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From: LAWSON_BRIAN [REDACTED]
Sent: Monday, January 17, 2011 1:54 AM
To: Commission, Prop11
Subject: Public Comment for January 20 meeting

Dear Voters First Act:

Attached is a public comment for the January 20th meeting. I would appreciate it if you would make this available to Commission Members, the Commission staff and post it on the wedrawthelines website.

Thank you.

-- Brian

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Prepared January 17, 2011 for Commission meeting January 20, 2011

TO: California Redistricting Commission Members and Staff
FROM: Brian Lawson

RE: Preclearance, Deliberation about the Criteria, Relations with Statewide California Officials

1. Preclearance

- (a) An important part of your responsibility is making sure that the maps you approve are precleared by the US Department of Justice. The 2001 preclearance requests (one was submitted by the Assembly and one by the Senate) contain information which may be helpful in planning hearings. Both submissions are relatively similar; what follows describes some of the information in the Assembly request.
- (b) The Assembly committee was responsible for the Assembly map and the Board of Equalization map (the Senate committee was responsible for the Senate map and the Congressional map) and is available on the web here:
<http://www.assembly.ca.gov/acs/committee/c7/section5/vramemo.pdf>
 - i. The hearings held by the Assembly and Senate are described in chapter IX Publicity and Participation (pdf pages 24-28). From May to July of 2001 the Assembly held 8 hearings and the Senate held 5 hearings in major cities throughout the state. The maps were released to the public September 3, 2001. Then hearings in Sacramento were held with remote hook-ups in a few places throughout the state to give the public the opportunity to give feedback on September 4 (focusing on northern California) and September 5 (focusing on southern California).
 - ii. Chapter XI Minority Group Contacts lists the minority groups that took part in the process (pdf pages 29-34).
 - iii. They requested a response from US DOJ by October 29, 2001, but did not receive a favorable reply until November 30, 2001.
 - iv. It is important to remember that a favorable reply to a preclearance request is just one of the many requirements of the Voting Rights Act. The VRA applies to the entire state, not just the four counties highlighted in the preclearance request.

2. Deliberation about the Criteria

- (a) It will be helpful to clearly state the how the Commission will interpret the criteria which will be used for drawing maps. The California Constitution, Article XXI, section 2, subdivision (d) lists six criteria in descending order of priority.
- (b) Probably the most contentious criterion among the six and the one which those giving public comment are probably most in need of guidance is the fourth criterion. This is the one which covers the issue of dividing a city, county, city and county, neighborhood or community of interest. The criterion does not state a clear priority among the types of geography listed. I believe when a somewhat similar requirement in the constitution

(pre-prop 11) was litigated the courts allowed line drawers broad discretion in this area. Therefore there is not a lot of guidance in this area.

- (c) You should probably wait until hiring counsel before reaching a final decision on these issues, but it would be helpful to address these issues soon. It seems to me that it would be a bit unfair to receive all your public testimony and then, after that, determine how to interpret the criteria. Therefore it would be helpful to give guidance on these issues sooner, rather than later. It may be a challenge, though, to do this before February 9.

3. Relations with Statewide California Officials

(a) The California Supreme Court

- i. It is possible that you may not approve all maps. That does not mean your work will have been in vain. If the Supreme Court does have to draw a map it will have very little time to do so. The Supreme Court will likely use the hearing information collected, the interpretations established for criteria (especially if you have applied those interpretations to maps which have been approved) and start from the preliminary maps the Commission has drawn.
- ii. Cases go straight to Supreme Court (Article XXI, section 3).
- iii. For these reasons good relations with the Supreme Court is likely to be important.

(b) The Governor

California Government Code 8253.6 subdivision (a) states that the "Governor shall also make adequate office space available for the operation of the commission." In addition to the Governor's role in signing appropriations this is another reason to maintain good relations with the Governor.

(c) The Legislature

The California Constitution, Article XXI, Section 3, subdivision (a) states that the "Legislature shall provide adequate funding to defend any action regarding a certified map. The commission has sole authority to determine whether the Attorney General or other legal counsel retained by the commission shall assist in the defense of a certified final map." All the more reason to stay on good terms with the Legislature.

(d) The California Attorney General

- i. In 2001 the preclearance request was drafted by the Attorney General. If your resources begin to run dry, perhaps the Attorney General would assist with drafting the preclearance request.
- ii. The Commission can request that the Attorney General assist with defense of a map (see above).
- iii. Both of these reasons suggest that the Commission should be on good terms with the Attorney General.

(e) The Secretary of State

According to the Secretary of State's office individual's who wish to file signatures-in-lieu of filing fees must know 158 days before an election what districts are available; regular nomination papers must be filed 113 days before an election.