

The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SUSAN SOTO PALMER et al.,
Plaintiffs,

v.

STEVEN HOBBS, in his official capacity
as Secretary of State of Washington, et al.,
Defendants,

and

JOSE TREVINO et al.,
Intervenor-Defendants.

Case No.: 3:22-cv-5035-RSL

**INTERVENOR-DEFENDANTS’
RESPONSE IN OPPOSITION TO
PLAINTIFFS’ REMEDIAL PROPOSALS**

INTRODUCTION

The Court should reject all five of Plaintiffs’ proposed remedial maps. In an attempt to circumvent the constitutional requirement that *any* map enacted by Washington’s independent Redistricting Commission contain bipartisan compromise, *see* Wash. Const. art. II, § 43, Plaintiffs and their politically-aligned State/Defendant counterparts attempt to obtain through this Court what the Washington Constitution affirmatively denied them—an overtly partisan legislative map, *cf. Cooper v. Harris*, 137 S. Ct. 1455, 1490 (2017) (Alito, J., concurring in the judgment in part and dissenting in part) (warning that “federal courts will be transformed into weapons of political warfare” that “invite the losers in the redistricting process to seek to obtain in court what they could not achieve in the political arena.”). In what can only generously be called a mockery of the

1 Voting Rights Act (“VRA”) and a condescending insult to Hispanic voters in Washington, in *all*
2 of their five proposed remedial maps, Plaintiffs purport to cure an allegedly unlawful *dilution* of
3 Hispanic voting strength by *further diluting* Hispanic voting strength—lowering the percentage of
4 Hispanic citizens of voting age (“HCVAP”) in the Yakima Valley VRA “opportunity” district in
5 each and every one of their five proposals. If there were any doubt that Plaintiffs’ objectives were
6 to serve partisan aims rather than the VRA’s anti-dilutive purposes, their proposed remedial maps
7 dispel them.

8 Using the latest 2021 American Community Survey (“ACS”) numbers from the U.S.
9 Census Bureau, the enacted Legislative District 15 (“LD-15”) contains an HCVAP of at least
10 52.4%. (*See* Expert Report of Sean P. Trende, Ph.D. (Trende Report), Dkt. # 251 at 16.) This
11 majority-HCVAP district elected a Latina state senator, Nikki Torres, by a 35-point margin over
12 her White opponent in the 2022 general election for this open seat, in the only contested legislative
13 election hitherto held in the enacted LD-15. In a first-of-its-kind holding, the Court found that,
14 despite containing a majority HCVAP and electing a Latina by 35 points, the enacted LD-15 did
15 not afford an equal opportunity for Hispanic voters to elect a candidate of their choice. Because,
16 evidently for Plaintiffs, the phrase “Hispanic Candidate of Choice” must be a synonym for
17 “Democratic Candidate.”

18 To those that espouse the same beliefs of Plaintiffs, the election of Nikki Torres by 35
19 points over a White Democratic candidate can only be explained by alleging the Hispanic voters
20 were unlawfully denied the ability to elect their preferred candidate—either by racially
21 discriminatory voting procedures or boundary lines. The Court’s holding in this matter necessarily
22 implies that the explanation *could not be* because Hispanic voters in Yakima knowingly
23 participated in the franchise and elected Nikki Torres because they *actually preferred* her, or
24 because she is a child of immigrant parents and worked in the fields and grew up in Yakima.¹ It

25 ¹ *See* Ex. A, Email from Senator Nikki Torres to Washington Legislators, *A Request Regarding Redistricting* (Oct. 12,
26 2023, 1:03:27 PM PST). Senator Torres sent an email to all members of both Republican and Democratic Caucuses
27 of the Washington House of Representatives and Senate. Intervenor-Defendant Representative Alex Ybarra is a
member of the House Republican Caucus; as such, he received this email. It is attached hereto as Exhibit A and
incorporated herein by reference.

1 could not be explained by her giving birth to her first child as a teen and dropping out of high
 2 school, then fighting to get her GED, undergraduate and graduate degrees, and becoming a
 3 community leader. Her election cannot be explained by—despite all odds against her—her picking
 4 herself up by the bootstraps as a single mother and providing for her family. Her election could
 5 not be explained by the Hispanic voters in Yakima seeing themselves in her—the hopes and
 6 dreams of what their children could accomplish through dedication and hard work. No, based on
 7 Plaintiffs’ legal arguments, Nikki Torres was only elected because the system was rigged through
 8 unlawful vote dilution.

9 Despite Plaintiffs’ best efforts arguing otherwise, the VRA does not mandate the creation
 10 of Democratic districts wherever there is concentration of minority population. *See, e.g., Baird v.*
 11 *Consol. City of Indianapolis*, 976 F.2d 357, 361 (7th Cir. 1992) (“The Voting Rights Act does not
 12 guarantee that nominees of the Democratic Party will be elected, even if [minority] voters are
 13 likely to favor that party’s candidates.”). Plaintiffs’ proposed maps remove Hispanic voters from
 14 the Yakima “remedial” district and acceptance of any of Plaintiffs’ five remedial proposals would
 15 compound that error by replacing them with Native American and White Democrats. The Court
 16 should reject Plaintiffs’ five remedial proposals and call them what they are: a backdoor to elect
 17 more Democratic candidates regardless of demographics through exploiting and inverting the
 18 VRA—by challenging putative dilution of the Hispanic vote and then “remedying” that alleged
 19 dilution with *additional dilution*.

20 ARGUMENT

21 A. Plaintiffs’ Remedial Proposals Fail for Legal Reasons.

22 The purpose of this Response is not to re-hash all of the reasons Plaintiffs’ remedial maps
 23 are unnecessary. Intervenor-Defendants’ legal position is simple—this Court should reject
 24 Plaintiffs’ remedial maps because Plaintiffs failed to meet the required legal burden that is a
 25 prerequisite to a court requiring a minority “opportunity” district. *See generally Thornburg v.*
 26 *Gingles*, 478 U.S. 30 (1986). Intervenor-Defendants have discussed the myriad of reasons
 27 Plaintiffs’ claims fall short—both in pre-and-post trial briefing—and incorporate those arguments

1 by reference herein. (*See* Intervenor-Defs.’ Tr. Br., Dkt. # 197; Intervenor-Defs.’ Written Closing
2 Argument, Dkt. # 215.)

3 However, it is worth noting that Plaintiffs still fail to show that the Court adopting any of
4 their remedial maps would actually remedy their alleged injury—that enacted LD-15 does not
5 provide Hispanic voters an equal opportunity to elect their candidate of choice. Said differently,
6 Plaintiffs have failed to show that Nikki Torres would *not* be reelected to the state senate if she
7 moved into one of their proposed remedial districts.

8 At trial, Plaintiffs contended that Nikki Torres’s victory in the only contested endogenous
9 election in enacted LD-15 was more evidence of racially-polarized voting. *See, e.g.*, Trial Tr. 76:1-
10 76:20. Yet now at the remedial phase, Plaintiffs’ experts fail to show that Nikki Torres would not
11 still be elected in any of their remedial districts, even if her share of the Hispanic vote was as small
12 as their experts contended at trial. *See, e.g.*, Trial Ex. 2 at 4.

13 The Redistricting Commission reached a compromise that LD-15 would be a majority
14 HCVAP district, but would lean Republican. *See, e.g.*, Trial Tr. 476:17-477:1, 747:16-23, 279:6-
15 23. Despite drawing a district that all head-to-head partisan metrics showing that Republicans
16 enjoyed only a 2-point advantage (*see, e.g.*, Trende Report, Dkt. # 251 at 33), Senator Torres
17 defeated the Democratic candidate by a whopping 35 points. This margin of victory would be more
18 than sufficient to overcome the roughly 12- to 15-point Democratic advantage in Plaintiffs’
19 proposed remedial districts. (*See* Trende Report, Dkt. # 251 at 33, 55.) Yet Plaintiffs’ remedial
20 experts fail to explain or account for this “Nikki Torres Effect,” much less show if it is even
21 possible to draw a district in the Yakima region that would not again elect Republican Nikki
22 Torres. Thus, their claim should be dismissed for lack of standing. *See, e.g., Lujan v. Defs. of*
23 *Wildlife*, 504 U.S. 555, 561 (1992) (explaining that “the Plaintiff bears the burden” to establish
24 redressability at all “successive stages of the litigation”); *see also* Trial Tr. 89:11-17 (Plaintiffs’
25 expert Dr. Collingwood explained that he had no idea if it was even possible to draw a majority-
26 Hispanic district that both performs for Democratic candidates and keeps the Yakama Nation
27 intact).

1 **B. Plaintiffs’ Remedial Proposals Fail for Practical Reasons.**

2 The Court’s Memorandum of Decision in this case addresses Hispanic Voting strength in
 3 the Yakima Valley. (*See* Dkt. # 218.) Notwithstanding the limited geographical scope of the
 4 Court’s ruling, Plaintiffs decided to swing for the fences to see just how far they can exploit the
 5 Court’s ruling to benefit State Democrats. While one cannot fault Plaintiffs for lack of ambition,
 6 their fealty to geography and traditional redistricting principles is another matter. Although it
 7 would be impossible to detail every instance in Plaintiffs’ proposed remedial maps where they try
 8 to gain a partisan advantage outside of the Court’s decision regarding a Yakima Valley district,
 9 what follows are some illustrative examples that shows their recommendations cannot be trusted.

10 **1. “Curing” Hispanic Vote Dilution by Further Diluting the Hispanic Population.**

11 Plaintiffs’ proposed remedial districts rest on something of a paradox: while purporting to
 12 remedy dilution of Hispanic voting strength, every single one of the proposals actually dilutes
 13 Hispanic voting strength *further*. The table below compares the HCVAP proportion of enacted
 14 LD-15 to the estimated HCVAP proportion of each of the remedial districts in Plaintiffs’ Proposals
 15 1 through 5:

| Map | District | HCVAP (2021 ACS) |
|------------------------------|----------|------------------|
| Enacted Plan | LD-15 | 52.6% |
| Plaintiffs’ Proposal 1 and 2 | LD-14 | 51.7% |
| Plaintiffs’ Proposal 3 and 4 | LD-14 | 50.2% |
| Plaintiffs’ Proposal 5 | LD-14 | 46.9% |

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 21 (*See* Trende Report, Dkt. # 251 at 67.) By claiming that their five proposals—each of which *lowers*
 22 the HCVAP in the relevant district—will “remedy the VRA violation for Latino voters in the
 23 Yakima Valley region and provide all voters in the region equal electoral opportunity” (Dkt. # 245
 24 at 1-2), Plaintiffs are proposing to replace Hispanic Republican voters with White Democratic
 25 voters, impliedly insisting that Hispanic voters can only elect their candidates of choice with the
 26 help of more White Democrats.
 27

1 As independent-minded Latino voters, Intervenor Trevino, Ybarra and Campos
 2 categorically reject this approach by Plaintiffs, which makes a mockery of the VRA. The VRA
 3 cannot possibly demand further dilution to remedy the alleged dilution, and Plaintiffs have not
 4 cited a single case in which a court has *ever* accepted such a remedy-dilution-with-more-dilution
 5 proposal.

6 **2. Cascading Changes to Districts Outside the Scope of the Court's Order.**

7 Although Plaintiffs only alleged the Enacted Plan violated the VRA with respect to *one*
 8 legislative district in South Central Washington, Plaintiffs' Remedial Proposals 1 through 4 would
 9 adjust the boundaries for 20 percent or more of the state's legislative districts, across not just South
 10 Central Washington but Western Washington, North Central Washington and Eastern Washington
 11 too, affecting the *majority* of Washington counties and moving upwards of half a million
 12 Washingtonians into new legislative districts. (*See* Trends Report, Dkt. # 251 at 6-15, 41-50.)

13 The following table shows how many legislative districts would be altered, how many
 14 counties affected and how many Washington residents moved to new districts in each of Plaintiffs'
 15 Remedial Proposals 1 through 4:

| Plaintiffs' Proposal | Districts Changed | Counties Affected | Population Moved |
|----------------------|-------------------|-------------------|------------------|
| Proposal 1 | 14 | 28 | 574,251 |
| Proposal 2 | 11 | 21 | 506,922 |
| Proposal 3 | 13 | 28 | 531,551 |
| Proposal 4 | 10 | 21 | 476,440 |

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 21 (*See id.*)

22 Many of the redrawn districts in Plaintiffs' proposed remedial maps bely even a cursory
 23 understanding of Washington geography. As anyone flying into Washington can readily observe,
 24 the state is bisected by a rugged mountain range. While one district must transverse the Cascade
 25 Mountains in order to obtain an equal population across legislative districts as required by law, *see*
 26 Wash. Const. art. II, § 43(5), since statehood there has only ever been one such district, and always
 27 the district containing Skamania and Klickitat Counties, *see* Ex. B, Trial Ex. 1061 at 180-97. The

1 Enacted Plan represents the first-ever legislative map with a trans-Cascade district outside
 2 Southwest Washington. There are practical realities for this—most of the Cascade Mountains lie
 3 within federally-protected National Parks or National Forests, which would create a “population
 4 desert” between the western and eastern portions of a trans-Cascade district, needlessly expanding
 5 the geographic size of such a district. And as any Washingtonian knows, there are only a few
 6 highway passes that connect Western and Eastern Washington, which are often challenging and
 7 time-consuming to cross in winter months (and in some cases, like Chinook Pass through Highway
 8 410, closed entirely²), making such a district difficult to represent effectively. Despite this reality,
 9 Plaintiffs’ Proposals 1 through 4 needlessly create multiple trans-Cascade districts. In addition to
 10 maintaining most of the Enacted Plan’s boundaries for Legislative District 12 (stretching from
 11 Wenatchee to Monroe), Proposals 1 through 4 extend Legislative District 17 from Vancouver all
 12 the way east to Goldendale, creating a second trans-Cascade district. (*See* Dkt. # 245-1 at 5-9.)
 13 And Proposals 2 and 4 extend Legislative District 13 from Moses Lake and Ephrata all the way to
 14 Enumclaw (over Chinook Pass, which is typically closed for six months per year), creating a three
 15 trans-Cascade districts in those maps. (*See id.* at 7, 9.)

16 3. Hispanic Populations That Are Far-Flung and Distant From One Another.

17 Dr. Trende’s expert report points out that the Hispanic population in Plaintiffs’ proposed
 18 remedial districts are far-flung and distant from one another, thereby violating *Gingles*’s mandate
 19 that the minority populations must be compact. *See LULAC v. Perry*, 548 U.S. 399, 433 (quoting
 20 *Bush v. Vera*, 517 U.S. 952, 997 (1996) (“The first *Gingles* condition refers to the compactness of
 21 the minority population, not to the compactness of the contested district.”)).

22 Dr. Trende shows that, in their Proposals 1 and 2, Plaintiffs’ remedial district is drawn in
 23 a way that captures nearly all the high-HCVAP neighborhoods in both Yakima and Pasco (two
 24 cities that are themselves 85 miles apart) while avoiding nearly all the White neighborhoods in
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26 ² *See, e.g.*, Press Release, Washington State Department of Transportation, SR 410/Chinook Pass and SR 123 Cayuse
 27 Pass Close for the Season (Nov. 14, 2023), <https://wsdot.wa.gov/about/news/2023/sr-410-chinook-pass-and-sr-123-cayuse-pass-close-season> (“Typically, SR 410 Chinook Pass and SR 123 Cayuse Pass reopen in late May . . .”).

1 those cities. (*See* Trende Report, Dkt. # 251 at 26-27.) Likewise, the boundaries of District 14 in
2 these two maps encompass nearly all the majority-Hispanic voting districts along the Yakima
3 River while avoiding nearly all the majority-White voting districts. (*See id.* at 28.) Dr. Trende’s
4 dot density maps also graphically show how the Hispanic population of District 14 in Proposals 1
5 and 2 is dispersed throughout Yakima, Pasco and the Yakima River Valley connecting the two
6 (*see id.* at 29-32), leading him to conclude that “the district stitched together discrete clusters of
7 minority groups to achieve the 50% + 1 threshold,” rather than there being “a compact minority
8 population at the core of the district.” (*Id.* at 21-22.)

9 Given the minimal differences between Plaintiffs’ remedial district in Proposals 3 and 4
10 (compared to their remedial district in Proposals 1 and 2) with respect to precincts in the Yakima,
11 Pasco and the Yakima River Valley areas, Dr. Trende also concludes that “the same analysis from
12 Maps 1 and 2 applies” with respect to the remedial district in Proposals 3 and 4. (*Id.* at 54.)

13 **4. Playing Political Games with Political Performance of Legislative Districts.**

14 “The Voting Rights Act does not guarantee that nominees of the Democratic Party will be
15 elected, even if [minority] voters are likely to favor that party’s candidates.” *Baird*, 976 F.2d at
16 361. Intervenor-Defendants have continually argued that Plaintiffs’ VRA claims were an attempt
17 “to obtain in court what they could not achieve in the political arena”—or in this case, through
18 Washington’s bipartisan redistricting process. *Cooper*, 137 S. Ct. at 1490 (Alito, J., concurring in
19 the judgment in part and dissenting in part) (*see also, e.g.*, Dkt. # 215 at 51). Plaintiffs’ proposed
20 remedial maps show that Intervenor-Defendants’ fears were well founded.

21 In addition to shifting the partisan tilt of the challenged district (enacted LD-15) from an
22 average of -1.8% Democratic to +12.5% Democratic (using “Total Vote, 2016-2020” metric) in
23 the remedial districts of their Proposals 1 and 2, and +12.0% Democratic in Proposals 3 and 4 (*see*
24 Trende Report at 33, 55), Plaintiffs’ proposals make several other partisan changes that are both
25 unnecessary and one-sided. For example, under Plaintiffs’ Proposals 1 and 2, “District 12, which
26 always voted for the Republican candidate under the Enacted Map, is transformed into a district
27 where the Republican candidate sometimes loses, and frequently has close calls.” (*Id.* at 33.) Under

1 Proposals 3 and 4, “District 12 is made more Democratic, and is turned from a district carried by
2 former President Donald Trump into one carried by President Joe Biden.” (*Id.* at 55.) “More
3 dramatically, District 17 moves from a district where . . . the Republican has won by 0.9% on
4 average to one where the Democrat has won by 1.4% on average” using the “DRA elections”
5 metric. (*Id.* at 34.) Likewise, under Proposals 3 and 4, District 17 “is made even more Democratic.”
6 (*Id.* at 55.) Both Districts 12 and 17 “are presently represented by Republicans” in the state senate
7 and both state house seats in each district. (*Id.* at 34.) But, as Dr. Trende points out, such partisan
8 changes to districts beyond the remedial district “could have been avoided rather easily,” through
9 slightly different adjustments by the map-drawer. (*Id.* at 34-35.)

10 Even more troubling, Dr. Trende’s analysis concludes that there are no countervailing
11 partisan shifts in Plaintiffs’ proposed maps that might “make a Democratic incumbent appreciably
12 more vulnerable.” (*Id.* at 34.) In other words, not only are Plaintiffs seeking “to obtain in court”
13 an additional Democratic legislative district in the Yakima area that their political allies “could not
14 achieve” at the Redistricting Commission, *Cooper*, 137 S. Ct. at 1490 (Alito, J., concurring in the
15 judgment in part and dissenting in part), but they are now using the remedial process to seek to
16 turn two other legislative districts—one in North Central Washington and one in Southwest
17 Washington—into majority-Democratic districts. If successful, this would result in six additional
18 Democratic state representatives and three additional Democratic state senators (in addition to the
19 two additional Democratic state representatives and additional Democratic state senator elected
20 from the remedial district in each of Plaintiffs’ remedial proposals).

21 **5. Playing More Political Games with Incumbent Legislators.**

22 The Supreme Court has acknowledged that traditional redistricting principles include
23 “preserving the cores of prior districts and avoiding contests between incumbent[s].” *Karcher v.*
24 *Daggett*, 462 U.S. 725, 740 (1983). Yet Plaintiffs’ five remedial proposals would wreak havoc on
25 incumbents far removed from enacted LD-15. According to Dr. Trende’s analysis, each of
26 Plaintiffs’ map proposals would imperil numerous current Republican legislators by moving them
27 into Democratic districts or pitting them against other Republican incumbents. (*See* Trende Report,

1 Dkt. # 251 at 38-40, 59-60, 66; *see also* Dkt. # 248 at 2-4.) In contrast, not a single incumbent
 2 Democratic legislator is moved into a new district, placed in a safely Republican district or paired
 3 against an incumbent Democrat. (*See id.*) The table below summarizes these effects:

| Legislator | LD | Party | Chamber | Proposal | Change(s) |
|-------------------|----|-------|---------|---------------|--|
| Stephanie Barnard | 8 | R | House | 1, 2, 3, 4 | Moved to LD-16 with Reps. Klicker & Rude |
| Brad Hawkins | 12 | R | Senate | 1, 3 | Moved to LD-7 with Sen. Short |
| Curtis King | 14 | R | Senate | 1, 2, 3, 4 | Moved to LD-5 which is not on ballot until 2026 |
| Chris Corry | 14 | R | House | 1, 2, 3, 4, 5 | Moved to LD-15 with Reps. Chandler & Sandlin (Maps 1-4); moved to LD-13 with Reps. Dent & Ybarra (Map 5) |
| Gina Mosbrucker | 14 | R | House | 1, 2, 3, 4, 5 | Moved to LD-17 with Reps. Harris & Waters (Maps 1-4); moved to LD-16 with Reps. Klicker & Rude (Map 5) |
| Nikki Torres | 15 | R | Senate | 1, 2, 3, 4 | Moved to LD-16 with Sen. Dozier |
| Bruce Chandler | 15 | R | House | 5 | Moved to safely Dem. LD-14 |
| Bryan Sandlin | 15 | R | House | 5 | Moved to safely Dem. LD-14 |
| Phil Fortunato | 31 | R | Senate | 1, 3 | Moved to safely Dem. LD-5 |
| Drew Stokesbary | 31 | R | House | 1 | Moved to safely Dem. LD-5 |

17 (*See id.*)

18 Many of these shifts appear gratuitous and intentional. In Plaintiffs' Proposals 1 through
 19 4, Senator Curtis King is drawn out of his current district by less than one mile, as is Representative
 20 Gina Mosbrucker in Proposals 3 and 4. Representative Chris Corry is left 1.5 miles outside of his
 21 current district in Proposals 1 through 4, and just *one-third* of a mile away in Proposals 5. Even
 22 more egregiously in Proposal 5, LD-15 Representative Bruce Chandler is moved into a
 23 neighboring district by a mere *500 feet*. His seatmate, Representative Bryan Sandlin, is treated
 24 similarly, ending up only one-half of a mile outside his current district, despite living in an
 25 extremely sparsely populated area on the north slope of the Yakima River Valley. Lastly, in
 26 Plaintiffs' Proposal 1, House Minority Leader Drew Stokesbary (who is also, as Plaintiffs have
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1 pointed out, undersigned counsel, *see* Dkt. # 64 at 3) sees his *neighborhood* in South Auburn split
 2 in half, with his residence ending up one-half mile outside his current district. (*See also* Trende
 3 Report, Dkt. # 251 at 39-40.)

4 **6. Ignoring the Commission’s First-Ever Tribal Consultation Policy.**

5 For the first time in the history of the Redistricting Commission, it adopted a formal tribal
 6 consultation policy. *See* Ex. C, Trial Ex. 1060; *see also* Washington State Redistricting
 7 Commission, 2021 Redistricting Commission Tribal Consultation Policy (Apr. 12, 2021),
 8 *available at* [https://rdcext.blob.core.windows.net/public/Communications_and_Outreach/Tribal](https://rdcext.blob.core.windows.net/public/Communications_and_Outreach/Tribal_Consultation/Tribal_Consultation_Policy_-_Adopted.pdf)
 9 [Consultation/Tribal Consultation Policy - Adopted.pdf](https://rdcext.blob.core.windows.net/public/Communications_and_Outreach/Tribal_Consultation/Tribal_Consultation_Policy_-_Adopted.pdf). Pursuant to this policy, the Commission
 10 engaged in formal, government-to-government discussions with the Yakama Nation. *See, e.g.*, Ex.
 11 E at 2, Email from Lisa McLean, Executive Director, Washing State Redistricting Commission, to
 12 Redistricting Commissioners (Aug. 6, 2021, 11:21:49 AM PDT). In the course of these
 13 discussions, the Yakama Nation “urge[d] the Redistricting Commission to reject any legislative
 14 map that divides the Yakama Reservation into separate representative districts[,]” and to “reject
 15 any legislative mapping that demonstrably ‘cracks’ the indigenous voting population located south
 16 of the Yakama Reservation in Klickitat and Skamania Counties[,]” where “many enrolled
 17 members reside on off-Reservation trust parcels, at traditional family homesteads, or in
 18 communities near the usual and accustom[ed] fishing sites along the Columbia River.” Ex. D at 5,
 19 Letter from Delano Saluskin, Chairman, Yakama Nation Tribal Council, to Sarah Augustine,
 20 Chair, Washington State 2021 Redistricting Commission (Jun. 3, 2021). At a tribal consultation
 21 meeting with the Redistricting Commission on August 4, 2021, the Yakama Nation presented a
 22 slide deck which included a request that the “2021 Redistricting Maps Should Provide For Single
 23 Representation Between The Yakima & Columbia R[ivers].” Ex. E at 22, Presentation by Yakama
 24 Nation Tribal Council to Washington State Redistricting Commission (Aug. 4, 2021). In a letter
 25 to the Commission during their final negotiations, the Yakama Nation indicated they “specifically
 26 favor[ed] elements of Commissioner Graves’ proposed Legislative District 14,” including those
 27 that “incorporate[d] Yakama members living in established tribal communities off-Reservation

1 and on federal trust property along the Columbia River” and “include[d] critical natural resource
 2 management areas for the protection of adjacent forests and rivers.” Ex. F at 7-8, Letter from
 3 Delano Saluskin, Chairman, Yakama Nation Tribal Council, to Sarah Augustine, Chair,
 4 Washington State 2021 Redistricting Commission (Nov. 4, 2021). Notably, consistent with the
 5 Yakama Nation’s formal request, Commissioner Graves’ proposed map of District 14 extended
 6 from the Yakima to Columbia River. *See* Ex. G.

7 None of Plaintiffs’ maps extend the same government-to-government courtesy to the
 8 Yakama Nation as Commissioner Graves, and eventually the Commission. District 14 in Plaintiffs’
 9 Proposals 1, 2 and 5 only extend to the southern border of the Yakama Reservation, not all the way
 10 to the Columbia River at White Salmon as in the Enacted Plan (and LD-14 does not reach any part
 11 of the Columbia River in their Proposal 5). (*See* Dkt. # 245-1.) In Proposals 3 and 4, District 14
 12 extends further down the Columbia River (though still not all the way to White Salmon like the
 13 Enacted Plan), but District 17 protrudes from Clark County east to Goldendale, bisecting much of
 14 the Yakama Nation’s usual and accustomed hunting and fishing grounds and placing several off-
 15 Reservation trust parcels and traditional family homesteads in a separate legislative district from
 16 the Yakama Reservation. (*See id.*)

17 **7. Ignoring the Commission’s Extensive Public Comments.**

18 While Plaintiffs’ map-making misadventures are too numerous to catalogue
 19 comprehensively, Intervenor-Defendant Alex Ybarra is uniquely impacted by one such example.
 20 In Plaintiffs’ Proposals 2 and 4, Legislative District 13, which Rep. Ybarra represents in the State
 21 House, is extended westward across the Cascade Mountains all the way to Enumclaw. (*See* Dkt. #
 22 245-1.) In addition to the obvious logistical challenges of representing a district crossing Chinook
 23 Pass, *see supra* note 2, this configuration is somewhat similar to the configuration by Commissioner
 24 Paul Graves, *see* Ex. G, which received swift and severely negative feedback. Not only does this
 25 configuration of District 13 exemplify Plaintiffs’ ignorance of Washington’s geography and other
 26 traditional redistricting principles, it also illustrates their disregard for the Commission’s
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1 bipartisan, good-faith negotiating process that included tremendous efforts to incorporate public
2 feedback and produce maps receptive to the needs of Washington.

3 **CONCLUSION**

4 For the foregoing reasons, the Court should reject *all* of Plaintiffs’ remedial proposals,
5 which purport to “remedy” voter dilution through additional dilution. Here, the proposed cure is
6 not merely worse than the disease—it is, quite literally, more of the alleged disease itself. And
7 despite the narrow holding of the Court regarding LD-15, Plaintiffs are now attempting to use the
8 remedial process to further trample the constitutionally-mandated work of the Redistricting
9 Commission and score political wins (outside the scope of the Court’s holding) through this Court
10 and distortions of the VRA, as opposed to engaging in the required bipartisan process so clearly
11 outlined in the Washington Constitution.

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1 DATED this 22nd day of December, 2023.

2 Respectfully submitted,

3 s/ Andrew R. Stokesbary

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I certify that this memorandum contains 4,193 words, in compliance with the Local Civil Rules.

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing document with the Clerk of the Court of the United States District Court for the Western District of Washington through the Court's CM/ECF System, which will serve a copy of this document upon all counsel of record.

DATED this 22nd day of December, 2023.

Respectfully submitted,

s/ Andrew R. Stokesbary
Andrew R. Stokesbary, WSBA No. 46097

Counsel for Intervenor-Defendants

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