



U.S. Department of Justice

Civil Rights Division

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Office of the Assistant Attorney General

Washington, D.C. 20530

July 14, 1992

Robert T. Bass, Esq.  
Allison & Associates  
208 West 14th Street  
Austin, Texas 78701

Dear Mr. Bass:

This refers to the 1991 redistricting plan for commissioners court districts and the realignment of voting precincts in Gaines 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 further response to our December 23, 1991, request for additional information on May 15, 1992.

We have considered carefully the information you have provided, as well as data from the 1990 Census and information from other interested parties. The commissioners court is composed of five members, four of whom are elected from single-member districts and the fifth member, the county judge, is elected at large.

Although Gaines County is nearly 29 percent Hispanic in voting age population, in each district in the proposed plan white residents constitute a majority of the voting age population. This result has been achieved by fragmenting Hispanic population concentrations in the cities of Seagraves and Seminole. At the time of redistricting the county was aware that it was possible to draw a district with a Hispanic voting age population majority but rejected the one alternative its demographer drew and failed to develop other such options that did not have the asserted defects of that plan. The reasons for rejecting a redistricting approach that would produce one Hispanic voting age population majority district do not withstand scrutiny. Moreover, the fact that a Hispanic challenger forced a runoff in the 1990 election in the most-heavily Hispanic district

(40% Hispanic in population) suggests that the real concern may well have been the fact that providing a majority Hispanic voting age population district would produce a real opportunity for Hispanics to elect a candidate of their choice.

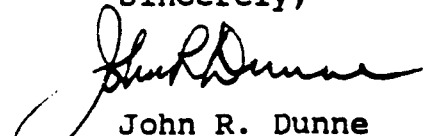
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 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 commissioners court 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 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. 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.

Because the realignment of voting precincts is dependent upon the objected-to redistricting, the Attorney General will make no determination at this time with regard to this matter. 28 C.F.R. 51.22(b).

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Gaines County plans to take concerning this matter. If you have any questions, you should call George Schneider (202-307-3153), an attorney in the Voting Section.

Sincerely,



John R. Dunne  
Assistant Attorney General  
Civil Rights Division