

Bryan D. Smith, Esq. – ISBN 4411
Bryan N. Zollinger, Esq. – ISB 8008
SMITH, DRISCOLL & ASSOCIATES, PLLC
414 Shoup Ave.
P.O. Box 50731
Idaho Falls, Idaho 83405
Telephone: (208) 524-0731
Facsimile: (208) 529-4166
Email: bds@eidaholaw.com

Attorneys for Petitioner
Branden John Durst

IN THE SUPREME COURT OF THE STATE OF IDAHO

BRANDON JOHN DURST, a qualified elector
of the State of Idaho,

Petitioner,

v.

IDAHO COMMISSION FOR
REAPPORTIONMENT, and LAWERENCE
DENNEY, Secretary of State of the State of
Idaho, in his official capacity,

Respondents.

ADA COUNTY, a duly formed and existing
county pursuant to the laws and
Constitution of the State of Idaho,

Petitioner,

v.

IDAHO COMMISSION FOR
REAPPORTIONMENT, and LAWERENCE
DENNEY, Secretary of State of the State of
Idaho, in his official capacity,

Respondents.

Supreme Court Docket Nos. 49261-
2021 and 49267-2021

**DECLARATION OF BRANDEN JOHN
DURST**

Pursuant to I.C. § 9-1406, I hereby declare as follows:

1. I am the Petitioner, Branden John Durst, in the above-referenced matter.

2. Attached hereto marked as Exhibit "A" and by this reference included herein is a true and correct copy of the Legislative District Commission Plan L03 Map adopted by the Commission. Plan L03 divides a total of eight counties that include Bonner, Kootenai, Canyon, Nez Perce, Ada, Twin Falls, Bannock and Bonneville. Plan L03 divides each of these counties externally with a total of 15 external divisions and no wholly internal divisions. I have added 15 numbers to identify each external division on Plan L03.

3. Attached hereto marked as Exhibit "B" and by this reference included herein is a true and correct copy of the Legislative District Public Plan L084. This is the Plan I prepared and submitted to the Commission. Plan L084 divides a total of eight counties that include Bonner, Kootenai, Canyon, Nez Perz, Ada, Twin Falls, Bannock and Bonneville. Plan L084 divides seven of these counties externally. Plan L084 has no external divisions in Ada County but rather keeps all legislative districts wholly contained within Ada County. Plan L084 also contains 11 external divisions. I have added 11 numbers to identify each external division on Plan L084.

4. Plan L03 divides one more county externally than Plan L084. Plan L03 also contains four more external divisions than Plan L084. Thus, Plan L084 has 36% fewer external divisions than Plan L03. Both Plans L03 and L084 contain six counties that are divided internally and involve the same counties. Plan L03 divides Ada County externally three times whereas Plan L084 contains no external divisions in Ada County.

5. Attached hereto marked as Exhibit "C" and by this reference included herein is a true and correct copy of the Legislative District Public Plan L075 by Larry Grant. I have added 15 numbers to identify each external division on Plan L075.

6. Attached hereto marked as Exhibit "D" and by this reference included herein is a true and correct copy of the Legislative District Public Plan L076 by Larry Grant. I have added 14 numbers to identify each external division on Plan L076.

7. Attached hereto marked as Exhibit "E" and by this reference included herein is a true and correct copy of the Legislative District Public Plan L079 by Wayne Hurst. I have added 14 numbers to identify each external division on Plan L079.

8. The Commission's Final Report does not analyze Plan L084 that also divides only seven counties externally just like Plans L071, L075, L076, L077, and L079. The Commission's Final Report ignores Plan L084. The Commission treated Plan L084 as if it had the same number of counties divided as Plan L03 because the Commission did not differentiate between internal and external divisions. Specifically, Plan L03 divides eight counties, and all eight counties have external divisions. Plan L084 also divides eight counties. However, only seven of these counties are divided externally, and one county (Ada) is divided wholly internally. In other words, the Commission treated the wholly internal division of Ada County in Plan L084 just like an external division of any county in Plan L03.

9. Attached hereto marked as Exhibit "F" and by this reference included herein is a true and correct copy of a Non-Contiguous Legislative District Map. I prepared this map myself but never submitted it to the Commission. This map is

included only for illustrative purposes. Exhibit "F" has a population deviation of 2.02%, divides five counties externally, has five external divisions, and divides no precincts. This map shows that it is possible to have a lower population deviation, fewer counties divided externally, and fewer external divisions than Plan L03 if the Commission were to ignore the provision under Art. III, § 5 of the Idaho Constitution that counties be contiguous.

10. On November 10, 2021, the Commission approved the Final Plan and publicly stated that Commissioner Eric Redman would file the Final Plan that day with the Idaho Secretary of State's office. In reliance on the Commission's expressed intent, I filed a Petition for Review with this Court on November 10, 2021. For whatever reason, Mr. Redman was unable to file the Final Plan on November 10, 2021. Because November 11, 2021 was a legal holiday, the Final Plan was filed on November 12, 2021.

11. I have caused my attorneys to file attached Exhibits "A" thru "F" with the Idaho Supreme Court through the iCourt system. However, this requires photocopies of the exhibits to be attached as one document in the iCourt, resulting in a lack of clarity in the exhibit. Therefore, in addition to filing these exhibits with the Court, I have instructed my attorneys to email the same exhibits to the Court and counsel in pdf format so that the Court and counsel can be sure to receive legible documents.

I hereby declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.


Branden John Durst

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of December, 2021, I caused a true and correct copy of the foregoing **DECLARATION OF BRANDEN JOHN DURST** to be served, via Electronic Filing and United States Mail, addressed to the following:

Megan A. Larrondo, Esq.
Robert A. Berry, Esq.
Cory M. Carone, Esq.
Idaho Attorney General's Office
954 W. Jefferson Street, 2nd Floor
P.O. Box 83720
Boise, ID 83702 -0010
megan.larrondo@ag.idaho.gov
robert.berry@ag.idaho.gov
cory.carone@ag.idaho.gov

- U. S. Mail
- Fax
- Overnight Delivery
- Hand Delivery
- Email
- E-file/iCourt

Jan M. Bennetts
Lorna K. Jorgensen
Leon Samuels
Deputy Prosecuting Attorneys
Civil Division
200 W. Front Street, Room 3191
Boise, ID 83702
civilpafiles@adaweb.net

- U. S. Mail
- Fax
- Overnight Delivery
- Hand Delivery
- Email
- E-file/iCourt



Bryan D. Smith

EXHIBIT A

Legislative District Commission Plan L03

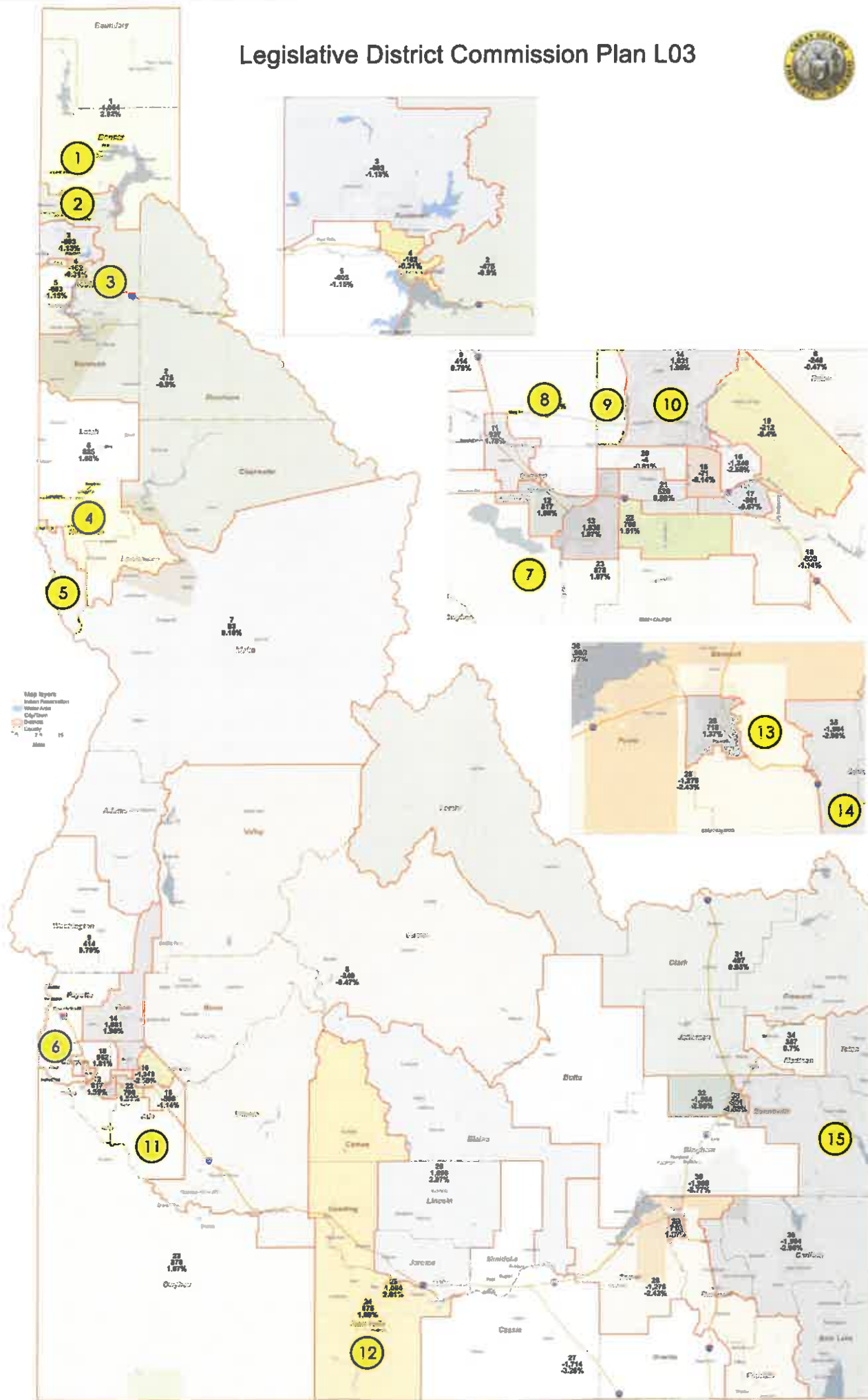


EXHIBIT B

Legislative District Public Plan L084 by Branden Durst

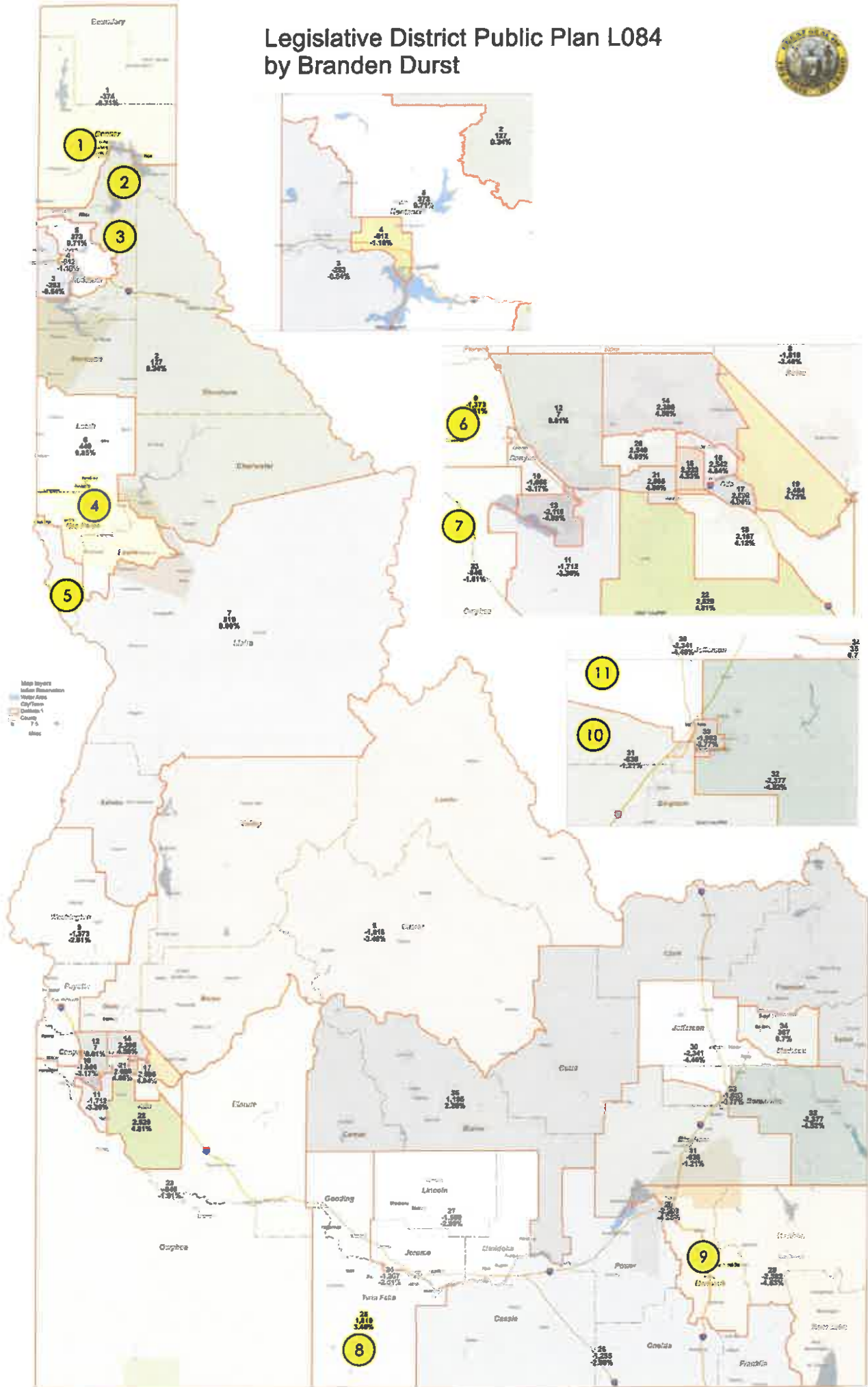
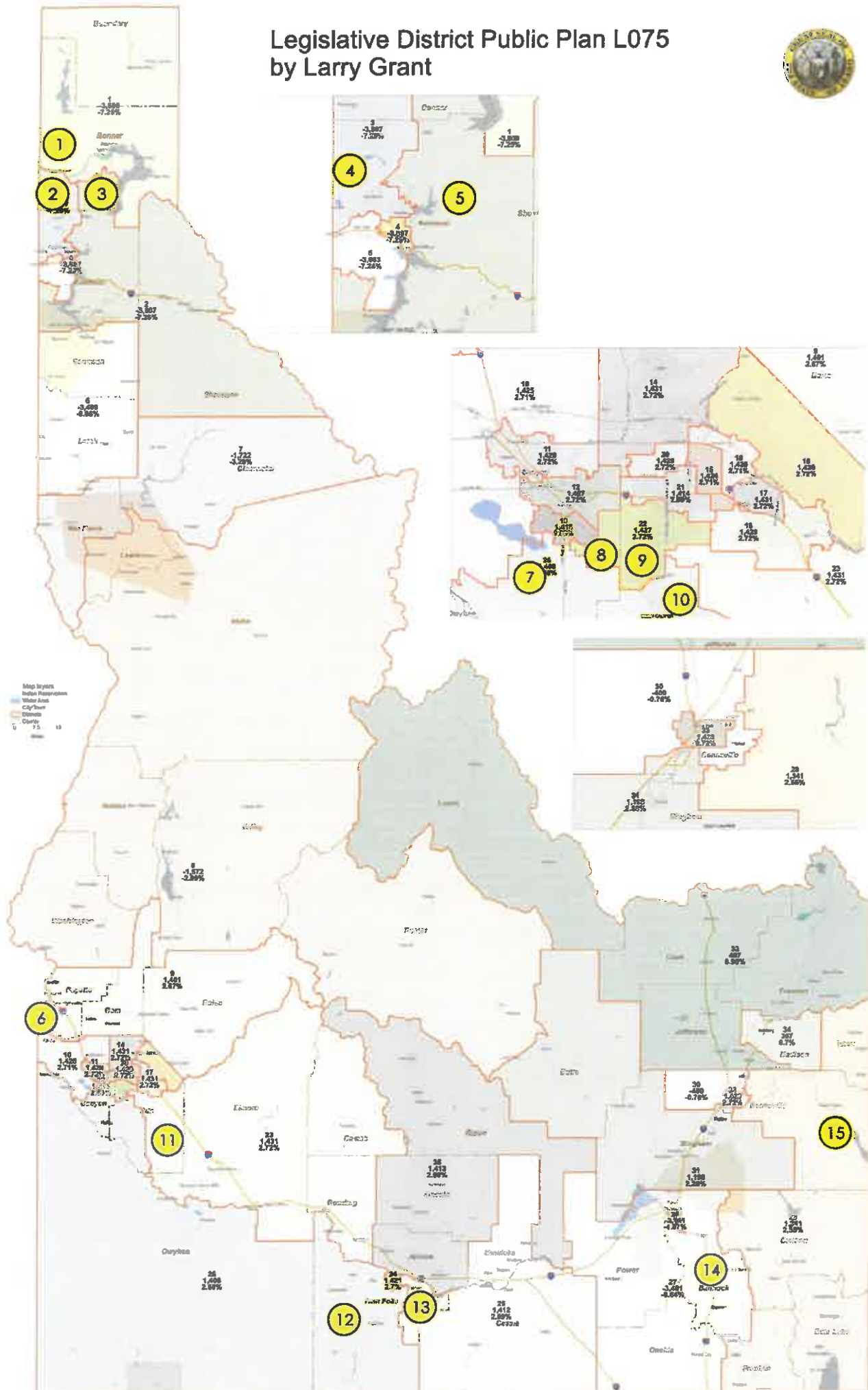


EXHIBIT C

Legislative District Public Plan L075 by Larry Grant



Map Layers
 State Response
 Water Area
 City/Town
 District
 County
 0 7.5 15

EXHIBIT D

Legislative District Public Plan L076 by Larry Grant

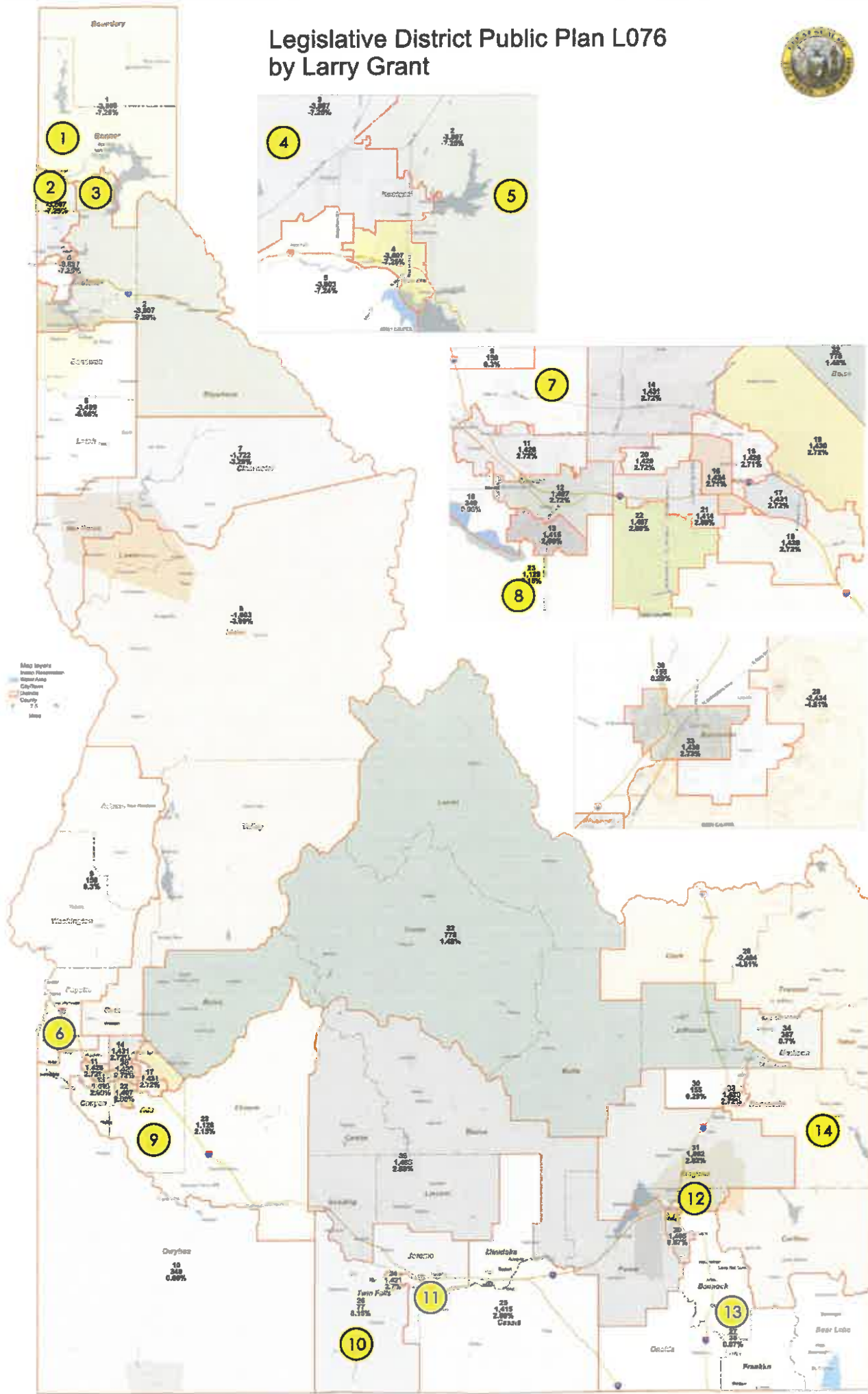


EXHIBIT E

Legislative District Public Plan L079 by Wayne Hurst

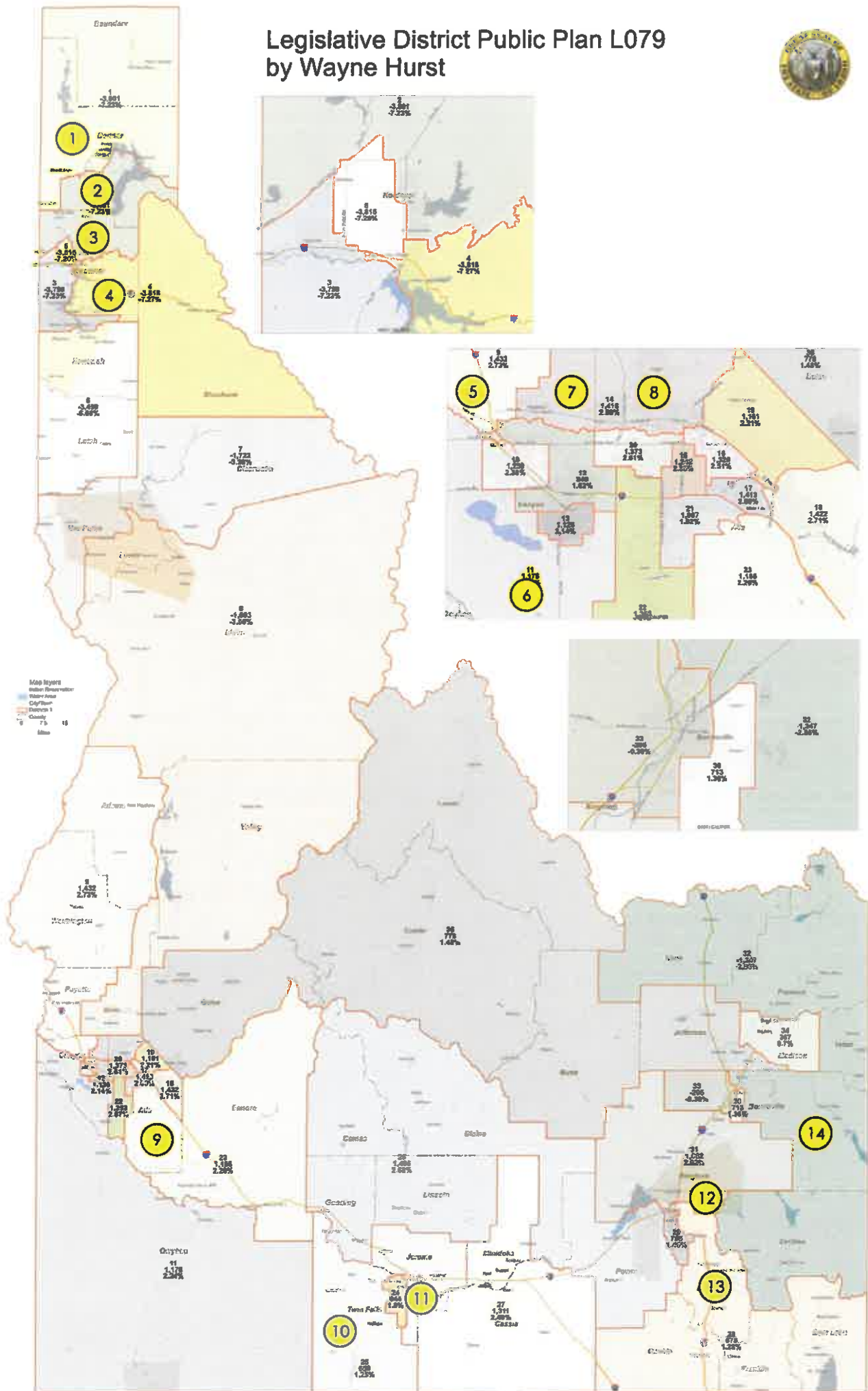


EXHIBIT F

