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MAR 24 1978

Mr. George Wikoff
City Attorney
City of Port Arthur
P. O. Box 1039
Port Arthur, Texas 77543

Dear Mr. Wikoff:

This is in reference to the consolidation of the Cities of Port Arthur, Lakeview, and Pear Ridge, Texas, and to the increase in size and redistricting of residency districts for the consolidated city submitted to the Attorney General for review under Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed by our receipt of supplemental information on February 21, 1978. In accordance with your request, we have given expedited consideration to this submission pursuant to the Procedures for the Administration of Section 5, 23 C.F.R. 51.22.

Section 5 requires the Attorney General to examine submitted changes affecting the electoral process to determine whether they have the purpose or 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 making this determination on behalf of the Attorney General, we are guided by the legal principles developed by the courts in the same or analogous situation. The principal cases dealing with the evaluation of a change in the composition of a municipal electorate under Section 5 are City of Richmond v. United States, 422 U.S. 359 (1975) and City of Petersburg v. United States, 354 F. Supp. 1021 (D.D.C. 1972), affirmed, 410 U.S. 962 (1973). Following

these cases, we have considered the effect of the consolidation on the voting strength of the minority population in the affected area, racial voting patterns, and the method of election to the city council of the City of Port Arthur. Our analysis is based on the materials and information you have provided as well as on information provided by and views of other interested persons.

Our analysis has revealed that, according to 1970 Census figures, prior to the consolidation blacks constituted 41.0 percent of the population of Port Arthur and virtually none of the population of Lakeview and Pear Ridge. Blacks will constitute 35.5 percent of the population of the consolidated city. Thus, the consolidation results in a significant dilution of black voting strength in Port Arthur.

Our analysis of election returns for Port Arthur elections also reveals an apparent unwillingness on the part of the white electorate to support candidates favored by black voters in the city. This conclusion is corroborated by the findings of Graves v. Barnes, 378 F. Supp. 640, 648-50 (W.D. Texas, 1974) vacated on other grounds sub nom. White v. Register, 412 U.S. 755 (1973) where the district court found that minorities had been excluded from effective and meaningful participation in Jefferson County, where Port Arthur is located. Because the city council of Port Arthur is elected at-large, the necessary effect of the consolidation would appear to be an enhancement of the power of the white majority to exclude blacks from effective participation in the political process. See City of Richmond, supra, 422 U.S. at 370.

We have considered whether the addition of a seventh council member and the redrawing of residency district lines to create a second district the population of which is more than 90 percent black sufficiently minimizes the dilution of black voting strength to enable the consolidation to satisfy the judicial standards under

Section 5. See City of Petersburg v. United States, 354 F. Supp. at 1031. However, these changes do not change the electorate that selects members of the city council and, thus, do nothing to counteract the increase in the control of the white electorate brought about by the consolidation.

Under these circumstances we are unable to conclude, as we must under the Voting Rights Act, that the consolidation and redrawing of residency district lines will not have the effect of abridging the right to vote on account of race or color. Accordingly, on behalf of the Attorney General, I must interpose an objection to the consolidation and the redistricting. We do not object to the increase in size of the council.

Consistent with the decisions in Petersburg and Richmond cited above, the Attorney General will reconsider his objection to the consolidation should the City of Port Arthur undertake to elect members of its city council from fairly-drawn single-member districts. In addition, you have the right under the Procedures for the Administration of Section 5, 28 C.F.R. 51.21(b), 51.23, and 51.24, to request the Attorney General to reconsider this objection, and you have the right provided by Section 5 to seek a declaratory judgment from the United States District Court for the District of Columbia that the consolidation has neither the purpose nor the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. However, until the objection has been withdrawn by the Attorney General or such a judgment rendered by the District Court, the legal effect of the objection by the Attorney General is to render the consolidation legally unenforceable insofar as it affects voting in the City of Port Arthur.

Because of the pending litigation involving this matter, Mosely v. Sadler, C.A. No. B-78-69-CA (E.D. Tex.), I am taking the liberty of sending copies of this letter to the Court and to counsel for the plaintiff.

Sincerely,

John E. Huerta
Acting Assistant Attorney General
Civil Rights Division

cc: Hon. William M. Steger
Judge, U.S. District Court for the
Eastern District of Texas
Beaumont Division

David R. Richards, Esq.