

DEC 09 2011

FILED

STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL

A11-152

Sara Hippert, Dave Greer, Linda
Markowitz, Dee Dee Larson, Ben Maas,
Gregg Peppin, Randy Penrod and Charles
Roulet, individually and on behalf of all
citizens and voting residents of Minnesota
similarly situated,

Plaintiffs,

and

Kenneth Martin, Lynn Wilson, Timothy
O'Brien, Irene Peralez, Josie Johnson, Jane
Krentz, Mark Altenburg and Debra
Hasskamp,
individually and on behalf of all citizens of
Minnesota similarly situated,

Intervenors,

and

Audrey Britton, David Bly, Cary Coop,
and John McIntosh, individually and on
behalf of all citizens of Minnesota
similarly situated,

Intervenors,

vs.

Mark Ritchie, Secretary of State of
Minnesota; and Robert Hiivala, Wright
County Auditor, individually and on behalf
of all Minnesota county chief election
officers,

Defendants.

**HIPPERT PLAINTIFFS'
MEMORANDUM IN RESPONSE
TO INTERVENORS'
CONGRESSIONAL
REDISTRICTING SUBMISSIONS**

**ORAL ARGUMENT
REQUESTED**

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INTRODUCTION

Intervenors' redistricting plans were available for public viewing for the first time on November 18, 2011. It was immediately clear that these plans were not premised on the continuing changes in Minnesota demographics, on this Panel's redistricting criteria, or on citizen input. Instead, they were developed "in the best interests of the [Democratic-Farmer-Labor] party,"¹ and the supporting briefs' reliance on purported "communities of interest" appears to be little more than an ad hoc justification for inconvenient and visually curious district configurations.

Moreover, Intervenors' redistricting plans do not adhere to the Zachman Plan's necessary adoption of a three rural, two urban, three suburban/exurban congressional districting configuration. The Martin Intervenors propose three rural districts, including an unmanageable 7th District running from Canada to Iowa, one urban district, and four other districts that are an unworkable mix of urban, suburban, exurban, and rural interests. Meanwhile, the Britton Intervenors do propose three rural and two urban districts – but, like the Martin Intervenors, propose a 7th District that is unmanageable, and three other districts that include urban, rural, suburban, and exurban territory stretching, snakelike, up I-94. Finally, it hardly needs highlighting that the Martin Intervenors' congressional plan pairs Minnesota's only two female Congressional Representatives at a time when men outnumber women in Congress nearly 5:1. These

¹ T. Scheck, *DFL Chair: I Did What's Best for the Party*, MINNESOTA PUBLIC RADIO (Nov. 21, 2011), available online at http://minnesota.publicradio.org/collections/special/columns/polinaut/archive/2011/11/dfi_chair_i_did.shtml, (last visited on Dec. 1, 2011).

redistricting plans do not make sense for any redistricting body, let alone for a judicial Panel that must focus on established legal principles, an objective approach, and ultimate fairness to the people of the State.

In contrast, Plaintiffs' congressional redistricting plan complies with the Panel's criteria and is fair. This congressional plan was also made available to the public for comment, Plaintiffs were able to and did consider carefully whether either public comment or the Panel's Order warranted specific changes to the plan. Although there is no question that some members of the public disagreed with aspects of Plaintiffs' proposal, in stark contrast to the Martin Intervenors' map, neither members of the public nor members of Plaintiffs' own party have called Plaintiffs' proposal "hyper-partisan and bizarre"² or "a lesson in partisan redistricting."³ Plaintiffs submit that their congressional plan best serves the current population of the State, its political subdivisions and communities of interest, as well as ongoing population trends.

² T. Scheck, *Proposed DFL Redistricting Map Irks McCollum*, MINNESOTA PUBLIC RADIO (Nov. 18, 2011), available online at http://minnesota.publicradio.org/display/web/2011/11/18/redistricting/?refid=0&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+MPR_NewsFeatures+%28News+%26+Features+from+Minnesota+Public+Radio%29 (last visited on Dec. 6, 2011); K. Diaz & R. Stassen-Berger, *DFLers Decry Redistricting Plan of... DFL*, STAR TRIBUNE (Nov. 18, 2011), available online at <http://www.startribune.com/politics/statelocal/134160393.html> (last visited on Dec. 6, 2011).

³ D. Henry, *DFL Maps a Lesson in Partisan Redistricting*, MINNPOST (Nov. 30, 2011), available online at http://www.minnpost.com/devinhenry/2011/11/30/33448/dfl_maps_a_lesson_in_partisan_redistricting (last visited on Dec. 6, 2011).

Plaintiffs continue to advance the only congressional redistricting plan that has passed through both houses of the Legislature, that has been subject to public comment, that depicts all eight districts in a manner that complies with the Panel's criteria and makes sense, and that will best accommodate Minnesota's continuing demographic shifts throughout the coming decade. Accordingly, Plaintiffs respectfully request adoption of the Hippert Congressional Redistricting Plan.

DISCUSSION

I. INTERVENORS' PLANS WERE DEVELOPED IN THE INTERESTS OF THEIR POLITICAL PARTIES, NOT MINNESOTA CITIZENS

There has been much media discussion in recent weeks regarding the redistricting plans submitted to the Panel, and much speculation surrounding the motivations of the parties to this litigation. Plaintiffs have tried consistently to make the rationale for the maps they propose clear: Plaintiffs have submitted maps that they believe responsibly represent the people of Minnesota. To the extent Plaintiffs' proposed congressional plan presents a change for northern and central Minnesota, this change is a function of significant demographic shifts that have occurred since 2001, and that Minnesota demographers consistently predict will continue through 2010-2020 and beyond.⁴ Accordingly, scholars have posited that Plaintiffs' proposed changes may be not only necessary but inevitable in light of these demographic trends.⁵

The same articles that discuss the need for change nonetheless also suggest, inappropriately, that a map is "gerrymandered" whenever it is drawn by persons involved in politics. But the United States Supreme Court, the Minnesota Supreme Court, and this Panel have all repeatedly stated that redistricting is primarily the province of the state

⁴ Minnesota State Demographic Center, MINNESOTA POPULATION PROJECTIONS 2005-2035, at p. 3 (June 2007), available online at <http://www.demography.state.mn.us/documents/MinnesotaPopulationProjections20052035.pdf> (last visited on Dec. 1, 2011).

⁵ J. Grovum, *Minnesota Redistricting Panel Gets GOP, DFL Political Maps*, POLITICS IN MINNESOTA (Nov. 25, 2011), available online at <http://politicsinminnesota.com/2011/11/minnesota-redistricting-panel-gets-gop-dfl-political-maps/> (last visited on Dec. 1, 2011) (hereafter, "Grovum Analysis").

legislature. *White v. Weiser*, 412 U.S. 783, 794 (1973); *Hippert v. Ritchie*, Order at 2 (C. J. Gildea June 1, 2011); *Hippert v. Ritchie*, Order Stating Redistricting Principles and Requirements for Plan Submissions at 3 (Minn. Special Redistricting Panel (Nov. 4, 2011)). Thus, political policymakers can and should take the lead role in redistricting.

Furthermore, a political "gerrymander" has a specific meaning,⁶ and occurs only if or when legitimate redistricting considerations are subordinated to political interests (as with the salamander-shaped Massachusetts districts drawn by Elbridge Gerry in 1812). Thus, a fair redistricting plan passed through the State Legislature, which is responsive and responsible toward the citizens of Minnesota, deserves significant consideration.

Finally, there is a clear contrast between Plaintiffs' congressional plan, which is premised on population shifts in the State, and the overriding political orientation of the two Intervenor plans submitted in this litigation. Those plans have not only been drawn primarily to satisfy political party interests⁷ and been decried by prominent Democrats

⁶ "The process of drawing districts with odd shapes to create an unfair advantage is called 'gerrymandering.' Like 'reapportionment,' the term 'gerrymandering' has become so popular that it has lost its original precision and is often used to describe any technique by which a political party attempts to give itself an unfair advantage." Peter S. Wattson (former Minnesota Senate Counsel and former General Counsel to Governor Dayton), HOW TO DRAW REDISTRICTING PLANS THAT WILL STAND UP IN COURT (June 8, 2000 ed.) (emphasis added), available online at http://www.senate.leg.state.mn.us/departments/scr/REDIST/Draw/Draw992web.htm#_1_4 (last visited on Dec. 6, 2011).

⁷ T. Scheck, *DFL Chair: I Did What's Best for the Party*, MINNESOTA PUBLIC RADIO (Nov. 21, 2011), available online at http://minnesota.publicradio.org/collections/special/columns/polinaut/archive/2011/11/dfi_chair_i_did.shtml, (last visited on Dec. 1, 2011).

themselves as doing so,⁸ but have also been discussed at length by the media.⁹ To achieve their political goals, Intervenors are fighting an uphill battle against known and measurable demographic shifts in Minnesota. Neutral observers, scholars, and students of demographic and political shifts have acknowledged that Intervenors' plans look strange because Intervenors must do strange things to accomplish their goals.¹⁰ Plaintiffs have presented the Panel with the only realistic approach to congressional redistricting.

II. PLAINTIFFS' CONGRESSIONAL PLAN BEST REPRESENTS MINNESOTA'S CURRENT DEMOGRAPHICS AND FORWARD-LOOKING DEMOGRAPHIC TRENDS.

The purpose of redistricting is to achieve population equality in districts; as a result, new districts must reflect how the State's citizenry chooses to organize itself in political subdivisions and proximate communities of interest. As was discussed in Plaintiffs' opening brief, and which need not be repeated here in detail, population trends of recent past decades continued and accelerated from 2000-2010. The greatest population growth occurred in second ring suburban counties and out state metropolitan cities such as Rochester and Mankato. The urban core's population remained largely

⁸ T. Scheck, *Proposed DFL Redistricting Map Irks McCollum*, MINNESOTA PUBLIC RADIO (Nov. 18, 2011), available online at http://minnesota.publicradio.org/display/web/2011/11/18/redistricting/?refid=0&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3AMPR_NewsFeatures+%28News+%26+Features+from+Minnesota+Public+Radio%29 (last visited on Dec. 6, 2011).

⁹ Grovum Analysis.

¹⁰ *Id.*

unchanged, and rural areas lost population – especially along the western border of the state. Finally, central Minnesota continues to emerge as its own region.

Noting these trends, neutral observers and students of demographic and political shifts have acknowledged that the congressional plans proposed by the Hippert Plaintiffs are the only ones that address the continuing dramatic changes in the state's population.¹¹ The "horizontal" 7th, 8th, and 1st Districts Plaintiffs propose provide opportunities for populous growth centers (Rochester and Mankato in the 1st District, St. Cloud in the 7th District, and Moorhead in the 8th District) to prevent each of these congressional districts from quickly becoming under populated or obsolete. If the Plaintiffs' 8th District continues to lose population, for example, it can gain territory in Pine, Wilkin, Wadena, or Otter Tail Counties and still remain a rural district with the same characteristic core. Likewise, the 7th District can take in more of St. Cloud or Sherburne County and retain its core central Minnesota characteristics in the next decade.

In contrast, Intervenors' 7th, 8th, and 1st Districts provide no alternative for future expansion, except to further allow these rural interests to be subsumed by increasingly suburban populations and interests. Intervenors' strikingly similar 7th Districts, for example, encompass virtually all of the portion of the state with the greatest population declines over the last decade. *See* Hippert Plaintiffs' Memorandum in Support of Proposed Congressional Redistricting Plan, at p. 5 (Nov. 18, 2010) ("Hippert Congressional Brief") (depicting *Minnesota 2010 Census Results: Percent Change in Population by County 2000-2010*). Although Intervenors' 7th Districts each contain

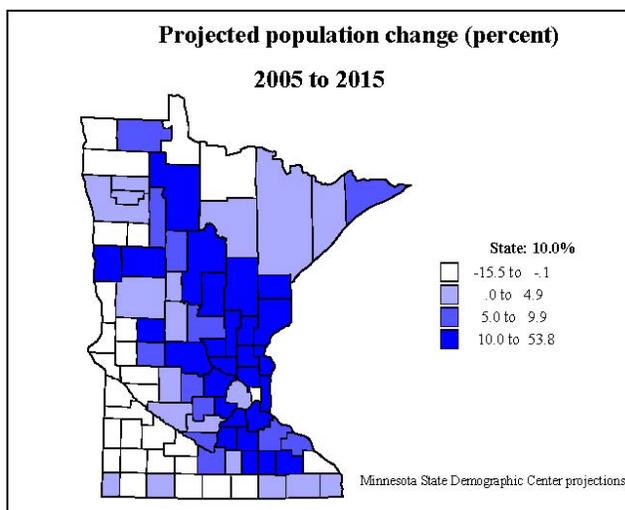
¹¹ *Id.*

approximately one-third of Minnesota's counties, all but four counties in each plan appear to have negative or below-average anticipated population growth.

Nor are these demographic shifts limited to the past. The Minnesota State Demographer projects that the population decline in western Minnesota will continue:

Between 2005 and 2015, Minnesota's population is projected to grow by 518,000, or about 10 percent. This growth rate is similar to that of the past 15 years. The most rapid gains will occur in suburbs in the Minneapolis-St. Paul region, including Scott (54 percent), Wright (52 percent), and Sherburne (44 percent) counties.... Twenty-eight counties, mostly in western Minnesota, are projected to lose population during the coming decade.¹²

The State Demographer's map of predicted population change by county from 2005 to 2015 demonstrates that Intervenors' 7th District largely overlays the counties with the greatest expected population declines:¹³



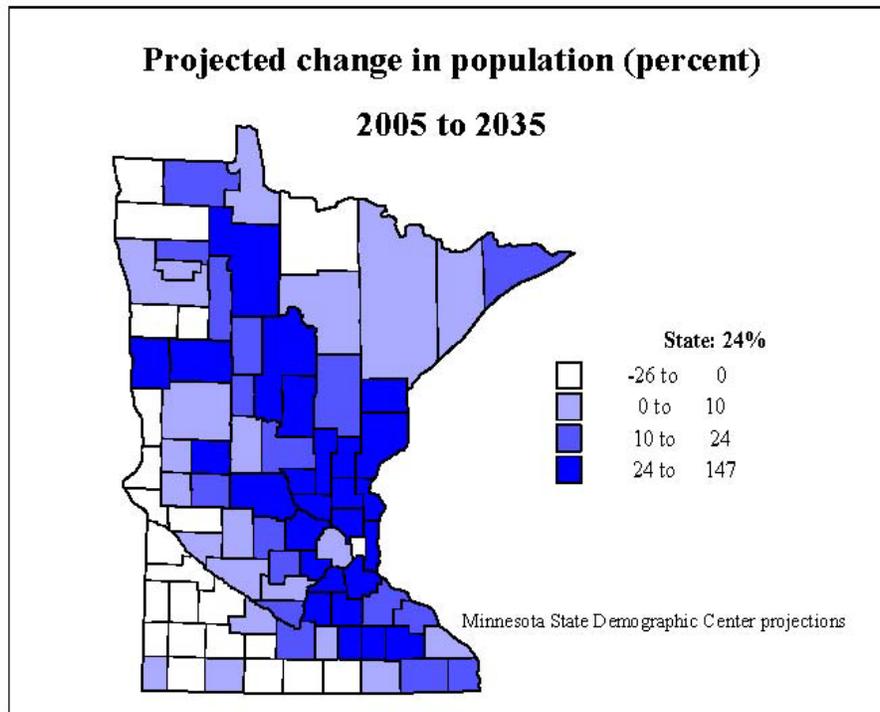
¹² Minnesota State Demographic Center, MINNESOTA POPULATION PROJECTIONS 2005-2035, at p. 3 (June 2007), available online at <http://www.demography.state.mn.us/documents/MinnesotaPopulationProjections20052035.pdf>, (last visited on Dec. 6, 2011). These predictions proved quite accurate as to the locations of population growths and declines through the 2010 Census.

¹³ *Id.* at 4.

These same trends, including the loss of population in western Minnesota, are also predicted to continue on through 2035:

Over the 30-year period [from 2005 to 2035] metropolitan areas are projected to grow almost twice as fast as nonmetropolitan areas, 28 percent compared to 15 percent. About 83 percent of all growth will occur in metropolitan areas. The seven county Twin Cities area will account for about 46 percent of all growth over the three decades and the four suburban ring counties – Chisago, Isanti, Sherburne, and Wright – will contribute about a quarter of the gain.¹⁴

Here, too, a visual depiction illustrates that Intervenors' 7th District is probably under populated already – a situation that is not likely to improve over the next ten years:¹⁵



¹⁴ *Id.* at p. 4.

¹⁵ *Id.* at p. 5.

Plaintiffs acknowledge that it is not possible to predict future population changes with complete accuracy. But it is clear that the population trends of several decades have continued into 2010 and will continue through 2020 and beyond. Failure to consider these trends endangers the "one person, one vote" concept from the very beginning of the decade. Accordingly, it is not only appropriate but critically important that this Panel's congressional redistricting plan be consistent with current and continuing trends. Plaintiffs respectfully suggest that their plan is the only one that accomplishes this goal.

III. INTERVENORS' PLANS ARE NOT RESPONSIVE TO THE PANEL'S ADOPTED REDISTRICTING CRITERIA

A. Intervenor Do Not Create Convenient Districts, As Required By Minnesota Statute

Minnesota Statutes § 2.91 requires districts to be composed of convenient, contiguous territory. A district is "convenient" if it is "[w]ithin easy reach; easily accessible." *LaComb v. Growe*, 541 F. Supp. 145, 150 (D. Minn. 1982). This is, of course, more easily accomplished with metropolitan districts than with rural districts. Because rural areas in Minnesota tend to be less densely populated and overall less populous, rural districts will typically encompass more land and include fewer major travel corridors than urban and suburban districts. For example, each of the parties proposes an 8th District that covers significant land area regardless of how the district is drawn.

But it is possible to create reasonably convenient districts, as demonstrated by Plaintiffs' rural districts. By comparison, both Intervenor have created a sprawling 7th

District that spans the longest portion of the state without the benefit of roads that a representative can realistically and routinely use to travel the district.

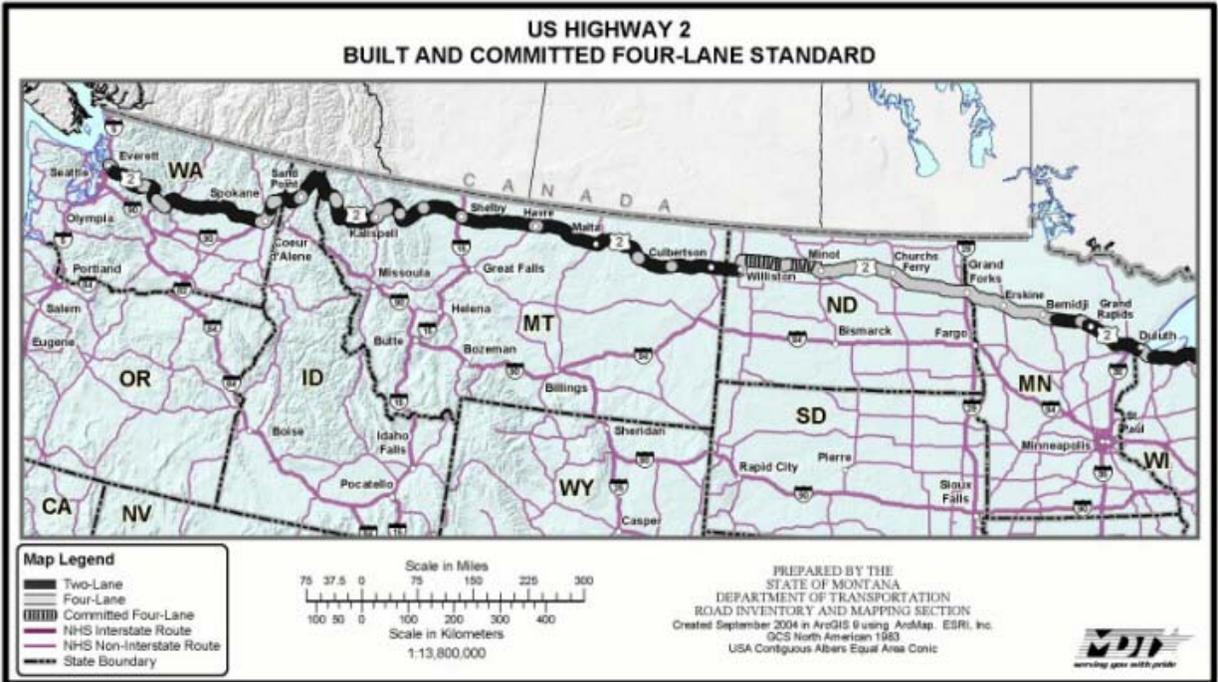
The following table illustrates the unwieldy nature of Intervenor's 7th District:

Square Miles	%			%			%
Comparison	Hippert	Martin	Difference	Britton	Difference	Zachman	Difference
CD1	16,164	10,581	35%	10,160	37%	13,495	17%
CD2	4,299	2,321	46%	5,343	-24%	3,147	27%
CD3	1,358	357	74%	721	47%	512	62%
CD4	248	523	-111%	259	-4%	219	11%
CD5	140	140	0%	158	-12%	129	8%
CD6	2,169	3,840	-77%	1,731	20%	3,229	-49%
CD7	18,603	36,255	-95%	35,486	-91%	33,656	-81%
CD8	43,734	32,697	25%	32,858	25%	32,329	26%

Compared to both Plaintiffs' and the Zachman plans, the Martin and Britton Intervenor's propose materially smaller districts (in terms of square miles) where better roads exist – in the suburbs and exurbs. Intervenor's create "vertical" 8th Districts that are smaller than Plaintiffs' proposed district, but which are nonetheless inconvenient because no easily traversed major roads go all the way from Iowa to the Canadian border.¹⁶ In contrast, Highway 2 is a major non-interstate "grain route" that accommodates both commercial and personal travel from Washington State to Michigan across northern Minnesota.¹⁷

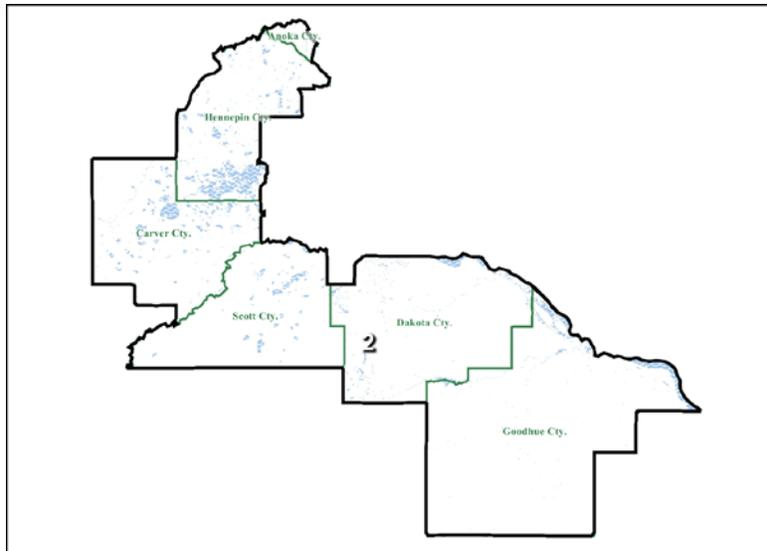
¹⁶ It is perhaps telling that the most convenient Midwestern means of traveling from the Canadian border to points south of Minnesota is I-29 – which runs through North and South Dakota but never enters Minnesota.

¹⁷ U.S. HIGHWAY 2 MULTI-STATE MAP, http://www.mdt.mt.gov/pubinvolve/us2_multistate.shtml (last visited on Dec. 6, 2011); U.S. HIGHWAY NO. 2 (WEST), <http://www.mapsofworld.com/usa/pocket-maps/st-ignace-mi-to-everett-wa.html> (last visited on Dec. 6, 2011).



In exchange, Intervenor create a 7th District that is 91-95% and approximately 17,000 square miles larger than Plaintiffs' 7th District – in a location where roads are old, winding, narrow, and difficult to travel. For this reason, Minnesotans living in southwest Minnesota do not typically travel north to shop or connect with others in Moorhead or Detroit Lakes; rather, they are more likely to follow I-90 southwest to Sioux Falls or east to larger Minnesota cities along that route. It is also relevant to the "convenience" consideration that Intervenor's proposed 7th District is likely already under populated given ongoing demographic trends. Going forward, this district must become even larger and more inconvenient if there is to be any rural continuity in future redistricting cycles.

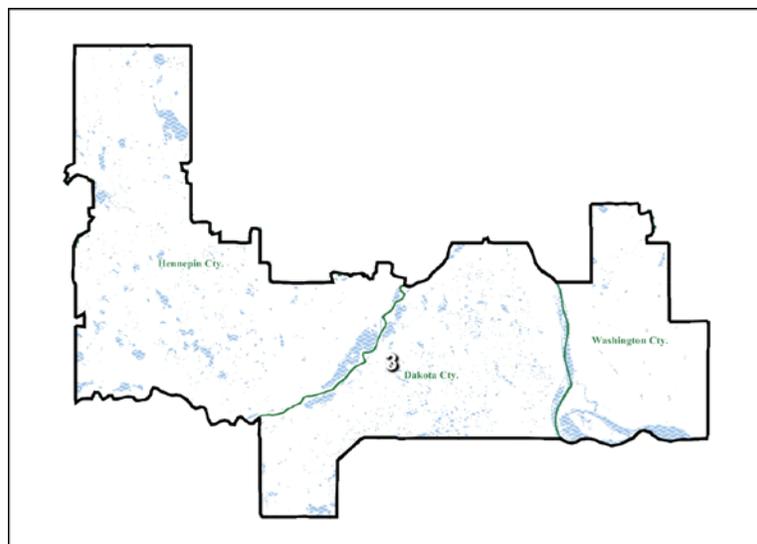
The Martin Intervenor's 2nd District is no better. This sickle-shaped district that wraps from Brooklyn Park to Norwood Young America and back around to Hastings has no good way to travel directly from one end of the district to the other:



MARTIN PROPOSED 2ND DISTRICT

The "loop" interstates (I-94, I-694, and I-494) are closer to the urban core and outside this district, and virtually all other major roads travel outward from the urban core rather than winding around Minneapolis and St. Paul as this district does.

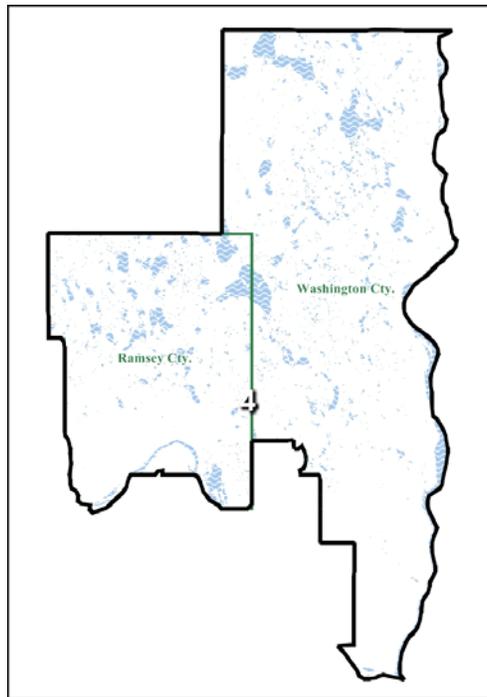
The inconvenience of the Martin 3rd District is also clear, as it creates bookends around either side of Minneapolis and St. Paul:



MARTIN PROPOSED 3RD DISTRICT

The Martin Intervenors may argue that I-494 makes this wrap-around district convenient, but its very shape belies that contention. I-494 does not make it convenient to travel around the Twin Cities from Plymouth to Cottage Grove (and does not create a community of interest between those distant suburbs); rather, it merely reduces the inconvenience of that trip.

Next, the shape of the Martin 4th District defies explanation, especially considering that Ramsey and Washington Counties consist of fairly regular shapes if kept intact:

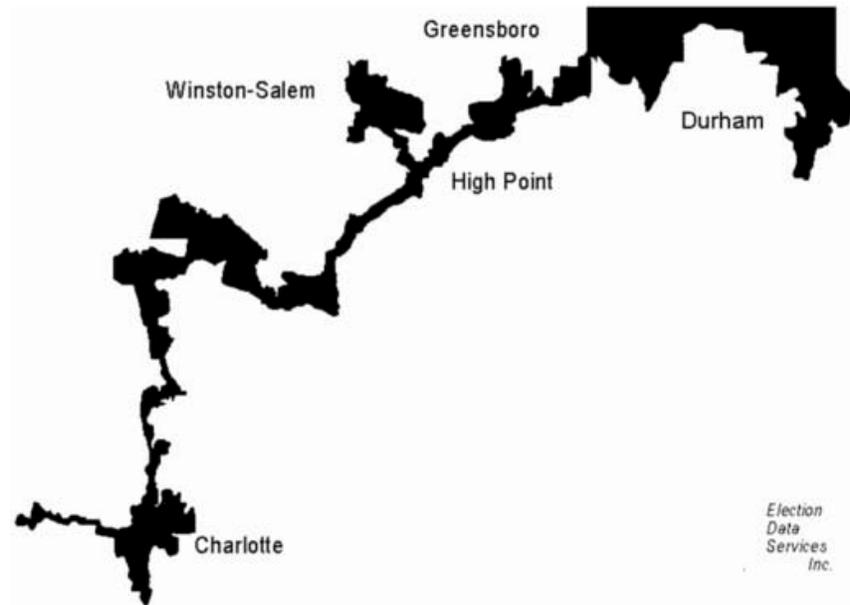


MARTIN PROPOSED 4TH DISTRICT

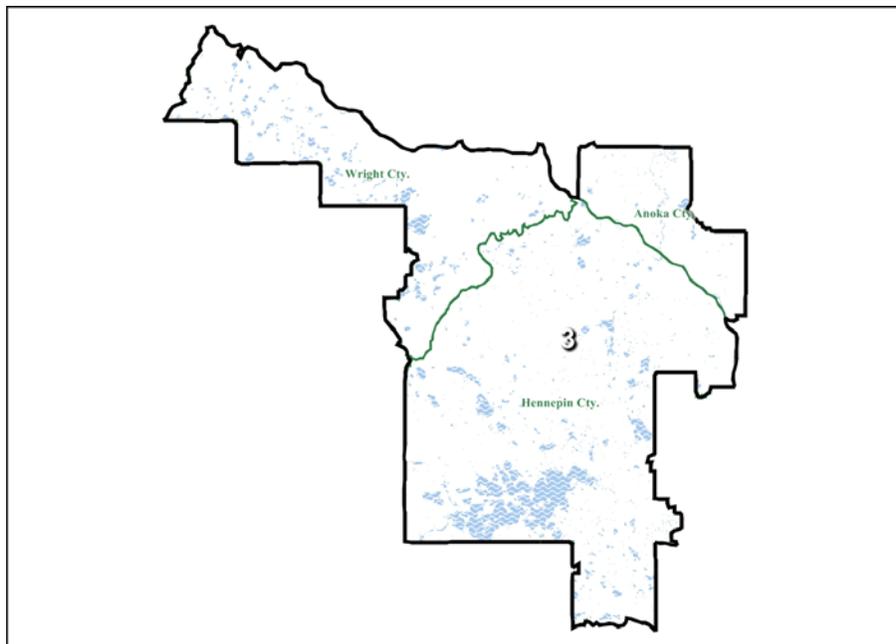
The clear political reasons for this district configuration are discussed elsewhere in this brief, and need not be repeated here.

The Britton Intervenors' 6th and 3rd Districts suffer from similar flaws, and make it clear why the Britton Intervenors fought against a compactness redistricting criterion.

The northwestern tail of the Britton 3rd District reminds one of the famed 12th District in North Carolina, which the United States Supreme Court struck down in 1993:



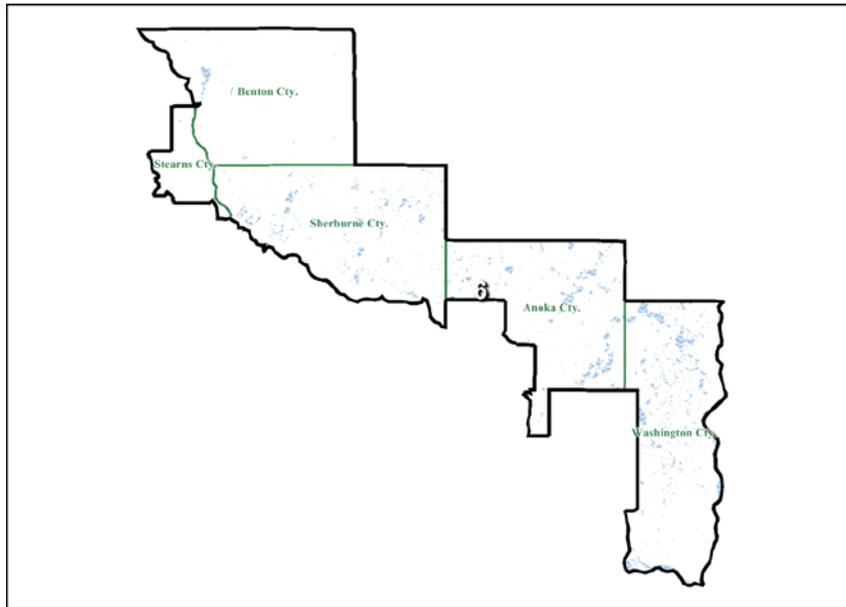
SHAW V. RENO, 509 U.S. 630 (1993)



BRITTON PROPOSED 3RD DISTRICT

There is no justification to create a district around the I-94 corridor when the district consists largely of only the corridor itself.

Finally, the Britton 6th District has an inconvenient and non-compact stair step shape working its way north of I-94 at an angle toward St. Cloud – again, picking up narrow collections of cities and townships around the edges of its 3rd District:



BRITTON PROPOSED 6TH DISTRICT

One cannot fairly say that either of Intervenors' plans are limited to a single, somewhat oddly-shaped district (as in the Zachman Plan's 6th District), or that these district configurations are appropriate or necessary. They are instead repeatedly awkward, will be confusing to voters who may never become clear on the exact borders of their districts, and have little justification other than political interest. Intervenors do not satisfy the convenience criterion.

B. Intervenor Unnecessarily Divide Political Subdivisions

This Panel directed that in drawing congressional districts, "[p]olitical subdivisions shall not be divided more than necessary to meet constitutional requirements." *Hippert v. Ritchie*, Court File No. A11-152, Order Stating Redistricting Principles and Requirements for Plan Submissions at 6 (Nov. 4, 2011) ("Hippert Criteria Order"). The current version of Maptitude makes it both possible and practicable to divide a minimum number of political subdivisions when drawing Minnesota's congressional districts. Plaintiffs' proposed plan succeeds in drawing eight districts that divide only seven counties (splitting Anoka County twice), and only seven minor civil divisions (none split more than once). *See* Hippert Maptitude Reports, Congressional Political Subdivisions Split Between Districts, at Tab C. Plaintiffs have complied with the requirement that Congressional districts may not divide political subdivision splits "more than necessary."

No other party does so. The Britton Intervenor unnecessarily split Dakota County into three districts and Hennepin County into four districts.¹⁸ *See* Britton Maptitude Report, Political Subdivision Split Between Districts, Tab C5. The Martin Intervenor split Anoka County into three districts and Hennepin County into three districts. *See* Martin Maptitude Report, Political Subdivision Split Between Districts.

¹⁸ One such split does not involve any population, but this does not change that such splits could have been avoided with a better overall approach.

But these divisions were not necessary to achieve constitutional redistricting requirements.¹⁹

In addition, both Intervenors' splits occur in locations that create particular difficulties for the affected political subdivisions. Rather than following the principle of dividing larger cities or counties, who are better able to manage having part of their population in one district and part in a different, the Britton Intervenors split Nowthen City (total population: 4,443), Northern Township (population: 4,613), New Prague (population: 3,041), both St. Joseph City and St. Joseph Township in Stearns County (populations: 6,534 and 1,924 respectively), and Rockford Township (population: 3,194). *See* Britton Maptitude Report, Political Subdivision Split Between Districts, Tab C5. The Martin Intervenors likewise divide Sherburne City (population: 1,137) in tiny Martin County (total population: 20,840 people) between their 7th and 1st Districts. This decision leaves 1,586 (7.6%) of Martin County residents separated from the rest of their

¹⁹ The congressional map submitted by Draw the Line suffers from the same defect, but to a significantly greater degree. This map splits 18 counties 23 times, and 42 political subdivisions 44 times. This map was drawn pursuant to a different set of redistricting criteria than this Panel adopted, as acknowledged by its sponsors, and therefore is not particularly useful for these proceedings. *See* Draw the Line Final Report to the Minnesota Special Redistricting Panel, <http://drawthelinemidwest.org/wp-content/uploads/2011/10/DTL-Final-Report.pdf> (last visited on Dec. 1, 2011).

Moreover, like Intervenors Draw the Line withheld its congressional redistricting plan until it was too late for the general public to provide comment to this Panel; Draw the Line released its plan on literally the last day for public comment in this proceeding. *See* "Citizens Commission Report" of Draw the Line Minnesota at 2 (Oct. 21, 2011). As a result, the nonpartisan and technical merits of the plan have been called into question by persons directly involved with Draw the Line. *See* Letter from Kent Kaiser, PhD to Minnesota Special Redistricting Panel (Oct. 21, 2011); Letter from Dax Bennett, to Minnesota Special Redistricting Panel (Oct. 21, 2011).

county, and does so in a part of the state where people most associate with government at the county level. These divisions indicate at best poor demographic planning.

Furthermore, Intervenor also split political subdivisions in a manner that is not reflected in the Maptitude reports. The northern border of the Martin Intervenor's 1st District largely follows county borders, but in doing so divides several political subdivisions that straddle the county line. Because LeSueur, New Prague, and Northfield are already divided by the county border, the division does not show up as a Maptitude split in the Martin reports – but these splits affect the cities and their representation nonetheless. The Britton plan likewise divides LeSueur and New Prague between its 1st and 2nd Districts. Again, with better planning, such divisions largely could have been avoided.

Plaintiffs' congressional plan divides the minimum number of political subdivisions, and locates those divisions within bigger cities. Larger political subdivisions tend to have more resources, enabling them to handle the balloting issues attendant to having citizens voting in multiple elections; they have greater diversity, so that it is sometimes valuable to have two representatives; and they have greater population, such that city residents do not necessarily expect to be in the same district as every other resident. Plaintiffs therefore locate minor civil division splits in large metropolitan cities such as Fridley, Brooklyn Park, St. Cloud, Inver Grove Heights, and Woodbury, and out-state cities with populations greater than 10,000 people (such as Brainerd and North Mankato). This is another manner in which Plaintiffs' proposed congressional plan best represents the interests of Minnesota residents.

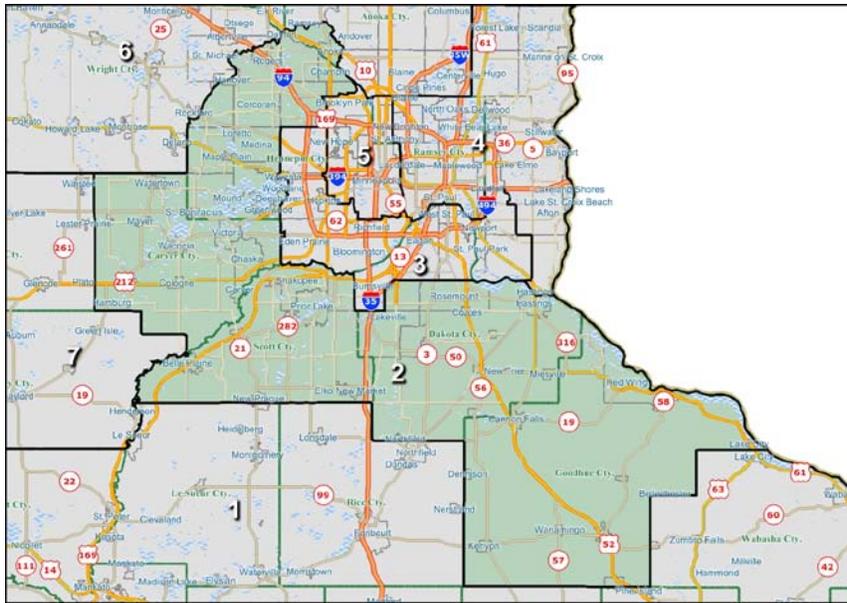
C. Intervenor's Divide Established Communities of Interest And Posit Unsupported Communities of Interest to Rationalize Their Plans

Both the Martin and Britton Intervenor's propose congressional redistricting plans that protect no clearly-defined or persuasively-established communities of interest. Rather, both plans throw different communities together, split others, and justify their plans by treating administrative bodies as "communities of interest."

In addition, both Intervenor's ignore that within the growth rings around Minneapolis and St. Paul there are natural affinities – and lack of affinities – between certain communities extending out from the interior. For example, Edina has affinity with Eden Prairie, which in turn has affinities with Chaska and Chanhassen. St. Louis Park has affinity with western Minneapolis, Hopkins and Golden Valley. Southern St. Paul has affinity with West St. Paul, Newport, and St. Paul Park. As a result, Intervenor's oddly-shaped districts have few internally-common interests relevant to the people of the State or to congressional concerns.

1. Intervenor's Second Districts

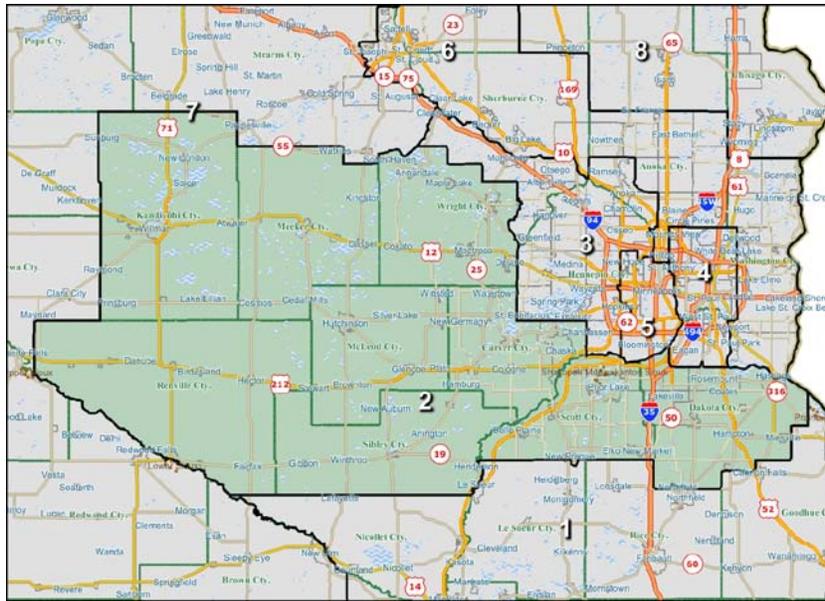
Intervenor's propose 2nd Districts that are oddly configured, divide communities, and pay little attention to which cities and counties "belong" together. The Martin 2nd District wraps from northernmost Hennepin County to northwest Carver County, around the southernmost portion of Hennepin County and Scott County, and continuing southwest to Dakota and Goodhue Counties:



MARTIN PROPOSED 2ND DISTRICT

This district is not only an eye-catching, odd shape, but also combines heavily suburban territories in northern Hennepin and Anoka Counties with exurban, and rural territories all the way to southern Goodhue County. One would have to travel diagonally through any number of separate communities of interest in order to proceed directly from the northwest end of this district to the southeast corner. Needless to say, no road follows such a path. And certainly no community of interest is created by pairing Ramsey, Anoka, Brooklyn Park, and Plymouth with Cannon Falls, Red Wing, and Zumbrota.

The shape of the Britton Intervenor's Second District is perhaps less odd, but the pairings of cities within the district do not suggest any greater attention to communities of interest:

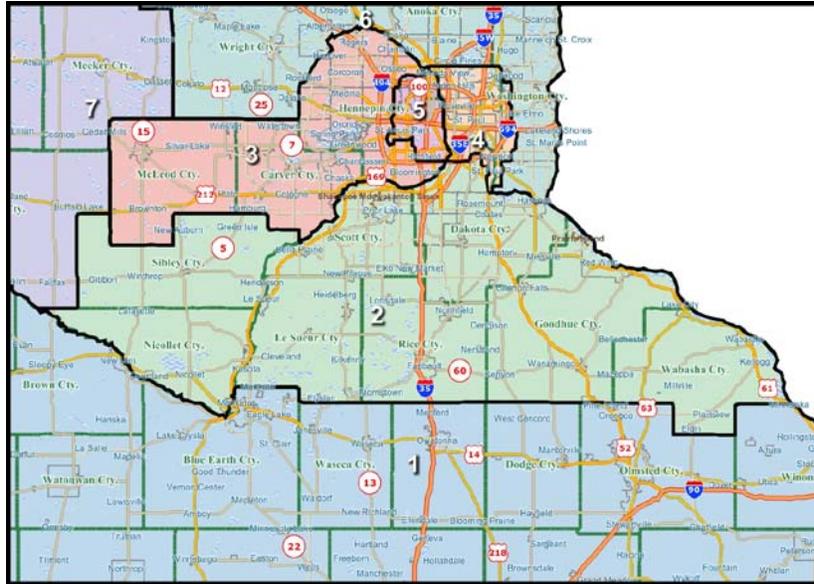


BRITTON PROPOSED 2ND DISTRICT

Rather than putting southern Dakota County in a district with other suburban and exurban cities and counties to their south along I-35, Highway 52, and Highway 169, these Intervenor pair the heavily suburbanized cities of Burnsville, Apple Valley, Rosemount, Shakopee, and Prior Lake with rural Kandiyohi and Renville Counties. The Britton Intervenor further pair cities such as Hastings in Dakota County with cities having few common interests, such as Buffalo and Montrose in Wright County. This is not merely a matter of adding a smaller city or county to ensure Intervenor's 2nd District has sufficient population; this is a matter of drawing districts that, overall, split exurban communities of interest in order to combine cities with no common interests in a single district.

In contrast, Plaintiffs' 2nd District simply makes sense. It preserves a "south of the river" community of interest, and pairs suburban and exurban political subdivisions with other cities and counties along the same major highways. The truly exurban cities

and surrounding townships further south are in the same district with other exurban cities of similar size, economies, and demographics:

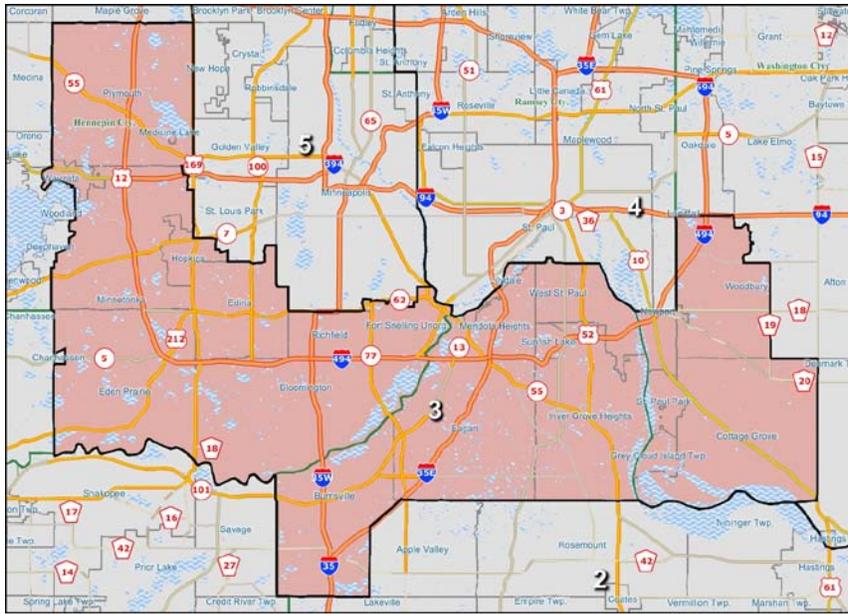


HIPPERT PROPOSED 2ND DISTRICT

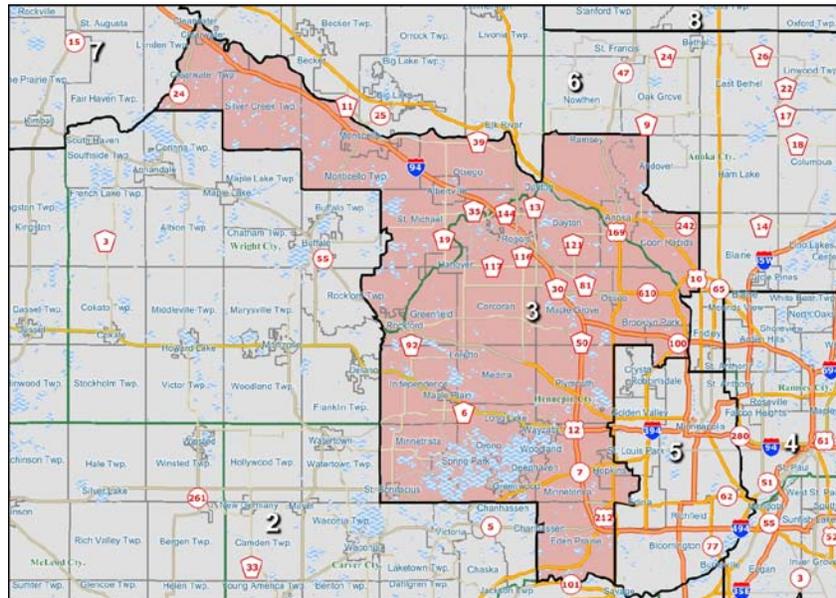
Moreover, Plaintiffs' proposed 2nd District is visually compact (and consistent with the other districts in terms of compactness statistics), which contributes to the feeling that this is a "logical" district. Certainly it is superior to Interveners' 2nd District by virtually any measure.

2. Interveners' Third Districts

Interveners' 3rd Districts are arguably even more difficult to justify:



MARTIN PROPOSED 3RD DISTRICT



BRITTON PROPOSED 3RD DISTRICT

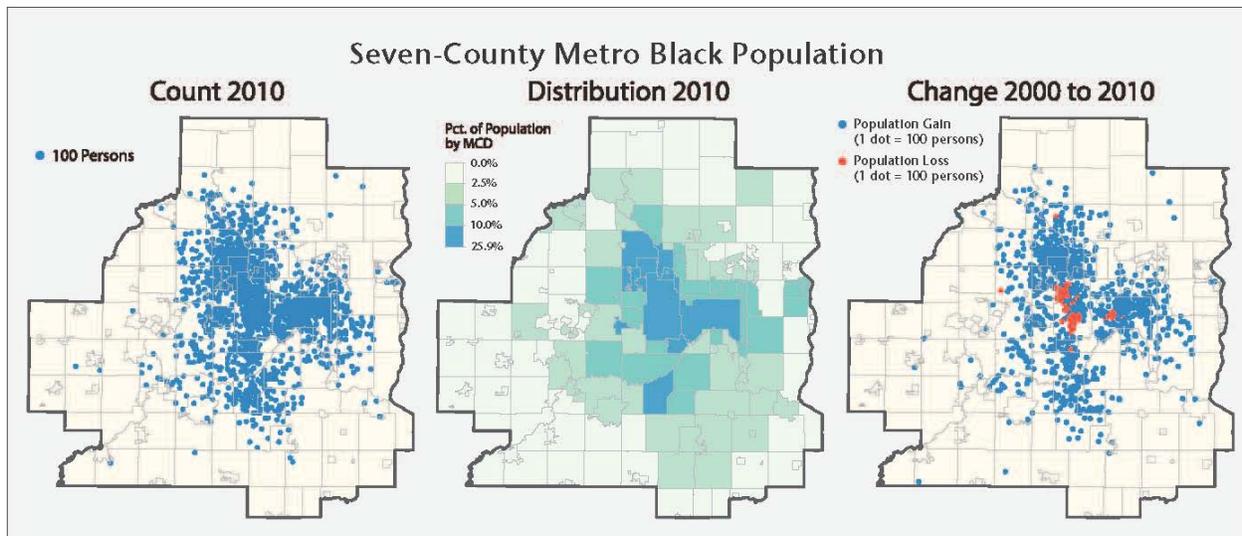
Perhaps the most eye-catching aspect of these districts is the "tail" of the Britton 3rd District, stretching northwest from Brooklyn Center to Clearwater and picking up only individual cities and townships along the way. Intervenor's reasons for doing so defy

logic, as it is clearly possible to accommodate a community of interest along I-94 without putting a tail on a district.

Moreover, the Britton 3rd District contains an odd mix of first-ring Minneapolis suburbs with far-flung suburbs and exurbs. Rather than including Brooklyn Center in a district with neighboring Minneapolis, it is thrown into this largely exurban district stretching up I-94. On the one hand, the Britton Intervenor creates the I-94 tentacle that excludes all Wright County townships except Rockford and those townships through which I-94 passes; on the other hand this district picks up population from southern Anoka County. This configuration not only is illogical and simply looks gerrymandered; it also creates needless political subdivision splits simply to avoid putting certain DFL-leaning suburbs in the same district with the dense DFL-leaning urban core.

This 3rd District configuration also has the effect of dividing a concentrated area of black citizens among three separate congressional districts. Black persons constitute more than 25% of the populations of Minneapolis and its suburbs immediately to the northwest and north, including Crystal, Robbinsdale, and New Hope; Brooklyn Park and Brooklyn Center; and Fridley, Columbia Heights, and Hilltop:²⁰

²⁰ Figure reprinted with permission of the Center for Urban and Regional Affairs (CURA) at the University of Minnesota, from William J. Craig, *Minorities in the Twin Cities: What the 2010 U.S. Census Tells Us*, CURA REPORTER 41(2):29 (Summer 2011), available online at <http://www.cura.umn.edu/sites/cura.advantagelabs.com/files/publications/41-2-Craig.pdf> (last visited on Dec. 6, 2011).

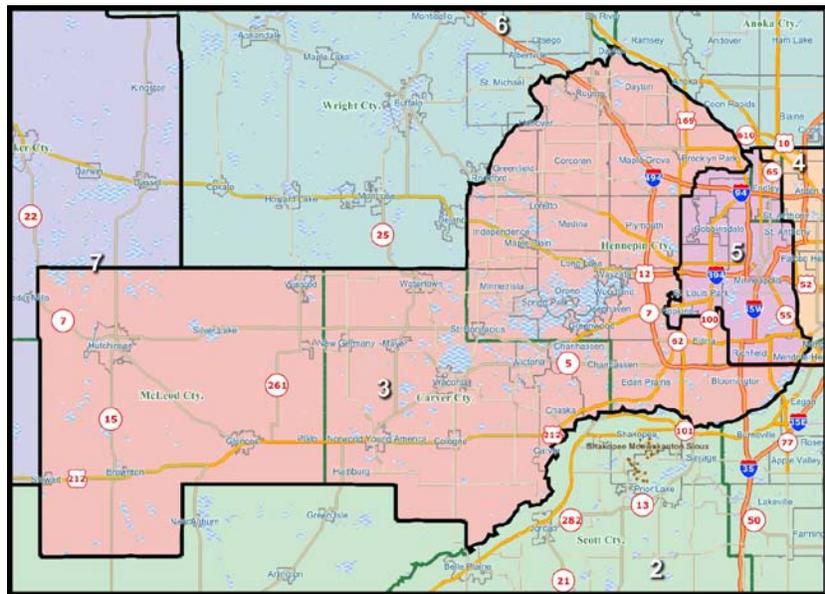


The Britton Intervenor includes Brooklyn Park and Brooklyn Center in their 3rd District with western Hennepin County and the I-94 tail. They then place Fridley, Columbia Heights and Hilltop in their 6th District with St. Cloud. Finally, they place Crystal, Robbinsdale, New Hope, and Minneapolis in their 5th District. These divisions not only are illogical from a suburban community of interest standpoint; perhaps worse, they needlessly divide a compact minority population into three separate districts. There is no reasonable justification for this approach.

The Martin 3rd District takes a different approach. Rather than creating a convenient, visually compact "south of the river" or western Hennepin district, the Martin Intervenor wraps around the Twin Cities so that Plymouth, Minnetonka, and Hopkins would be in a district with Cottage Grove and a section of Woodbury. Richfield, Fort Snelling, and West St. Paul – all first ring suburbs – are likewise in a district comprised almost entirely of second-ring suburbs. Moreover, the Martin Intervenor's 3rd District dips south in Dakota County just enough to include Burnsville as a peninsula in the 3rd

District, separated from both its east and west neighbors of Apple Valley and Savage. Hopkins is likewise separated from its neighbor and like-minded community of St. Louis Park.

Such configurations are simply not necessary to accommodate the metropolitan area's suburban communities. Plaintiffs propose a 3rd District consisting of western Hennepin, Carver, and McLeod Counties:

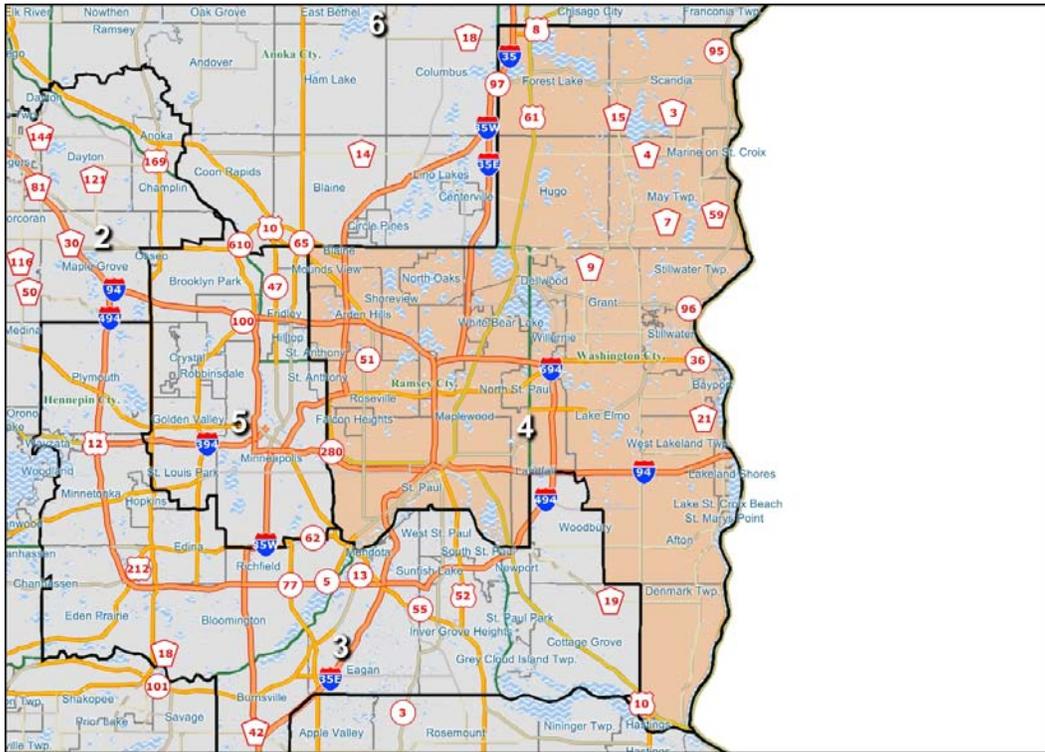


HIPPERT PROPOSED 3RD DISTRICT

Highways 5, 7, and 212 are connecting features of this district, but Plaintiffs create a district of major county components rather than snaking along these highways. This district keeps the lakes area in western Hennepin intact with similar areas in Carver County, and preserves the community of interest between Eden Prairie, Chaska, and Chanhassen. Finally, the district acknowledges that western Carver County is different from eastern Carver County and creates a district with a sufficient mix of suburban and exurban interests such that neither interest will be overshadowed by the other.

3. Intervenor's Fourth Districts

The Martin Intervenor's proposed 4th District has perhaps caused the greatest consternation of any of the parties' proposed districts:

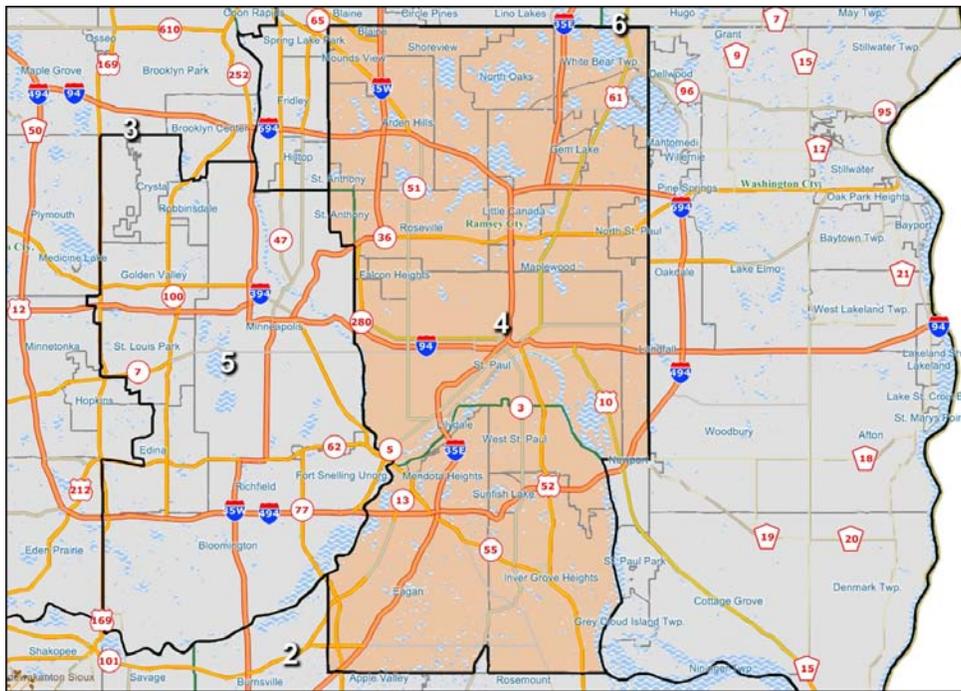


MARTIN PROPOSED 4TH DISTRICT

This district eschews keeping southern, first ring suburbs of St. Paul in the same district as St. Paul. It excludes the portion of Woodbury closest to Ramsey County, creating a "Woodbury peninsula" in this 4th District. Intervenor's proposal favors capturing broad expanses of northern suburban and exurban territories, including areas stretching from Forest Lake in northernmost Washington County to Denmark Township in southernmost Washington County in an otherwise urban-centered district. The only justification for this approach is political, as this district goes out of its way to divide communities of interest rather than preserving them. This district departs from the

traditional 4th Congressional District without offering clear reasons for doing so. There is no reasonable basis for the Panel to adopt a district such as this.

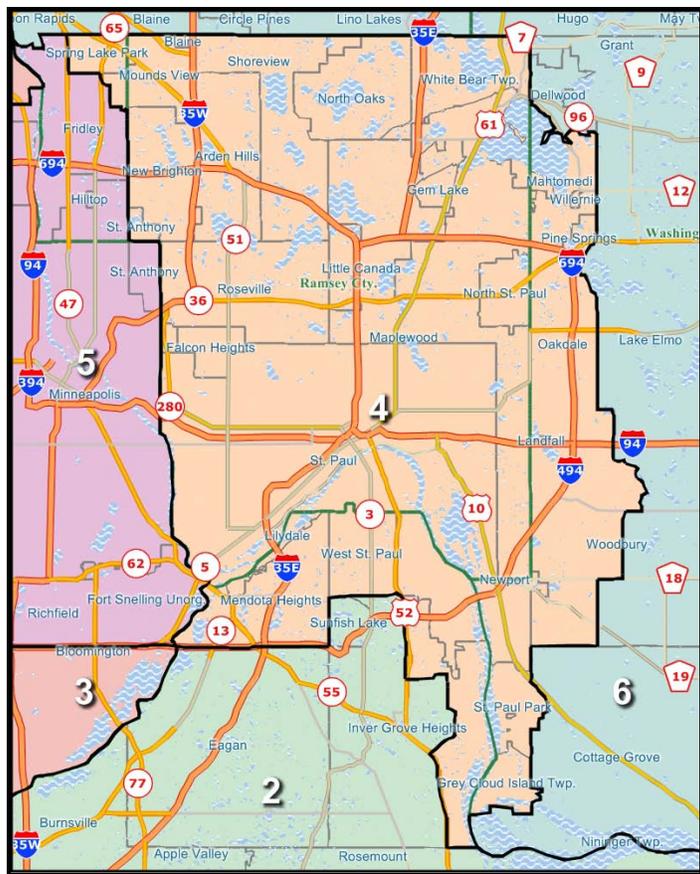
The Britton Intervenor propose a 4th District more similar to Plaintiffs', but it too makes an odd choice. Rather than capturing needed population from the small suburbs immediately to the east of Ramsey County and traditionally included in the 4th District with adjacent Ramsey County suburbs, Intervenor reach down to capture most of Eagan (leaving only a sliver in Intervenor's 2nd District) and Inver Grove Heights:



BRITTON PROPOSED 4TH DISTRICT

In doing so, Intervenor separate Eagan from its traditional common interests with Apple Valley and Rosemount, despite Eagan's few interests in common with St. Paul.

Plaintiffs submit that their 4th District makes the most sense:

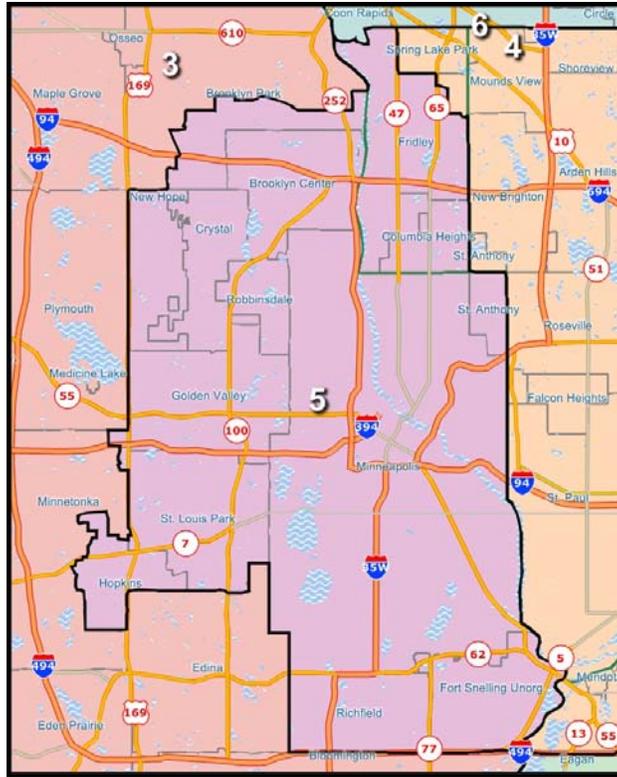


HIPPERT PROPOSED 4TH DISTRICT

It acknowledges that the suburbs immediately adjacent to Ramsey County in most directions (except west, where the district stops upon meeting the Hennepin County border) tend to have most in common with Ramsey County, and creates a compact, logical, easily-traveled district.

4. Intervenor's Fifth Districts

The parties' 5th Districts are perhaps most similar, with each centered around Minneapolis:



HIPPERT PROPOSED 5TH DISTRICT

At first blush, these district configurations may not appear significantly different. The difference, however, lies in the treatment of first ring suburbs. Rather than include virtually all first-ring suburbs in the 5th District with Minneapolis as Plaintiffs propose, the Martin Intervenors put Richfield and Fort Snelling into their heavily suburban 3rd District. In exchange, these Intervenors split Brooklyn Park so that only a tiny portion of its population (8,804 people out of 75,781) would be in Intervenors' 2nd District. The choice to divide first ring suburbs from Minneapolis in order to put more of an enormous second ring suburb in an urban district makes little sense.

The Britton Intervenors likewise split first ring suburbs from the urban core in favor of including more outlying territory in a district with downtown Minneapolis.

These Intervenors separate the first ring suburbs of St. Anthony, Hilltop, Brooklyn Center, Fridley and Columbia Heights from Minneapolis. In addition, suburbs that have communities of interest with each other are separated; Brooklyn Center is drawn into a different district than neighboring Fridley, Columbia Heights, and Hilltop, while St. Louis Park is separated from Hopkins.

As a result, first-ring suburb Brooklyn Center is in an outer suburban and exurban district that snakes up I-94. Separately, Fridley and St. Anthony are in a separate district that snakes north of I-94 all the way to St. Cloud. And primarily suburban south Edina and west and south Bloomington are in a heavily urban Minneapolis district.

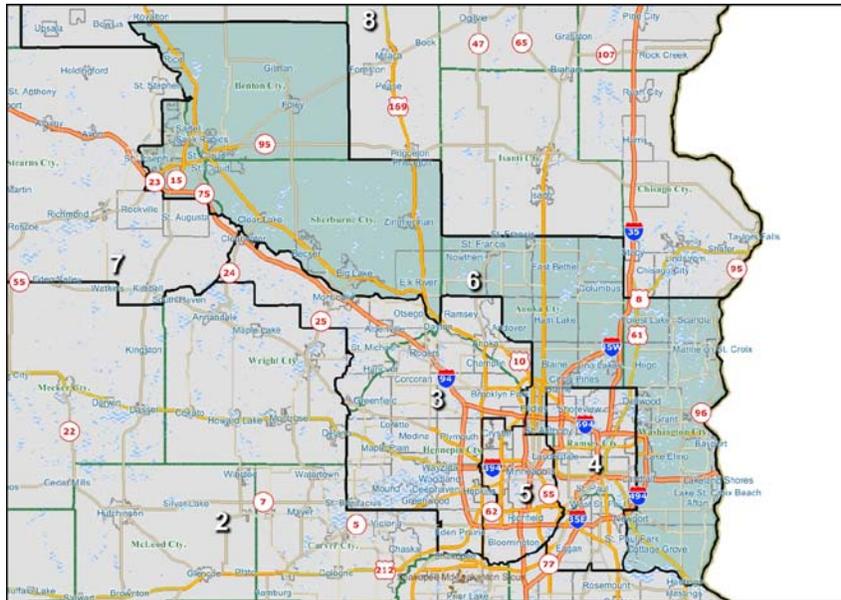
Plaintiffs' proposed 5th District is logical in its own right, and even more so when compared to Intervenors' proposals.

5. Intervenors' Sixth Districts

In the present Zachman congressional plan, the 6th District was arguably the most eye-catching when drafted because it stretched from Benton and Stearns Counties into south Washington County. The district was reasonable, however, for several reasons: First, St. Cloud is unique both in its location within the State and in the size of its population. Second, those who live between St. Cloud and the Twin Cities might travel to St. Cloud for work, might travel to a near suburb, or might travel to the metropolitan area. Third, all of the 6th District consisted almost exclusively of two communities of interest: northern and eastern suburbs of the Twin Cities, and St. Cloud with its surrounding area. This district exemplifies the primacy of protecting communities of

interest within a district, and that multiple communities of interest must sometimes be contained within a single district.

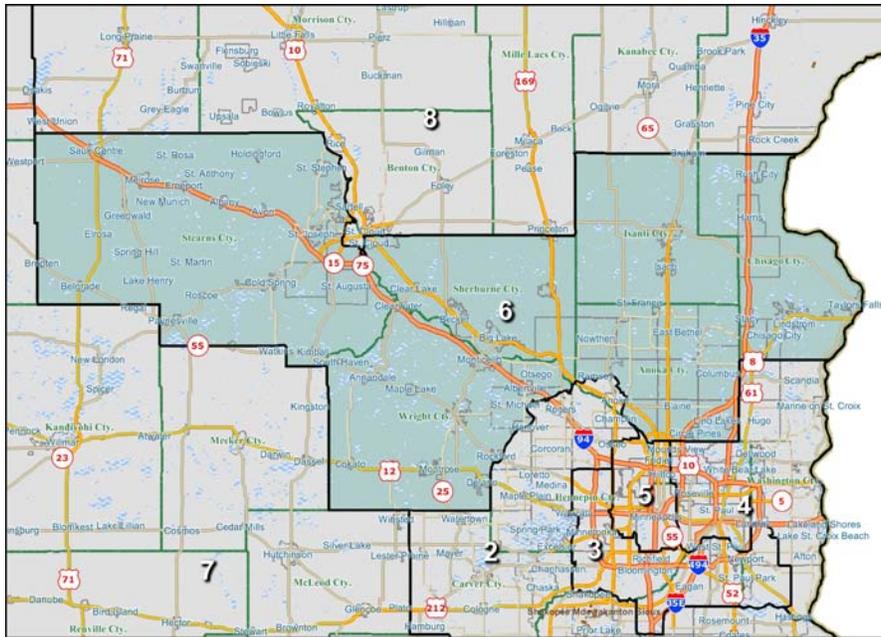
The Hippert Plaintiffs' 6th District continues to recognize the importance of St. Cloud as a regional center, while ensuring that the northern and eastern suburbs of the Twin Cities also have a voice. In contrast, the Britton 6th District includes a mix of first-ring Minneapolis suburbs, narrow swaths of Anoka and Sherburne Counties, and virtually all of outer Benton County:



BRITTON PROPOSED 6TH DISTRICT

This configuration does not honor the true ring-shape of Minneapolis and St. Paul suburbs, but rather tries to create the narrowest possible northern portion of a ring, pulling in cities in an almost haphazard manner.

The Martin 6th District is a conglomeration of northern counties without attention to rural, suburban, or exurban division points:



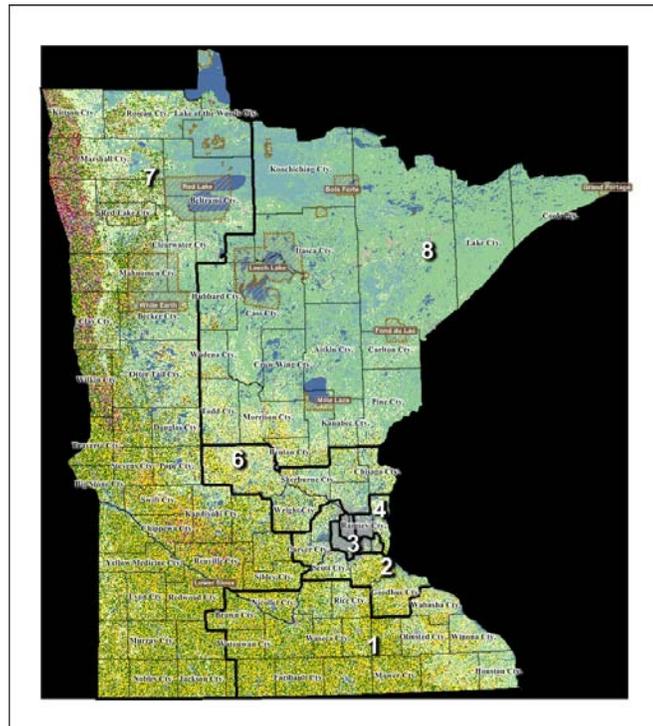
MARTIN PROPOSED SIXTH DISTRICT

Rural Stearns County is dairy country²¹ having little in common with Blaine, Coon Rapids, or Chisago. Even worse is their treatment of St. Cloud. Rather than dividing St. Cloud along county lines to preserve the 11-county metropolitan area, St. Cloud is divided within Stearns County – and in such a way that the portion in Intervenor's 6th District almost appears noncontiguous. While it is appropriate to divide an already-divided St. Cloud in a reasonable manner, it is quite unacceptable to sacrifice St. Cloud for the sake of politics as the Martin Intervenor's propose to do.

²¹ U.S. Department of Agriculture – National Agricultural Statistics Service & Minnesota Department of Agriculture, 2010 MINNESOTA AGRICULTURAL STATISTICS, available online at http://www.nass.usda.gov/Statistics_by_State/Minnesota/Publications/Annual_Statistical_Bulletin/2010/Whole%20Book.pdf (last visited on Dec. 7, 2011).

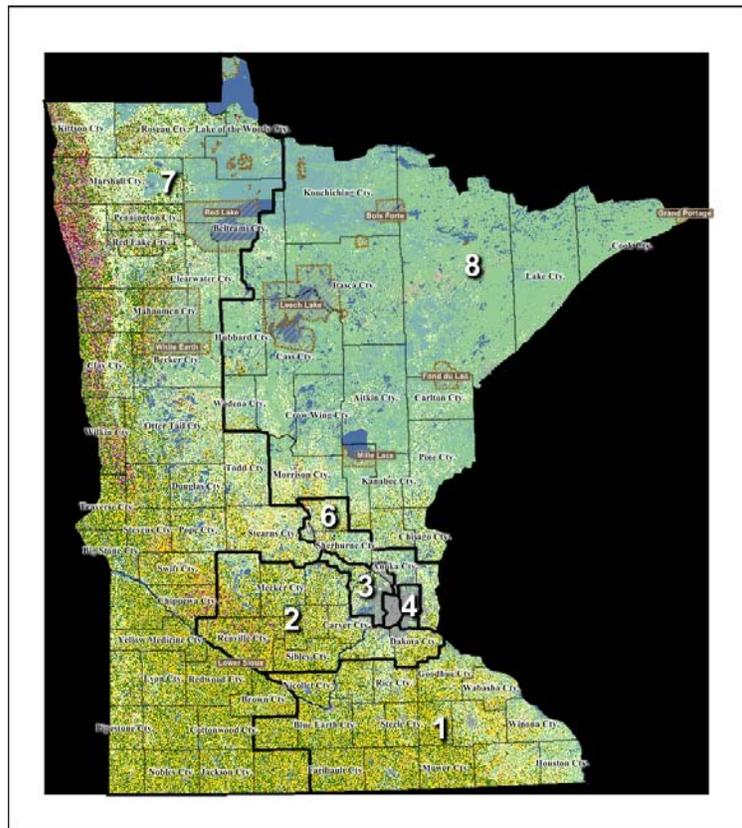
6. Intervenor's Seventh and Eighth Districts

Both the Martin and Britton Intervenor's purport to protect an agriculture community of interest in their 7th Districts, but their common approach – subject only to minor differences – simply does not succeed. Plaintiffs do not disagree that many Minnesotans along the western and southern borders of the state have agricultural interests. But if protecting agricultural interests is a goal, then it makes more sense to group Minnesotans with the same agricultural interests. The current 1st District makes sense not only because of the I-90 corridor, but also because it consists primarily of corn growers and land beneficial to this crop (see yellow-green area below). In contrast, northwestern Minnesota is sugar beet country (depicted in pink below):²²



MARTIN PLAN WITH CROP OVERLAY

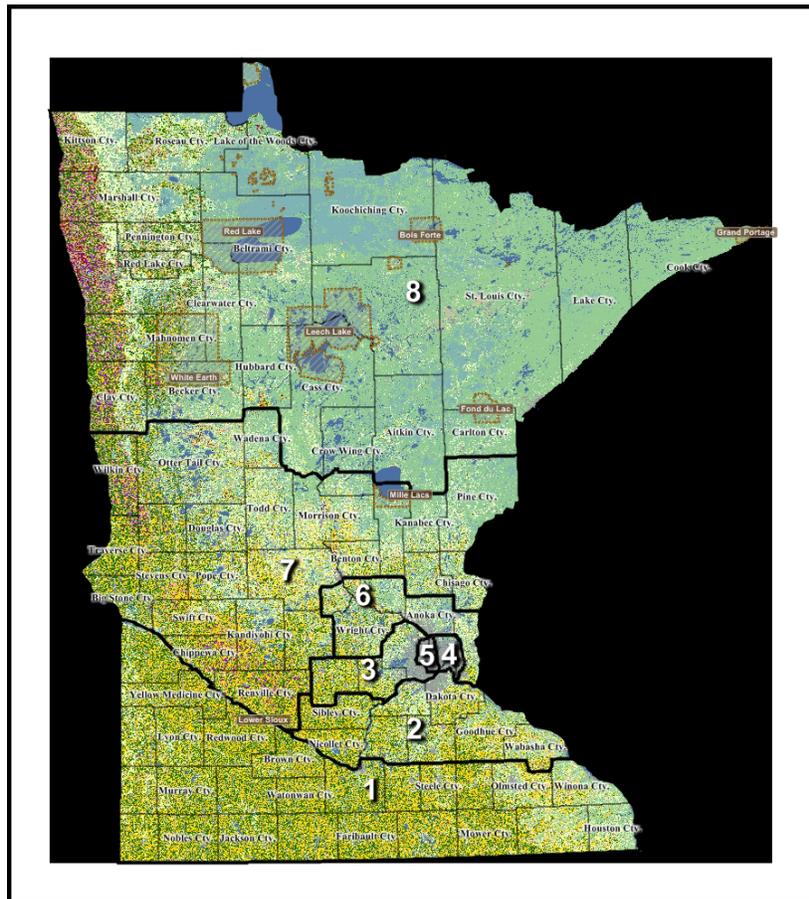
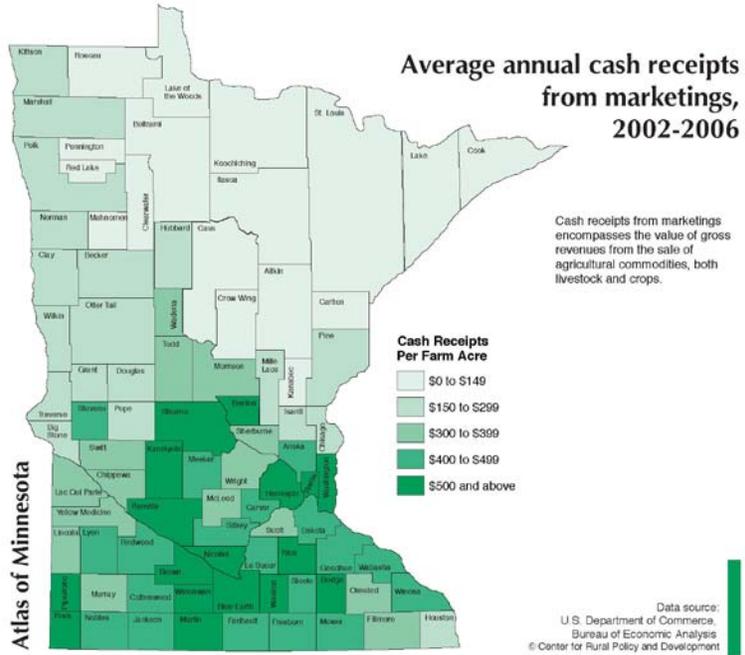
²² Underlying cropscape map by United States Department of Agriculture – Natural Agricultural Statistical Services, MN CROPSCAPE MAP (2010 Cropland Data Layer), available online at <http://nassgeodata.gmu.edu/CropScape/> (last visited on Dec. 7, 2011).



BRITTON PLAN WITH CROP OVERLAY

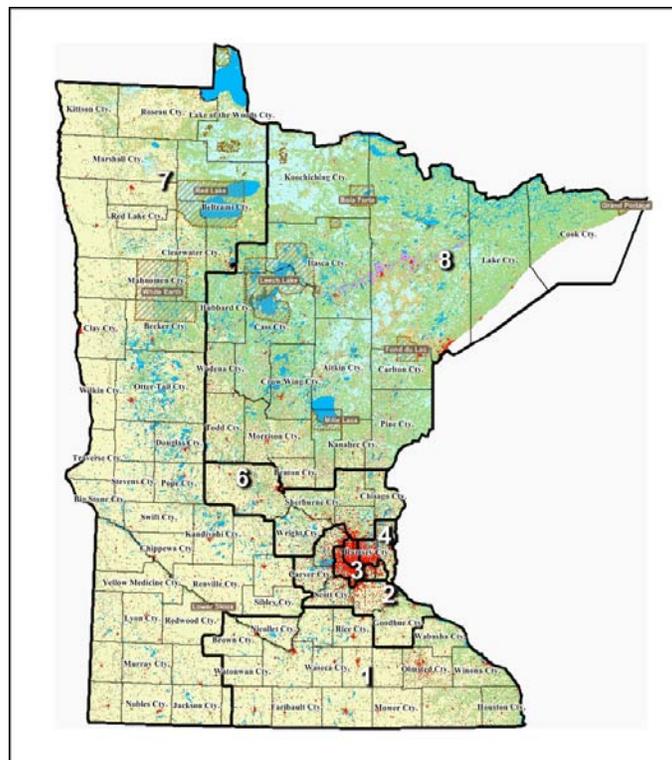
If the Panel believes it beneficial to create a solidly agricultural district, the best way to do so is to preserve the core of the existing 1st District and the corn/I-90 common interests therein.²³

²³ Center for Rural Policy and Development, *Average Annual Cash Receipts from Marketings, 2002-2006*, ATLAS OF MINNESOTA ONLINE EDITION, available online at <http://www.mnsu.edu/ruralmn/pages/Publications/Atlas/Atlasonline/indexatlas/ag12.php> (last visited on Dec. 6, 2011).

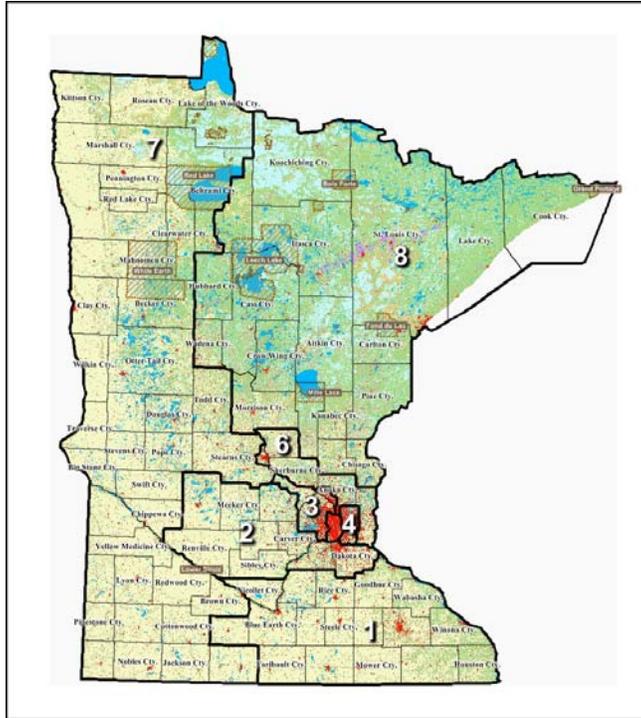


Second, regardless of their ventures in agriculture, corn growers in southwest Minnesota have virtually no connection with sugar beet harvesters or river valley dwellers in northwestern Minnesota. The western border of Minnesota is not defined as a community of interest by Minnesotans – who might talk about going "up north," about "central Minnesota," or about traveling "south of the River," but have no reason to include the whole western edge of the state in one moniker. It is simply too diverse and too cumbersome to be its own community or congressional district.

Furthermore, the Intervenor's 7th District does not contain solely agricultural land; rather, it must veer into forested and exurban lands in order to find enough population:

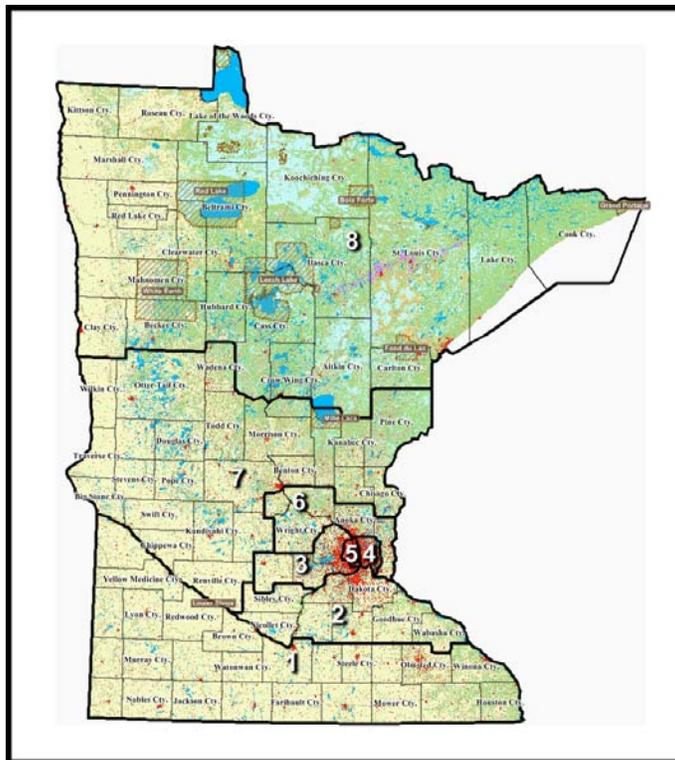


MARTIN PLAN WITH LAND USE MAP



BRITTON PLAN WITH LAND USE MAP

Plaintiffs' proposed plan does a much better job of recognizing land use within the State:

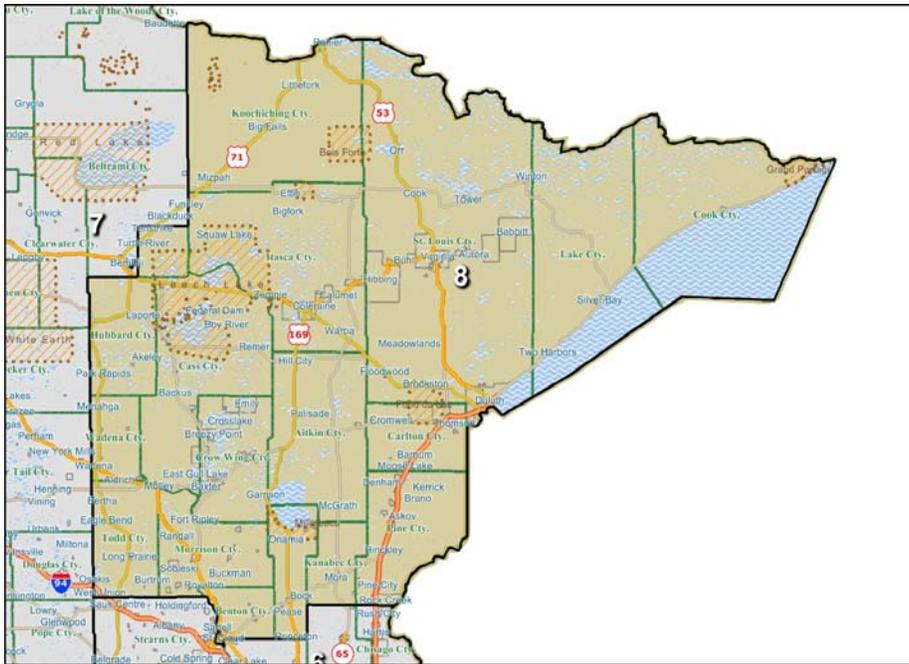


HIPPERT PLAN WITH LAND USE MAP

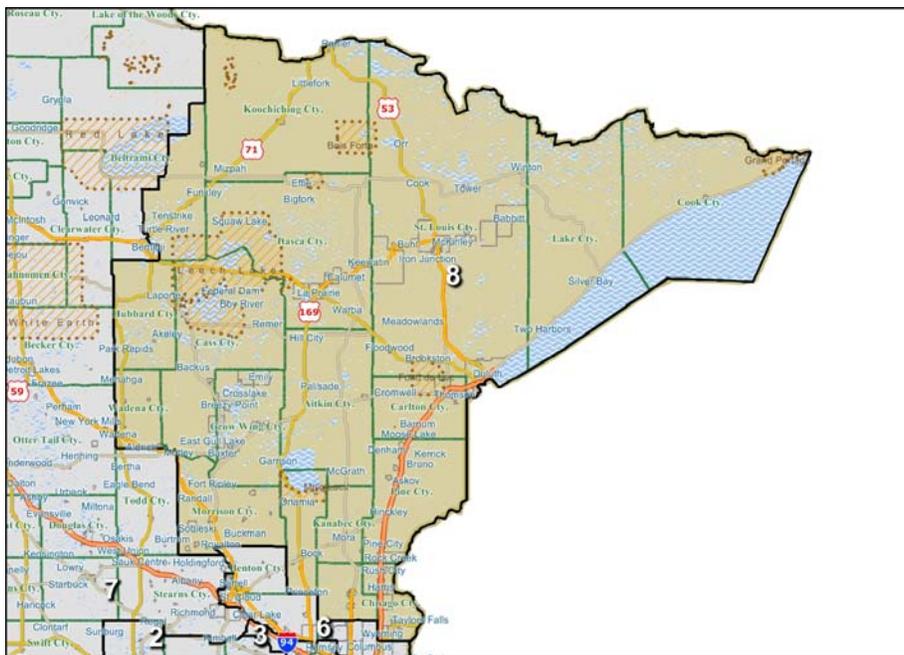
Finally, Intervenors' proposed non-agricultural support for the 7th District has nothing to do with congressional representation. Plaintiffs point to state emergency medical and library systems, which are irrelevant to federal concerns or electing representatives to Congress. Unlike the Canadian border, federal lands, tribal lands, and international ports all across the northern border of Minnesota, the interests Intervenors advocate are purely local in nature.

Nor do these administrative bodies constitute communities of interest. While people choose to live in a place because of its land, its commerce, its population density (or lack thereof), its leaders, its schools or neighborhoods, or possibly its demographic make-up, it cannot be seriously argued that a significant segment of the population chooses to live in an area because it is in one library system versus another. And as this proceeding has already demonstrated with regard to the Metropolitan Council, the jurisdiction of a metropolitan administrative body, for example, does not necessarily have any bearing on the actual territory of the metropolitan area. Likewise, the jurisdiction of these administrative agencies has no bearing on where the borders of a Congressional district should lie.

The results of both Intervenors' 7th Districts are "safe" DFL-leaning 8th Districts. But in creating these districts, both Intervenor groups divide the largest Native lands in the state into separate districts:

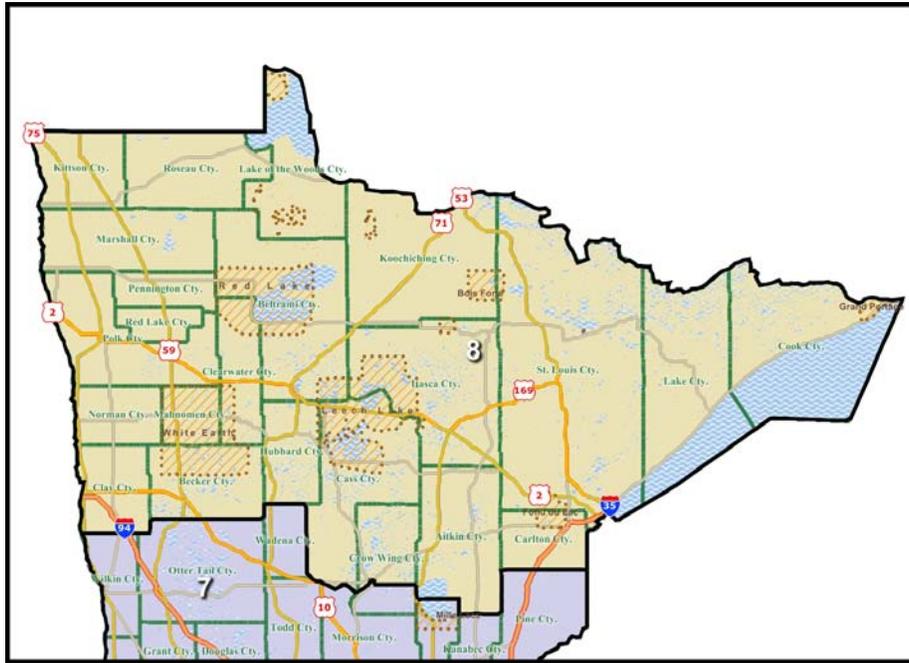


MARTIN PROPOSED 8TH DISTRICT



BRITTON PROPOSED 8TH DISTRICT

This approach dilutes any opportunity tribal populations might otherwise have (under Plaintiffs' plan) to influence their Congressional representative – even though tribal matters are of federal interest. Plaintiffs' proposed 8th District enables tribal populations to work together if they so choose:²⁴



HIPPERT PROPOSED 8TH DISTRICT

Furthermore, by limiting the 8th District to territories due north and northwest of the Twin Cities, the Martin Intervenors place a significant portion of St. Cloud in a district with Duluth. This approach does a disservice to both communities and their surrounding territories. The Britton Intervenors leave St. Cloud in their 6th District, but

²⁴ To minimize political subdivision splits, Plaintiffs include the Mille Lacs band in north Mille Lacs County within the 7th District. It would be possible to include this reservation in the 8th District if the Panel were willing to create an additional political subdivision split in Mille Lacs County.

then must pull Isanti and Chisago Counties out of the Twin Cities Metropolitan Area and put them in a district with such counties as Cook, Beltrami, and Koochiching.

Finally, with either approach one must question whether the lack of population density in northeast Minnesota, combined with disproportionately slow or negative population growth among St. Louis, Lake, Itasca and Koochiching counties, will again create an instantly under populated district. The better approach is to recognize Central Minnesota as its own valid area, thereby bringing the state's congressional districts in line with the state's demographic shifts and emerged communities of interest.

Plaintiffs respectfully submit that the greatest barrier to their proposed 8th District is not merit-based, but rather psychological. There is no question that this district configuration is different than what has come before. There is also no dispute that some interests in northeastern Minnesota are different from interests in northwestern Minnesota. But the same could be said of the Zachman Plan's 1st District, which has worked well for the past decade and lends itself to modest modification for 2011 and beyond. And just like the Zachman 1st District recognizes a connection between southeastern and southwestern Minnesota, Plaintiffs' proposed 8th District recognizes that the farms of northwestern Minnesota need the ports of Duluth and vice versa. All are part of the overall "up north" moniker.

Despite the psychological barrier, as previously discussed Plaintiffs are not the only persons to suggest an east-west configuration for the 8th District makes sense.²⁵

²⁵ Public comments likewise included a map with an east-west 8th District configuration. See Email from Troy Simpson to Minnesota Special Redistricting Panel (Oct. 21, 2011).

This approach to congressional redistricting not only serves the population of Minnesota for the present, but also for the future. It is the only approach that truly considers federal interests in Congressional redistricting, and reflects continuing demographic trends.

7. Intervenor's First Districts

The 1st District is the last point of discussion around "communities of interest," because expanding on the Zachman plan simply makes sense. As previously discussed, the counties surrounding I-90 create a convenient, rural corridor with a common interest in corn-based agriculture. While this District had to gain territory in light of population losses over the past decade, an expanded 1st District does not result in an unmitigated concentration of counties losing population (as in Intervenor's 7th Districts). Rather, the Hippert Plaintiffs propose a 1st District that contain Dodge, Steele, and Olmstead Counties, for which some of the highest population growth is expected in the coming decade.²⁶ To the extent these counties are in a district with southwestern Minnesota counties that stand to lose population in the next ten years, an overall balance is achieved in Plaintiffs' plan.

Moreover, the Minnesota River forms a natural boundary for an expanded 1st District. Whereas the Britton plan draws a relatively random border zig-zagging around

Interestingly, Mr. Simpson (who is not affiliated with Plaintiffs) comments that this plan results "in 5 very competitive districts, plus districts 4, 5, and 8, which are very Democratic in voting history."

²⁶ Minnesota State Demographic Center, MINNESOTA POPULATION PROJECTS 2005-2035, at p. 3 (June 2007), available online at <http://www.demography.state.mn.us/documents/MinnesotaPopulationProjections20052035.pdf> (last visited on Dec. 6, 2011).

Brown, Watonwan, and Martin borders to the west, and the Martin 1st District dodges around the outside of Goodhue County (splitting several cities in the process), Plaintiffs' proposed 1st District uses the Minnesota River as a physical district border and then draws a relatively straight line following county borders from Blue Earth County straight east to the Wisconsin border. This compact, convenient district is easily traveled and makes sense from both a demographic and community of interest standpoint.

D. The Martin Plan Inappropriately Creates Incumbent Pairings, While The Britton Plan Unduly Protects Incumbents.

The Martin congressional map is not only impractical and inconsistent with Panel criteria for the reasons described above, but also because it was clearly created in part for the purpose of displacing two Republican candidates while also pitting Minnesota's only two female Congressional representatives (Republican and DFL) against each other.

First, there is little justification for the Martin Intervenors' 4th District except to pair Congresswoman Bachman with Congresswoman McCollum. There is virtually no other reason to remove the first-ring suburbs immediately south of St. Paul from the 4th District, and instead include second and third ring suburbs stretching up to Forest Lake. One need only drive from downtown St. Paul to Forest Lake to realize these cities do not form a community of interest. And while such a municipal pairing might be warranted if population density was thin enough to require "stretching" a district, there is no reason to separate West St. Paul from St. Paul in favor of including Afton, Stillwater, and Scandia.

Second, the motivations of the Martin Intervenors are transparent and were well-laid out in a November 2011 MinnPost article.²⁷ These Intervenors pair Congresswoman Bachman against Representative McCollum in a district with the primary portion of the population residing in (Representative McCollum's) Ramsey County. With Representative Bachman residing in Stillwater and Representative Cravaack residing in Cambridge, the Martin Intervenors appear to be hoping Representative Bachman will run outside her district if indeed she runs again, and therefore against a member of Congress from her own political party. In contrast, the Britton plan was apparently drawn in a manner that protects and arguably expands the DFL territory in her district. Such political gamesmanship is generally inappropriate, but even more so for a plan submitted to a judicial panel.

Perhaps of even greater concern for the Panel, however, is the Martin Intervenors' request that the Panel pair Minnesota's only two women elected to the House of Representatives. In 2011, women represent only 17% of the 535 members of Congress,²⁸ even though they constitute more than 50% of the United States and Minnesota populations. What's more, in 2000 Congresswoman McCollum was the first woman

²⁷ D. Henry, *DFL Maps a Lesson in Partisan Redistricting*, MINNPOST (Nov. 30, 2011), available online at http://www.minnpost.com/devinhenry/2011/11/30/33448/dfl_maps_a_lesson_in_partisan_redistricting (last visited on Dec. 6, 2011).

²⁸ <http://www.wcffoundation.org/pages/research/women-in-politics-statistics.html>, (citing http://www.cawp.rutgers.edu/fast_facts/levels_of_office/documents/cong.pdf) (each last visited on Dec. 6, 2011).

Minnesotan elected to Congress in more than 40 years.²⁹ It is a telling indictment that Congresswoman McCollum's spokesperson called the plan submitted by her own party "hyper-partisan and bizarre."

It is questionable whether a state Legislature's plan would go unchallenged if it drew a similarly "bizarre" district simply to pair the only two female Representatives from the State. A court Panel has even less leeway, and of course must be particularly sensitive to both Equal Protection laws and to public perception of the judiciary. The Martin Intervenors' proposal not only fails to comply with the Panel's criteria, but also arguably endangers the process.

CONCLUSION

Plaintiffs' congressional redistricting plan remains the only plan that satisfies each of the Panel's redistricting principles, respects the interests of Minnesota citizens regardless of their political leanings, and fairly represents the demographic shifts of the past decade. Plaintiffs' plan also provides the best means of accommodating continuing growth trends around the state, and best focuses upon federal interests in the State. Finally, Plaintiffs' congressional plan remains the only one vetted by the public, supported by a majority of the state's elected representatives, and passed through both the Minnesota House and Senate. Accordingly, Plaintiffs respectfully request that this Panel adopt their congressional redistricting plan in its entirety.

²⁹ <http://townhall.com/election-2012/election-2010/state/mn/candidate/betty-louise-mccollum> (last visited on Dec. 6, 2011).

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