



Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

Felix J. Stalls, III, Esq.
County Attorney
Cochran County Courthouse
Room B-2
Morton, Texas 79346

25 FEB 1980

Dear Mr. Stalls:

This is in reference to the redistricting of the commissioners' precincts and the creation of additional voting precincts and polling places in Cochran County, Texas. Preliminary materials relating to these changes were received by us initially on April 16, 1976.

On June 7, 1976, we wrote to the then-County Attorney requesting the information with respect to these voting changes which we believed to be necessary to enable us to determine, as required by Section 5 of the Voting Rights Act, whether the redistricting had the purpose or the effect of abridging the right to vote on account of race, color, or membership in a language minority group. Having received no response and having learned that the addressee of our previous request was no longer in office, on August 21, 1977, we repeated that request to you. (Copies of our letters are attached.) Your responding letter, received by us on December 21, 1977, provided some, but not all, of the information requested and we renewed our request for the unprovided information in our letter of February 21, 1978. (Copy attached). To date we have not received the remainder of the requested information, specifically, answers to our inquiries concerning the number of registered voters, by race, in each commissioner and voting precinct before and after the change.

This information is especially important in reviewing this submission because you have indicated that total population statistics, by race, for the commissioner and voting precincts before and after the change are not available and you were able to provide only percentage estimates. On the other hand, we are aware from experience that the county, in order to conduct its elections, must maintain some record of registered voters and the precincts in which they reside and it would not appear to be a difficult task to identify the Spanish surnamed voters on the lists.

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 failing to provide the Attorney General with the information necessary for the proper evaluation of your submission, you have failed to sustain your burden of proof. Therefore, on behalf of the Attorney General, I must object to the submitted changes.

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, 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. Such a request would be particularly appropriate were the county to provide the information which was requested by the Attorney General but never provided. 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 redistricting of commissioner precincts and the creation of additional voting precincts and polling places 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 what course of action Cochran County plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Ms. Hallue E. Wright (202--724-7170) of our staff, who has been assigned to handle this submission.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division