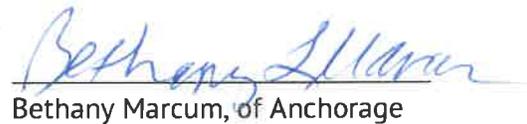
B  
D  
F  
H  
J  
L  
N  
P  
R  
T

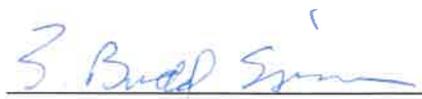
Fourth, that the metes and bounds district descriptions appended to this Redistricting Proclamation may be used to resolve inconsistencies between district boundaries and topographic features.

Dated this 10<sup>th</sup> day of November, 2021 at Anchorage Alaska.

In support:

  
John Binkley of Fairbanks, Chair

  
Bethany Marcum, of Anchorage

  
E. Budd Simpson, of Juneau

In opposition:

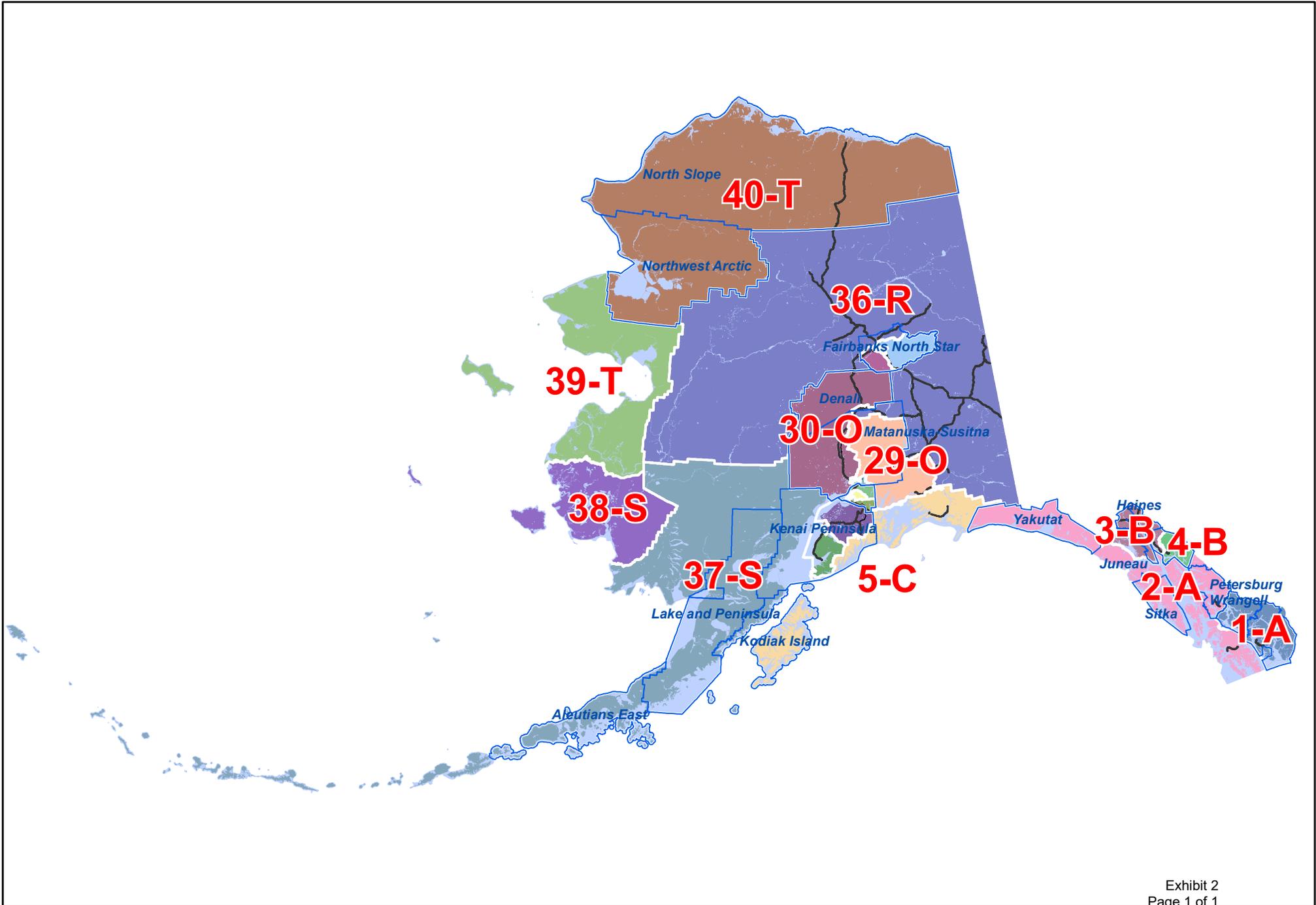
  
Melanie Bahnke, of Nome

  
Nicole Borromeo, of Anchorage



# 2021 Board Proclamation Statewide

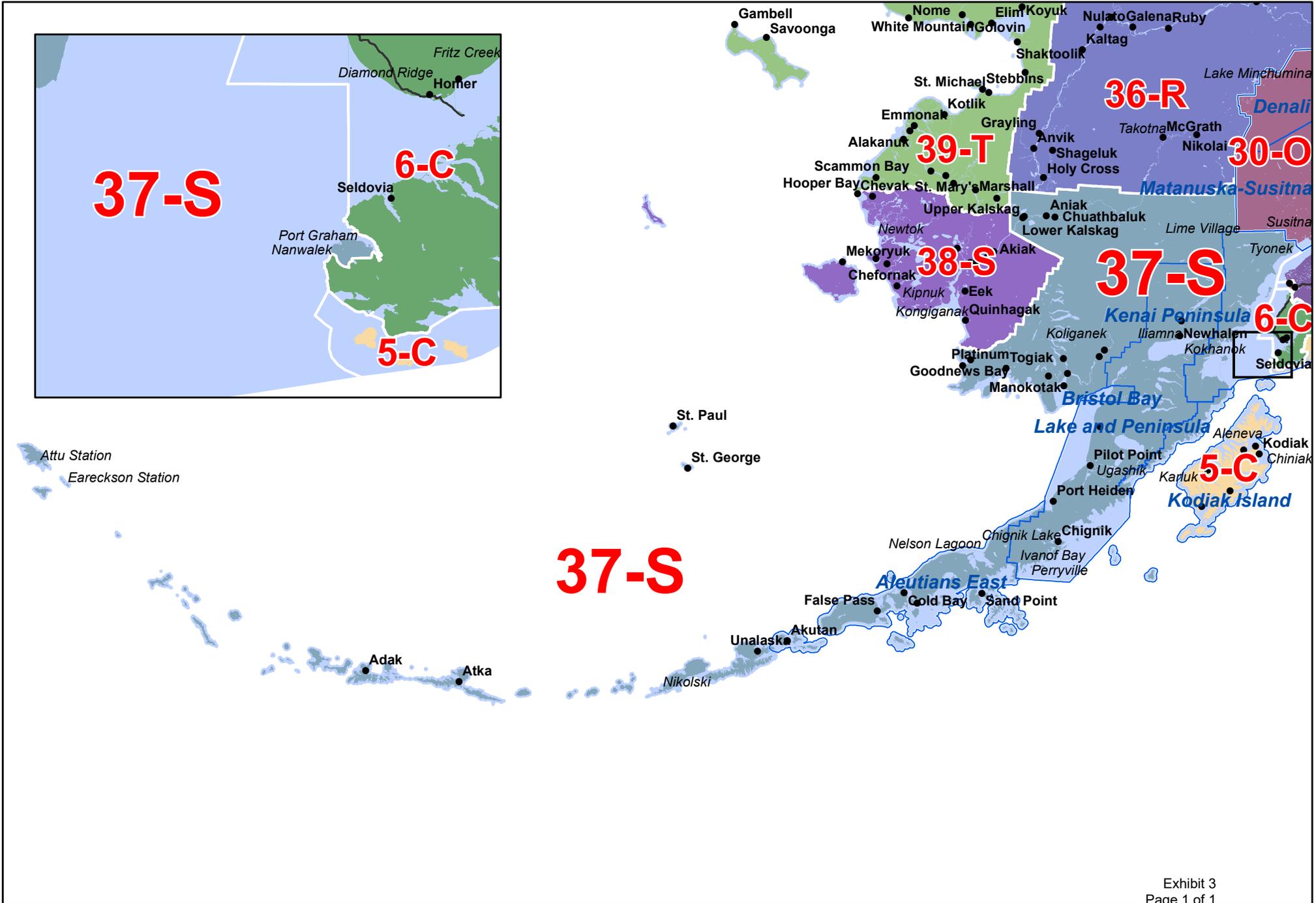
Redistricting Plan Adopted by the Alaska Redistricting Board 11/10/2021





# 2021 Board Proclamation District 37-S

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

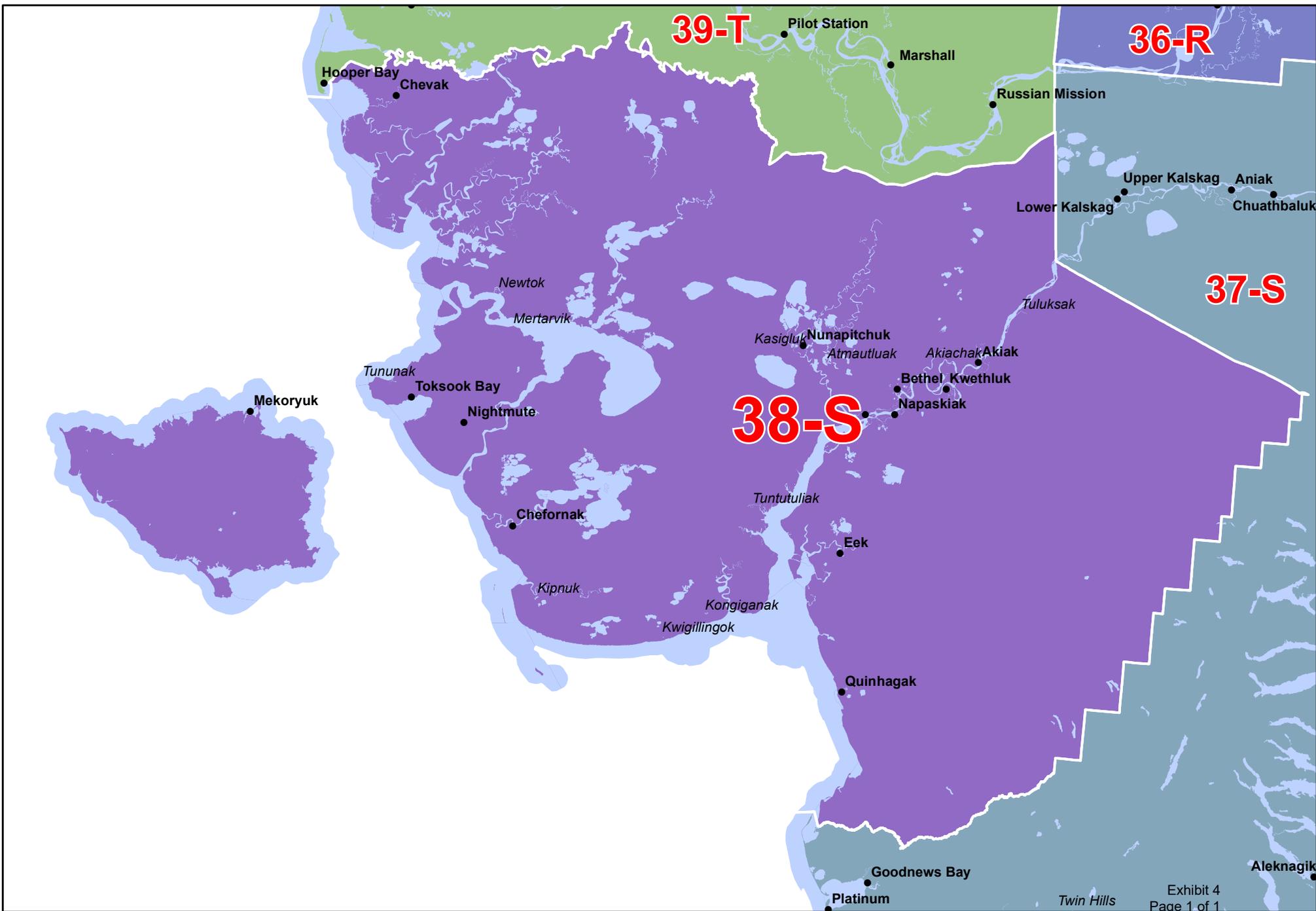


Based on 2020 Census Geography and 2020 PL94-171 Data; Map Gallery link: [www.akredistrict.org/maps](http://www.akredistrict.org/maps)



# 2021 Board Proclamation District 38-S

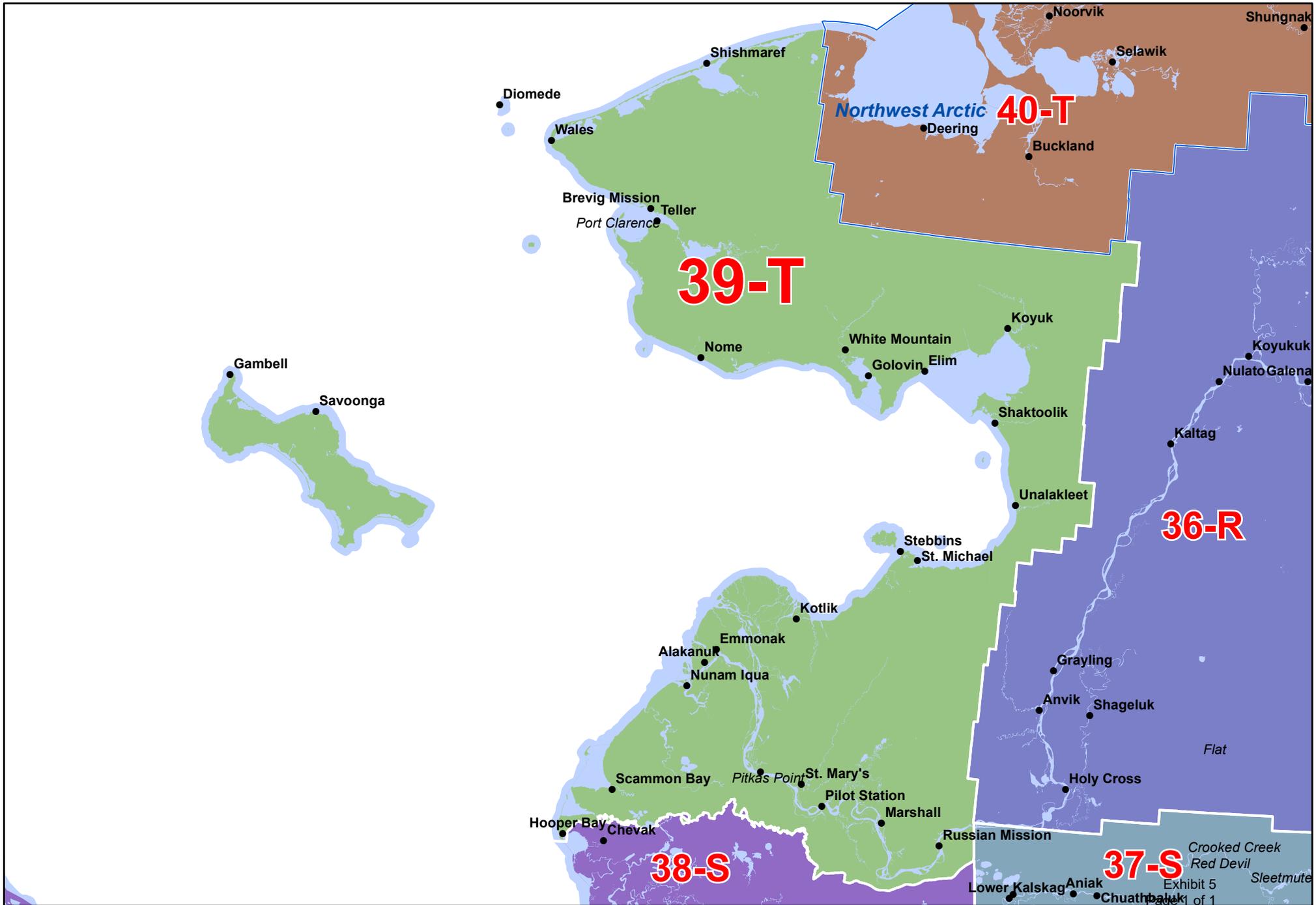
Redistricting Plan Adopted by the Alaska Redistricting Board 11/10/2021





# 2021 Board Proclamation District 39-T

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





# 2021 Board Proclamation District 40-T

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

