

1 FEB 1980

Honorable W. L. Marville  
Jim Wells County Judge  
Post Office Drawer 2030  
Alice, Texas 78332

Dear Judge Marville:

This is in reference to the proposed redistricting plan for Jim Wells County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on December 12, 1979 and additional information was received on January 2, 1980. Although we were unable to complete our evaluation by January 15, 1980 as you requested, we have expedited our consideration of your submission to the extent possible pursuant to the procedural guidelines for the administration of Section 5 (28 C.F.R. Section 51.22).

We have analyzed carefully the material contained in your submission, data obtained from the Bureau of the Census, and comments from other interested persons. As explained to Mrs. Villareal on January 15, 1980, and to you on January 16, 1980, we found discrepancies in the data furnished on your summary charts and on the maps for the City of Alice with respect to the Census Enumeration Districts contained within proposed Commissioner Precinct One. During her telephone conversation with Eida Gordon of my staff, Mrs. Villareal confirmed that, despite the incongruity reflected in the summary charts, the County Commission is submitting the plan as depicted on the maps provided in the submission to the Attorney General. We have, therefore, reviewed your submission with this understanding.

In light of the inference of racial polarization among voters that emerged from our review of the election returns you provided, we find that the proposed plan has the potential of diluting the minority voting strength that has only recently begun to be realized in several largely Mexican-American voting precincts, which have been distributed among all four Commissioner Precincts. Although the information you have submitted is in large measure ambiguous and confusing, it appears that the proposed plan realistically yields only one district from which a Mexican-American may be elected and distinguishes that district as one that is over-populated and of little practical significance in view of the paucity of road mileage and budget funds allocated to it. Also, several members of the minority community have expressed concern about the conspicuous lack of input from interested members of the minority community, including the current Mexican-American commissioner, in the development of the plan and that Mexican-Americans in Jim Wells County, and especially those who reside in the area known as Rancho Alegre, may be denied effective and responsive representation on the Commissioners Court through the implementation of a plan that places that area within Commissioner Precinct Three. Thus the implementation of this proposed plan would appear to be retrogressive under the standard of Beer v. United States, 435 U.S. 130, 141 (1976).

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. Accordingly, on behalf of the Attorney General, I must object to the proposed plan.

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 this change has 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 the implementation of the proposed redistricting plan for Jim Wells County 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 of the course of action the Jim Wells County Commissioners Court plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Elda Gordon (202-724-6675), of my staff, who has been assigned to handle this submission.

Sincerely,

Drew S. Days III  
Assistant Attorney General  
Civil Rights Division