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JRD:MAP:JVJ:gmh
DJ 166-012-3
91-3910

March 30, 1992

Brian P. Quinn, Esq.
McWhorter, Cobb and Johnson
P.O. Box 2547
Lubbock, Texas 79408

Dear Mr. Quinn:

This refers to the 1991 redistricting plan for the Lubbock Independent School District in Lubbock 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 the information to complete your submission on January 28 and 29, 1992.

We have given careful consideration to the information you have provided, as well as the comments and information from other interested persons. At the outset, we note that minorities constitute 31.4 percent of the school district population (22.9% Hispanic and 8.5% black), and that pursuant to the five district, two at-large method of election, there presently are two minority trustees, both elected from single-member districts in which Hispanics and blacks constitute a majority of the population. Our analysis indicates that Hispanic and black voters generally form a cohesive electoral coalition, and that Anglos provide little support for candidates of the minority community's choice.

While the proposed redistricting maintains the minority percentages in majority-minority District 1, it effects a substantial decrease in majority-minority District 2, from 75 to 63 percent of the population (the Hispanic and black populations each decrease by six percentage points). This results from the school district's decision to correct the underpopulation of existing District 2 by adding two precincts that are

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overwhelmingly Anglo in population. The school district advises that this will safeguard the opportunity of black voters to elect a candidate of their choice in the district since they are more likely to coalesce with Anglo than Hispanic voters in school district elections. However, we find little or no support for this view in the recent election history of the county, and it appears that there are a number of alternative plans available that would minimize the reduction of minority voting strength in this district. We also note that while the minority percentage in proposed District 2 still exceeds the percentage in proposed District 1, the Hispanic proportion of the electorate is significantly greater in District 1 since we understand that it includes a substantial number of Anglo university students who generally do not participate in school district elections.

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 the school district's burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the proposed redistricting plan.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the redistricting plan 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, you may request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the redistricting plan continues to be legally unenforceable. Clark v. Roemer, 111 S. Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibilities under the Voting Rights Act, please inform us of the action the Lubbock Independent School District plans to take concerning this matter. If you have any questions, you should call Mark A. Posner (202-307-1388), an attorney in the Voting Section.

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division