

MAR 24 1978

Mr. Mike Westergren
Nueces County Attorney
Nueces County Courthouse
Corpus Christi, Texas 78401

Dear Mr. Westergren:

This is in reference to the reapportionment of commissioner precincts in Nueces County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed upon our receipt on February 13, 1978, of the supplemental material you provided. In accordance with your request we have expedited our consideration of this matter pursuant to the procedural guidelines for the administration of Section 5 (28 C.F.R. 51.22).

We have given careful consideration to the information furnished by you as well as Bureau of the Census data, information and comments from other interested parties, and materials in our files from previous Nueces County submissions. On the basis of our analysis, we are unable to conclude, as we must under the Voting Rights Act, that the submitted reapportionment of commissioner precincts in Nueces County will not have a discriminatory effect on minority groups in the county.

Our analysis reveals that, according to the 1970 Census, Mexican Americans constitute approximately 44% of the population of Nueces County. Under the submitted reapportionment plan, Mexican Americans would constitute 52% of the population of Commissioner Precinct 2 and 81.6% of the population of Commissioner Precinct 3. Under the present plan, Mexican Americans constitute 44% of the population of Commissioner Precinct 2 and 82.5% of the population of Commissioner Precinct 3. While we recognize that the proposed plan might be considered ameliorative, in our view there also are substantial indications that the plan sufficiently perpetuates denial of access by Mexican Americans to the political process in Nueces County as to make it constitutionally impermissible within the meaning of Beer v. United States, 425 U.S. 130 (1976).

Factors indicative of denial of access to the political process were considered by the Court when reviewing the Texas state at-large elective legislative districts for Nueces County (Graves v. Barnes, 378 F. Supp.640, 658-661 (1974)). The court there found that under the at-large system the Mexican American minority population in Nueces County had less opportunity than other residents to participate in the political processes and to elect legislators of their choice. We have been provided with no basis for concluding that the proposed reapportionment plan for the Nueces County Commissioners' Court will not perpetuate this denial. By overly concentrating the Mexican American population in one precinct (Commissioner Precinct 3) the plan has the effect of minimizing the impact of the Mexican American vote in other precincts, notably Precinct 2. It appears that fairly drawn alternative reapportionment plans could easily avoid this result.

Under these circumstances, therefore, we are unable to conclude, as we must under the Voting Rights Act, that the plan does not discriminate against Mexican American voters. Accordingly, on behalf of the Attorney General, I must interpose an objection to the reapportionment plan here under submission.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the District Court for the District of Columbia that this change has neither the purpose nor the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group. In addition, Sections 51.23 to 51.25 of the Attorney General's Section 5 guidelines (28 C.F.R. 51.23-51.25) permit reconsideration of the objection should you have new information bearing on the matter. However, until such time as the objection may be withdrawn or a judgment from the District of Columbia Court is obtained, the legal effect of the objection by the Attorney General is to make the change in question unenforceable.

Sincerely,

JOHN E. HUERTA
Acting Assistant Attorney General
Civil Rights Division