



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

March 17, 1992

J. Elliott Beck, Esq.
Clark, Thomas, Winters, & Newton
P.O. Box 1148
Austin, Texas 78767

Dear Mr. Beck:

This refers to the 1991 redistricting plan for commissioners court districts and the realignment of voting precincts in Gregg County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your response to our request for additional information on January 17, 1992; supplemental information was received on February 12, 1992.

We note at the outset that on February 24, 1992, Gregg County filed an action under Section 5 seeking a declaratory judgment from the United States District Court for the District of Columbia that the proposed 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. Kenneth J. Walker, et al. v. United States, C.A. No. 92-0480 (D.D.C.) (three-judge court). Pursuant to the direction of Judge Richey at the status conference of March 6, 1992, we are today filing a notice and copy of this determination with the court and providing courtesy copies to the members of the three-judge panel.

We have considered carefully the information you have provided as well as Census data and comments and information from other interested parties. According to the 1990 Census, 18.9 percent of the population of Gregg County is black, and approximately 69 percent of the black population in Gregg County lives in the City of Longview. Under both the existing and proposed redistricting plans for Gregg County, District 4 is the most heavily black commissioner district, with black persons

making up 35.6 percent of the total population in District 4 under the existing plan compared to 37.5 percent of the total population under the proposed plan. It appears that elections have been marked by racially polarized voting and, with the exception of Commissioner James Johnson who was elected in 1990, black voters have not been able to elect candidates of their choice in District 4 or elsewhere in the county.

In addition, the information in your submission does not establish that black voters will have an equal opportunity to elect candidates of their choice in District 4 of your proposed plan. In that regard, we note the longstanding objections by members of the black community in Gregg County to the division of the black population concentrations in the southern portion of the City of Longview between commissioner Districts 1 and 4 and their unsuccessful efforts to persuade the commissioners court to adopt a redistricting plan in 1991 that would unite the majority-black areas in south Longview into one commissioner district which would provide black voters with a significantly more meaningful electoral opportunity. Nothing provided in your submission establishes that the division of the black community in south Longview was justified by any nondiscriminatory redistricting criteria.

Finally, we are not satisfied that the process of formulating the proposed redistricting plan was open to fair participation by members of the minority community. Although the commissioners court held public hearings, the hearings seem to have been a formality to which the commissioners court did not give serious consideration.

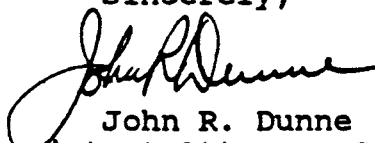
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the redistricting plan presently under submission.

You may request that the Attorney General reconsider this objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the proposed redistricting plan continues to be legally unenforceable. Clark v. Roemer, 111 S.Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

The realignment of the voting precincts is directly related to the proposed redistricting; therefore, the Attorney General will make no determination at this time with regard to that change. 28 C.F.R. 51.22(b) and 51.35.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Gregg County plans to take concerning this matter. If you have any questions, please contact Robert A. Kengle (202-514-6196), an attorney in the Voting Section.

Sincerely,



John R. Dunne
Assistant Attorney General
Civil Rights Division

cc: Honorable Charles R. Richey
Honorable Laurence H. Silberman
Honorable Gerhard A. Gesell