



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

DEC 10 1991

Honorable Manny M. Aragon
President Pro Tempore of the Senate
Honorable Raymond G. Sanchez
Speaker of the House of Representatives
The New Mexico State Legislature
Room 363, PERA Building
Santa Fe, New Mexico 87503

Dear Senator Aragon and Speaker Sanchez:

This refers to the proposed redistricting of the New Mexico Senate and House of Representatives, submitted to the Attorney General pursuant to Section 3(c) of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973a(c), as provided in the order in Sanchez v. Anaya, No. 82-0067 (D.N.M. December 17, 1984). We received the information necessary to complete your submission on December 4, 1991. In accordance with your request, we have expedited our review of this submission.

The Attorney General does not interpose any objection to the proposed districting plan for the New Mexico House of Representatives. However, we feel a responsibility to point out that Section 3(c) 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.

With respect to the Senate, we have given careful consideration to the materials you have provided, as well as information and comments from other interested parties. In the southeastern portion of the state the proposed plan fails to provide for any Senate district with an Hispanic majority, although there are significant minority concentrations in the area which have grown substantially since 1980. Alternative plans were proposed which provided for a Roswell-based Senate district very similar to the House district (58) provided for the Roswell area by the Sanchez Court, and a second predominantly minority district based on minority concentrations in Carlsbad and Hobbs. The rejection of these plans in favor of districts which fragment minority concentrations has not been satisfactorily explained in terms of any racially neutral criteria.

Under Section 3(c), as under Section 5 of the Act, changes affecting voting cannot be precleared unless the submitting

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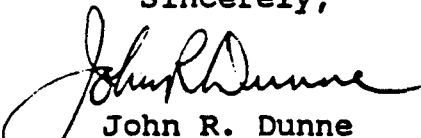
authority establishes that the changes are free from a racially discriminatory purpose and effect. An objection also must be interposed in the event that the proposed change violates Section 2 or any other substantive provision of the Act.

Under these circumstances, we cannot conclude, as we must under the Act, that the State has sustained its burden of showing that the proposed Senate redistricting plan is free of the proscribed purpose. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the proposed redistricting plan for the New Mexico Senate.

Of course, as provided by Section 3(c) of the Voting Rights Act, you have the right to seek a declaratory judgment from the Sanchez Court that the proposed redistricting 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 Court is obtained, the submitted Senate redistricting plan continues to be legally unenforceable.

We are mindful that the date for proclamation of the regularly scheduled elections for the New Mexico Senate is fast approaching. We understand that a concerted effort will be necessary for elections to go forward under a plan which satisfies both the legitimate concerns of the New Mexico Legislature and the requirements of federal law. Please be assured that this Department stands ready to cooperate in this effort in every way we can, including providing review under Section 3(c) of any subsequent redistricting on an exceptionally expedited basis. In that regard, and so that we will be able to fulfill our obligations to enforce the Voting Rights Act, please inform us promptly what steps New Mexico intends to take with regard to redistricting. If you have any questions, feel free to call Voting Section attorney John Tanner (202-307-2897), who is assigned to handle this matter.

Sincerely,


John R. Dunne
Assistant Attorney General
Civil Rights Division