



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

July 17, 1992

Ms. Neta J. Bowman
Clerk/County Manager
La Paz County Board
of Supervisors
P. O. Box C
Parker, Arizona 85344

Dear Ms. Bowman:

This refers to the 1992 redistricting plan for board of supervisors, the realignment of voting precincts, and the creation of a voting precinct for La Paz County, Arizona, 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 initial submission on May 8, 1992; supplemental information was received on May 18, 1992.

We have considered carefully the information you have provided, as well as information from other interested parties. The 1990 Census reports that Hispanics constitute 22.7 percent while Native Americans account for 14.5 percent of the county's population. Review of Census data demonstrates that the concentrations of each minority group are in the same areas on the Colorado River Indian Tribes Reservation. The proposed plan includes one district (District 1) that is 45.1 percent Native American and 39.7 percent Hispanic, according to data supplied by the county, and these proportions are close to those in the existing district.

Existing District 1, however, is entirely on the Reservation and, as a result, it appears that Native Americans have formed a successful electoral coalition with some Hispanics and Anglos who historically have close ties to the Tribes and the Reservation.

The county's proposed configuration adjusts the boundaries of District 1 in three unprecedented ways: first, taking in portions of the Town of Parker, which is entirely on the Reservation; second, going off the Reservation to take in population from the Town of Ehrenberg; and third, excluding the community of Blue Water Lagoon, which is on the Reservation near Parker. The county adopted this configuration over the objections of the Tribes. While the Tribes did not oppose the inclusion in District 1 of a portion of Parker, they contended that the substitution of a part of Ehrenberg for Blue Water Lagoon excludes a community that is politically cohesive with Native Americans while bringing into District 1 a group that has no historical or present-day community of interest with Native Americans or Hispanics on the Reservation and that has taken positions on issues contrary to the interests of the Tribes. Our analysis indicates that the needs of reapportionment could have been served by retaining the Blue Water Lagoon area in District 1 or placing more of Parker in District 1, rather than going south off the Reservation into Ehrenberg. The information available to us suggests that the county's choices for District 1 will may adversely affect the ability of minority voters to elect their candidate of choice in the one district in which they have been successful to date.

We have reviewed the county's stated reasons for its decisions. The county has not adequately explained why it adheres to the view that it cannot keep District 1 within the Reservation while complying with the one person-one vote requirement. A review of the record raises concerns that a desire to protect the core districts of some incumbent supervisors may have prevailed over the interest of appropriately sustaining the opportunity for minority voters to elect their preferred candidate. In certain circumstances, incumbency protection may be a proper redistricting goal, but we cannot preclear a plan where such protection is obtained at the expense of recognizing the community of interest shared by insular minorities. See, e.g., Garza v. Los Angeles County, 918 F.2d 763, 771 (9th Cir. 1990), cert. denied, 111 S. Ct. 681 (1991); Ketchum v. Byrne, 740 F.2d 1398, 1408-09 (7th Cir. 1984), cert. denied, 471 U.S. 1135 (1985).

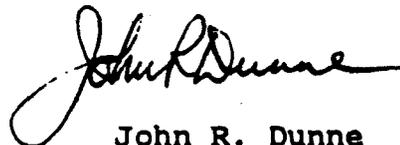
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R.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

Because the realignment of voting precincts and the creation of a voting precinct are directly related to the objected-to redistricting plan, the Attorney General will make no determination at this time regarding these matters. 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 La Paz County plans to take concerning this matter. If you have any questions, you should call Lora L. Tredway (202-307-2290), an attorney in the Voting Section.

Sincerely,



John R. Dunne
Assistant Attorney General
Civil Rights Division