

JUN 2 1980

Walter W. Teel, Esq.  
Sekul, Hornsby, Wallace & Teel  
204 West Water Street  
Post Office Drawer 548  
Biloxi, Mississippi 39533

Dear Mr. Teel:

This is in reference to the proposed incorporation of the City of Orange Grove in Harrison County, Mississippi, and the referendum concerning incorporation scheduled for June 3, 1980, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on May 12, 1980.

We have given careful consideration to the materials you have provided, as well as comments and information from other interested parties. Our investigation has revealed evidence that racially invidious considerations played a significant role both in the decision to create a new city and in determining which areas and which people would be included within the proposed city and, by necessary extension, which voters may participate in a referendum on incorporation. Furthermore, we have noted that those few blacks who would be within the proposed corporate limits will be transferred from a governmental system, in which there is some promise of effective political participation through fairly drawn single-member districts, to one which does not hold such promise.

Under Section 5 of the Voting Rights Act the submitting authority has the burden of proving that a submitted change has no discriminatory purpose or effect. See, e.g., Georgia v. United States, 411 U.S. 526 (1973); 28 C.F.R.

51.19. In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the submitted changes.

Of course, as provided by Section 5 of the Voting Rights Act you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.21(b) and (c), 51.23, and 51.24) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the objection by the Attorney General is to make both the incorporation of Orange Grove and the conduct of a referendum within the boundaries described in your submission legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter what course of action you plan to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Mr. John K. Tanner (202-724-7395), of our staff, who has been assigned to handle this submission.

Sincerely,

Drew S. Days III  
Assistant Attorney General  
Civil Rights Division