



Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

September 21, 1984

Ms. Emma Lee Locklear
Chairperson, Robeson County
Board of Elections
P. O. Box 313
Lumberton, North Carolina 28359

Dear Ms. Locklear:

This refers to the consolidation of two voting precincts and the elimination of one polling place for Smiths Township in Robeson County, North Carolina, 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 submission on July 23, 1984. Although we noted your request for expedited consideration, we have been unable to respond until this time.

We have considered carefully the information you have sent, data obtained from the 1980 Census, as well as information provided by other interested parties. At the outset, we note that on April 27, 1983, the county board of elections passed a resolution dividing Smiths Township into two different voting precincts and creating a new polling place in South Smiths, actions that were taken apparently for the convenience of voters in the southern part of the township. Those changes received Section 5 preclearance on July 8, 1983.

In the submission now before us, the polling place for South Smiths would be eliminated and the voters presently assigned to vote there would be assigned again to the polling place in the northern part of the township. Thus, the voters who currently vote at South Smiths would again be subjected to the inconvenience of having to travel a substantial distance to vote some eight miles away.

In spite of this added inconvenience to the largely minority electorate in this portion of the county, the county has advanced no compelling reason for the change. While we have noted that the county's stated reason for the consolidation is the avoidance of confusion, our analysis shows that any confusion that occurred likely was due to the county's failure adequately to notify voters about their new polling place when the township initially was divided into two precincts. However, our analysis shows it just as likely that any confusion which might have existed initially has been remedied during the course of intervening elections and that confusion is much more likely by again changing the polling place for approximately two-thirds of the township's voters.

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 or effect. See Georgia v. United States, 411 U.S. 526 (1973); Beer v. United States, 425 U.S. 130, 141 (1976); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)).

Since the consolidation of the precincts will result in added burdens on a significant portion of the Indian community in Robeson County, I am unable to conclude, as I must under the Voting Rights Act, that the county has met its burden in this instance. Accordingly, on behalf of the Attorney General, I must object to the consolidation of the voting precincts and the elimination of the South Smiths polling place.

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 these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.44 of the guidelines permits you to 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 effect of the objection by the Attorney General is to make the consolidation of voting precincts and the elimination of the South Smiths polling place legally unenforceable. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Robeson County plans to take with respect to this matter. If you have any questions, feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds". The signature is written in a cursive style with a large, sweeping initial "W".

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

JAN 28 1985

Ms. Emma Lee Locklear
Chairperson, Robeson County
Board of Elections
P. O. Box 2159
Lumberton, North Carolina 28359

Dear Ms. Locklear:

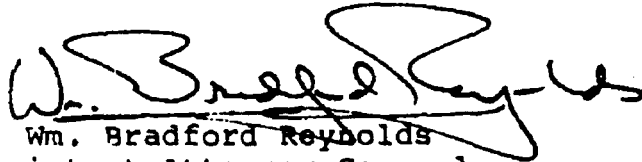
This refers to your request that the Attorney General reconsider the September 21, 1984, objection under Section 5 of the Voting Rights Act of 1965, as amended, to the consolidation of two voting precincts and the elimination of a polling place for Smiths Township in Robeson County, North Carolina. We received your initial request on October 18, 1984; supplemental information was received on October 24, and November 26, 1984.

In support of your request for reconsideration you have provided information showing the existence in the township of an efficient system for transporting voters, regardless of political affiliation, to the polls on election day. Furthermore, we understand that envisioned by the consolidation was a change to a more centralized polling location.

In view of these considerations, then, we believe that the county has satisfied its burden of showing that the proposed changes are free of a discriminatory purpose and effect. Therefore, in accordance with the reconsideration guidelines promulgated in the Procedures for the Administration of Section 5 (28 C.F.R. 51.47), the objection interposed to the above-mentioned changes is hereby withdrawn. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure

of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See also 28 C.F.R. 51.48. In this connection, we also feel a responsibility to caution you that should the county fail to establish a more centrally located polling place as anticipated by our determination here, we may find it necessary to pursue other appropriate remedies under the Voting Rights Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds". The signature is written in a cursive style with a large, looping initial "W".

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division