

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

U.S. DISTRICT COURT
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THEATRE BUILDING CHALL
BY _____

WALTER SESSION, *et al.*,
Plaintiffs,

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vs.

Civil Action No. 2:03-CV-354

RICK PERRY, *et al.*,
Defendants.

TRAVIS COUNTY AND THE CITY OF AUSTIN'S BRIEF ON REMEDY

The Court's order of June 29, 2006, directs the parties to submit any remedial proposals (maps, statistical packages, and briefing) by July 14th. This is the submission by the County and City. Because the County is proposing a specific remedial map, while the City is not, only Parts I, II, and III of this filing are on behalf of the City. Parts IV and V focus on the County's specific proposed remedial map.

I. BOTH DISTRICT 23 AND DISTRICT 25 UNDER THE CURRENT MAP MUST BE REDRAWN IN ORDER TO REMEDY THE ILLEGALITIES OF PLAN 1374C.

In its June 28th decision in *LULAC v Perry*, the Supreme Court held that Plan 1374C's District 23 violates Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973. *See, e.g., Perry* slip op. at 36.¹ While the Court also determined several other significant issues, including a determination that this Court did not err in rejecting arguments that Section 2 required seven majority-Latino districts in the South Texas area, *Perry* at 24, the Court's discussion of District 25 is especially pertinent to the County and the City. The reason, of course, is that District 25 was the vehicle for eviscerating Plan 1151C's District 10, which had been entirely within the County and largely within the

¹ All citations to the *LULAC v. Perry* decision will be to the slip opinion, in the form *Perry* at ____.

City for more than a decade before its undoing in the 2003 legislative effort. That former district, and the functioning of a longstanding and effective tri-ethnic coalition in the congressional election process inside it, served as an exemplar of what the Voting Rights Act aspires to. Had Chief Justice Roberts been aware of the history and operation of former District 10 when he remarked that “[i]t is a sordid business, this divvying us up by race,” *Perry* at 20 (Ch. J. Roberts, dissenting in part), he could have been heartened to know that one aspect of the Court’s majority decision on the Voting Rights Act issue was to provide the opportunity for at least a partial restoration of a congressional district centered in Austin and Travis County.²

In its defense of District 23 in Supreme Court briefing, the state argued that “in reconfiguring old CD 23 and in creating a new CD 25, the Legislature made two fundamental, *interconnected* political choices.” State’s Br. at 105 (emphasis added) It further argued that the main motivating force behind creating District 25 was a combination of protecting the District 23 incumbent and creating District 25 as a Hispanic-majority district as compensation for its destruction of District 23 as such a district. State’s Br. at 115-16. In short, District 25 was created to avoid a violation of the Voting Rights Act caused by the destruction of District 23 as a Latino opportunity district. *See Perry* at 18 (state’s goal in creating District 25 was to avoid Section 5 retrogression in light of what the state did to District 23); *id.* at 23 (state arguing that District 25 was an “offsetting opportunity district”).

The state’s plan failed and, with it, the only state policy reason for maintaining District 25 in its current form fails. The Supreme Court held that District 25 is not a

² This unique feature of former District 10, and the harm done to it by Plan 1374C’s District 25, was the impetus for the County and City intervening in this suit in the first place. *See, e.g.*, Complaint in Intervention by Travis County and the City of Austin, ¶¶ 20, 21 (filed Nov. 10, 2003).

compact district under Voting Rights Act standards and that, because of its non-compactness, District 25 does not serve to immunize District 23 from invalidation under Section 2. “District 25 is not reasonably compact[.]” *Perry* at 29 “[T]he creation of a noncompact district does not compensate for the dismantling of a compact opportunity district.” *Perry* at 24

The Supreme Court ultimately did not rule on the constitutional question of whether District 25 is a racial gerrymander – but it did vacate the part of this Court’s judgment resting on the conclusion that District 25 was not invalid under the *Shaw v Reno* factor. *Perry* at 36-37. The Court reached this determination because it concluded that, given the many problems that it had noted with District 25, and since District 25’s only reason for existence in its current form was the now-invalidated District 23, “there is no reason to believe District 25 will remain in its current form once District 23 is brought into compliance with § 2.” *Perry* at 37.³

II. A REMEDY SHOULD BE IN PLACE BEFORE THE COMING ROUND OF ELECTIONS AND SHOULD BE MODELED ON THE 1996 *VERA V. BUSH* REMEDY.

Since the inception of the modern era of judicial involvement in redistricting, the Supreme Court’s remedial injunction has emphasized the importance of federal courts taking “appropriate action to insure that no further elections are conducted” under a plan held invalid. *Reynolds v. Sims*, 377 U.S. 533, 585 (1964). Another three-judge federal district court based in Texas acted consistently with this rule when it ordered into place before the next election a remedy for a congressional redistricting plan containing three

³ Justice Souter’s concurrence, for himself and Justice Ginsburg, highlights why, in light of the Supreme Court decision, Districts 23 and 25 are effectively joined at the hip. He notes his concurrence with the part of the opinion authored by Justice Kennedy and characterizes it as holding that “Plan 1374C’s Districts 23 and 25 violate Section 2.” *Perry* at 2 (J. Souter, concurring and dissenting) (emphasis added).

districts held illegal by the Supreme Court in a late June ruling.⁴ In the ruling on remand – *Vera v. Bush*, 933 F.Supp. 1341 (S.D. Tex. 1996) – the court determined that it was both necessary and possible to institute a remedy in time to have the upcoming round of congressional elections conducted under a districting scheme that complied with governing law. It redrew district lines affecting thirteen congressional districts

The *Vera v. Bush* remedy order discarded the party primary results for the thirteen affected districts and ordered what it termed “special elections” in the form of an open primary in those districts, conducted the same day as the general election. A special election runoff was provisionally scheduled for about a month later for those districts in which the special election did not end with a candidate garnering more than 50% of the vote in the open primary “special election.” The remedy order established a candidate filing deadline and made minor adjustments to various state law deadlines – for ballot certification, for example – leading up to the general election, pushing those deadlines slightly later.

The County and City urge this Court to adopt a similar remedy in terms of scheduling and the conduct of an open primary for districts affected by any remedial map. Attached as Exhibits 1 and 2, respectively, are declarations by the Travis County Clerk and Travis County Tax-Assessor Collector which attest to the practicability of effectuating such a remedy in Travis County, even under current state law election schedule deadlines for matters such as ballot certification. The Tax Assessor Collector, who serves as the Travis County Voter Registrar, explains that, assuming that Travis County congressional district changes do not include a significant number of split VTIDs,

⁴ *Bush v. Vera*, 517 U.S. 952 (1996)

she can accomplish her voter registrar responsibilities within the current statutory deadline for ballot certification if she receives any boundary changes by August 10th

III. THE CITY OF AUSTIN'S QUALITATIVE OBJECTIVES CAN BE MET IN SEVERAL POSSIBLE WAYS, AS LONG AS THE REMEDY CONCLUDES WITH A COMPACT DISTRICT SOLIDLY ANCHORED IN THE CAPITAL CITY.

In the wake of Plan 1374C, the City of Austin was the largest city in Texas without at least one congressional district solidly anchored in it. And, this was so despite the fact that the City has ample population to host three congressional districts and still have an Austin-anchored district.⁵ The City's involvement and efforts in this litigation have been to undo the impact that Plan 1374's District 25 has had on denying the City an anchored congressional presence.

The City's key objective, and its request to the Court at the qualitative level, is to partially rewind the tape, so to speak, now that the Supreme Court has called District 25's *bona fides* into question, being stretched too far and made too non-compact, requiring remedial work on the district. The legislature chose to place the City in three congressional districts in Plan 1374C, and the City does not seek a remedy that would undermine that legislative choice. Maintaining a presence of multiple congressional districts in the City would be both possible and acceptable.

That welcomed constraint, though, need not be a deterrent to achieving the original objective of the City in any judicial remedial order: reinstatement of a reasonably compact district, solidly anchored in the City.

All these objectives are achievable, while remedying the legal problems the Supreme Court found with Districts 23 and 25. The release of District 25 from its

⁵ Actually, Austin hosts a fourth congressional district, District 31, which embraces the small part of the City that is in Williamson County. Because no remedial proposal appears to be on the table that might affect that District 31, the City's focus in the text is on the larger part of the City, the part in Travis County.

southern end in Hidalgo County, along the Rio Grande River, immediately moves that District far northward, back toward the original home of Plan 1151C's District 10 in Travis County and the City. That is because the district would have to move significantly northward to capture sufficient population to meet the one person, one vote standard, while it simultaneously eliminates the non-compactness that renders it an insufficient substitute for Plan 1374's District 23.

In the course of evaluating possible remedies to be offered the Court, the City has either reviewed or been apprised of numerous drafts of possible remedial maps. The number of congressional districts affected range from four to six, depending on the individual map. Some of these draft maps appear to encapsulate the City's objectives in this litigation; others don't. They range along a continuum in this regard, though, and the City is reluctant to identify any one possible map as *the* map. Instead, it has chosen to articulate for the Court what its objectives are and to urge the Court to adopt a remedial plan that is responsive to the Supreme Court's *Perry* ruling and that also embraces the qualitative objectives articulated here by the City. Both are plainly achievable in the short term.

IV. A CAREFULLY HONED REMEDY FOR THE LEGAL PROBLEMS WITH DISTRICTS 23 AND 25 NECESSARILY AND PROPERLY REQUIRES RETURNING DISTRICTS 15 AND 28 TO MORE OF THEIR ORIGINAL SOUTH TEXAS ORIENTATION.

The basic task of a court acting to remedy a legal violation in a redistricting map is to ensure repair of the illegality while honoring the legislative policy choices underlying the districting plan. The *Vera v. Bush* court explained its remedial standard in 1996: "tailoring the districts as closely as possible to the scope of the violation; and effectuating the legislative choices in the previous districting plans." 933 F.Supp. at

1347. Using that standard, the 1996 remedial order redrew thirteen district lines in the course of remedying legal violations in three.

The obvious reason for the comparatively large number of districts affected by a remedy directed at only three was the urban nature of the three invalidated districts (two in Harris County and one in Dallas County) and the intricate lacework used by the legislature to stitch those districts together at the edges. Implementation of the legislative lacework led to the interlocking of the invalidated districts with many other districts that, in effect, were merely the by-product of the prime legislative objective for those three districts.

A similar dynamic was at work in the legislative design of the two districts – 23 and 25 – that unquestionably require remedial re-design. The Plan 1374C analogue to the lacework at the edges of the invalidated districts from the mid-1990s, and the necessary interlocking with neighboring districts, is the elongation of at least three districts coming out of the Rio Grande Valley, Districts 28, 25, and 15. Districts 28 and 15 were moved northward into Central Texas, and out of their South Texas territory, for only one reason: to accommodate District 25 as it was wedged between them in an ultimately futile effort to compensate for the splitting of Webb County that resulted in the invalidation of District 23 under Section 2 of the Voting Rights Act. Each of those three districts was pushed into Central Texas counties for only one reason: the District 23-based effort to salvage Congressman Bonilla. There is no other legislative policy other than the now-invalidated one for the configurations of Districts 28, 25, and 15 in Plan 1374C.

The majority opinion on the District 23 issue in *Perry* notes this conclusion's accuracy. It determines that “[t]he districts in south and west Texas will have to be

redrawn to remedy the violation in District 23,” citing to Judge Ward’s concurrence/dissent at 298 F.Supp.2d at 528 *Perry* at 36. There, in the favorably cited portion of Judge Ward’s opinion, the ineluctable necessity of redrawing Districts 28, 25, and 15 upon invalidation of District 23 was recognized, with Judge Ward’s explanation that determining whether the “bacon strip districts” [plural] violated *Shaw v. Reno* principles was unnecessary, once District 23 and 25 were put on the remedial chopping block:

Restructuring of the South and Central Texas districts is necessary to remedy that § 2 violation It is doubtful that the court could, consistent with *Upham v. Seamon*, simply remedy the areas adjoining District 23, without treading on the state’s policy as reflected overall in Plan 1374C. ... For present purposes, it is enough for me to embrace the wisdom of Dr. Alford’s opinion that any *Shaw* issues present in South and Central Texas under Plan 1374C resulted from the state’s own action in altering District 23 for political purposes. The ripple effect of changes to this area of the map, however, would likely be felt across a large portion of the state.

298 F Supp.2d at 528 (emphasis added) This observation has now been validated by the Supreme Court majority.

The props have now have been knocked out from under the only policy reason for elongation of the bacon strip districts 28, 25, and 15 into Central Texas. The reason for the District 25 wedge is gone, permitting return of District 25 to the Travis County base it would have had, but for its recruitment as a District 23 “fix.” With removal of the District 25 wedge, the population squeeze forcing Districts 15 and 28 into Bastrop County and the northern edge of Hays County, respectively, is relieved. The consequence is that both Districts 15 and 28 can return to their more natural geographic territory in South Texas, while District 25 moves into its more natural Central Texas

territory centered in Travis County. Significant population becomes available in Hidalgo County, released from the southern end of the legally undermined District 25.

With these remedial principles in mind, the County proposes a remedial map for Central Texas that substantially restores the improperly distorted District 25 to its Travis County base and, in doing so, allows the northernmost reaches of Districts 15 and 28 to move south of the I-10 line that serves as a rough but obvious divide between South and Central Texas. The lines of six districts are revised under the County's proposed remedial plan.

V. THE DETAILS OF THE COUNTY'S PROPOSED PLAN

A. The County proffers two alternatives, merely to demonstrate that Voting Rights Act requirements can be met, especially in the South and West Texas areas, through at least two ways, while also remedying the District 25 problem in Central Texas.

The County's proposed remedial map is proffered through two alternatives. The Central Texas configuration of the map, for all practical purposes, is the same in both map alternatives. The only reason that two alternatives are provided the Court is to demonstrate that the specific legal violation concerning District 23 under Plan 1374C can be remedied in either of two ways – returning a united Webb County to its historic location in a reconfigured District 23 or reuniting Webb County in District 28 – while still providing the appropriate and requested remedy for District 25 and the other bacon strip districts as they impinge on Central Texas in general and Travis County in particular.

The County takes no position on which of the two South Texas/Webb County alternatives is superior. Either suffices to remedy the Webb County problem in the current District 23. Either demonstrates that creating six performing Latino opportunity

districts in the South and West Texas area is possible while providing an appropriate remedy in Central Texas for District 25.⁶

The two alternative plans are Plan 1413C, which unites Webb County in District 28, and Plan 1414C, which unites Webb County in District 23. The only readily apparent advantage in Plan 1413C over Plan 1414C is that it avoids pairing the incumbents in Districts 23 and 28.⁷ To ease discussion of the remedial map in the remainder of this brief, the reference point will be Plan 1413C – but that is not intended in any way to signal County support for it over Plan 1414C (Plan 1413C, and its statistical package, is attached as Exhibit 3; Plan 1414C, with the package, is Exhibit 4.)

B. The County’s plan complies fully with the equal population rule and the Voting Rights Act and has the special benefit of re-orienting historically South Texas districts back toward the Valley.

Plan 1413C affects only six districts: 23, 28, 25, 15, 21, and 10. Exact population equality is achieved – “zeroed out” – for all of them, as well as the remaining, untouched districts. In addition to the three South and West Texas Latino opportunity districts⁸ that are left untouched in Plan 1413C – Districts 16, 20, and 27 – Plan 1413C contains three districts in the area that are comfortably within the range of performing Latino opportunity districts within the meaning of Section 2 of the Voting Rights Act. The table that follows shows key indicators for those three districts:

⁶ Since the Supreme Court has twice affirmed this Court’s conclusion that Section 2 of the Voting Rights Act does not require adding a seventh Latino opportunity district in the South and West Texas area, the County has not attempted to add such a seventh district in either of its alternative maps.

⁷ There is some question whether the District 28 incumbent already lives outside his current district. The text’s comment about pairing assumes he does not.

⁸ District 29 in Harris County is another Latino opportunity district that is untouched, but it is not treated as a South or West Texas district

	Hispanic VAP (%)	Hispanic Citizen VAP (%)	Spanish surname voter registration (%)
CD 15	73.3	68.8	66.9
CD 23	63.0	62.5	57.3
CD 28	72.2	66.2	64.1

What happens to these three districts in terms of their orientation toward South Texas is especially critical to understanding the advantages of the proposed map for areas outside Central Texas (which, of course, the County is primarily concerned with)

District 23 becomes centered in terms of population on Bexar County, with a sizeable percentage in the South Bexar area.⁹

More critically, District 28 – which currently runs from the Rio Grande to the edge of the Travis County line on the south in Hays County – goes no further north than Gonzales County and the middle of Guadalupe County, while also maintaining some presence in Bexar County. Outside of Bexar County, Plan 1413C's District 28 drops entirely below the I-10 dividing line between Central and South Texas, with only the most minor exceptions.¹⁰ Especially important is the fact that District 28 under this plan anchors another Webb-Hidalgo district along the Rio Grande because it contains 167,920 people in Hidalgo County.

⁹ It has 351,041 people in Bexar County

¹⁰ Parts or all of only four District 28 precincts cross north of I-10 outside of San Antonio, encompassing only about 4,000 people.

District 15 also drops entirely below the I-10 line. The population freed in Hidalgo County by the move northward of District 25 goes into District 15, which garners 80,927 more people from that county, bringing the Hidalgo total for District 15 to 401,543 (or 71% of the county).

- C. District 25 is moved back to a Travis County anchor in Central Texas and becomes nearly a 50% combined minority district, thereby reinstating it to some degree to its desirable status as a district with an effective tri-ethnic coalition of voters.**

Plan 1413C substantially reinstates an Austin and Travis County-anchored district. Inasmuch as the only proffered policy reason for the destruction of that kind of district under Plan 1374C was the misbegotten effort to offset what happened to District 23, such a reinstatement of a coalitional district in the Austin area is not at odds with any cognizable policy expressed in Plan 1374C.

District 25 under the County's plan would have 530,641 people in the County and 494,134 in the City. It also would bring in the part of Bastrop County that had been ill-advisedly placed in Plan 1374C's District 15, plus Hays County population that had been in Plan 1374C's District 28. It is these moves, combined with the release of population in Hidalgo County, that allows the South Texas re-orientation of those two districts, while simultaneously establishing a plainly Central Texas district, localized in one media market, without stretching it into different communities in Bexar County and San Antonio.

This District 25 is 48.4% combined Black and Hispanic population (42.9% combined VAP), raising it slightly above the comparable measures in Plan 1151C's

District 10.¹¹ Of special importance is the fact that this District 25 substantially reunites the Black community in the county. Plan 1374C left 35,558 Blacks outside CD 25, while this plan leaves only 11,842 outside. Again, this is an especially important step in the effort to reinstate a coalitional district in the area.

The Court should be especially reluctant to avoid reinstating to a meaningful and significant degree a coalitional district in the Travis County area. The Supreme Court decried what was done in Plan 1374C with District 25 in terms of uniting wildly disparate populations for no reason other than race. The only truly equitable result, and one in no way at odds with legislative policy, would be to reconstitute the district as one that unites people who, after much hard work, had achieved what the Voting Rights Act aspires to.

D. Districts 21 and 10 are not harmed in their essential configuration by the County's proposed plan.

The County's plan honors the legislature's decision to have three districts impinging on Travis County. District 21 retains a presence in the County and City, in the southwestern area.¹² Due to the move of District 23 out of the Hill Country counties into which it had been moved to protect Congressman Bonilla, District 21 is moved back into those counties – Kerr, Kendall, and Bandera – where, pre-1374C, they had always been since District 21 was first created. It is run through Hays and Comal counties, down into its traditional base in northern Bexar County, with a presence in the high growth areas of southwest Austin and northern Hays County.

¹¹ That District 10 had 44.4% combined Black and Hispanic population, with 39.2% combined VAP. The tri-ethnic political and voting coalition, about which County Judge Biscoe and Commissioner Gomez testified at trial, makes these measures particularly significant, in contrast to other situations in which the combined numbers can be a convenient mask for a non-coalition situation. Here, trial evidence confirms the reality of the coalition in Travis County.

¹² It would have 27,029 people in the City and 41,442 in the County.

The change in District 10 is a natural by-product of all the other changes that already have been described above. It picks up Fayette and Colorado counties from District 15's drop back toward South Texas. It loses roughly equivalent population in Travis County, but, even then, Travis County remains the largest county in the district.¹³

E. The County's plan minimizes VTD splits to only those necessary to equalize population and reunites communities of interest across the whole spectrum of the territory it affects.

Plan 1413C minimizes the number of split VTDs, and all of those splits are for purposes of zeroing out population in areas where counties were already split under the current Plan 1374C.¹⁴ There are 13 split VTDs in Travis, 13 in Bexar, 5 in Hays, and 5 in Hidalgo.

Moreover, this plan takes a substantial step towards reuniting communities of interest in general. Webb County and the City of Laredo are made whole; Travis County is moved back into a plan that anchors a district solidly in the county and reunites communities of interest; and the City of New Braunfels and Comal County are reunited in one district. In Plan 1413C, the number of split counties is reduced by one, and in Plan 1414C, there are two fewer split counties.

Perhaps most importantly, Plans 1413C and 1414C anchor each of these six districts in a logical distribution that reflects the interests of regional populations. In Plan 1413C, Districts 15 and 28 are anchored along the Rio Grande without stretching north of

¹³ In fact, in practical political terms, District 10 increases its Travis County profile under the County's proposal. Moving District 25 back into the County, and smoothing the gerrymandered lines, means that precincts heretofore in newly created District 10 are moved into District 25 and vice-versa. Statistical reports on the plan reflect an increased weight of about 3,000 Republican primary voters for District 10, which, being solidly Republican, means that the Travis County presence of District 10 is increased as a practical matter.

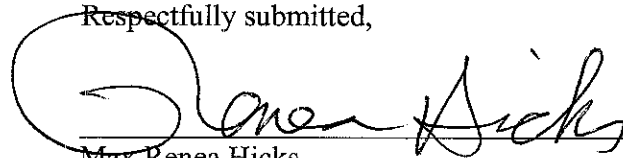
¹⁴ In fact, with a little more time, the number of split VTDs probably could be lessened with refinements in the zeroing out.

I-10 into Central Texas; District 23 is anchored in Bexar County and West Texas; District 21 is anchored in northern Bexar County, the southwest suburbs of Austin and the adjacent Hill Country; District 10 maintains its electoral base in Travis County in balance with Harris County; and District 25 restores the traditional coalitional district anchored in Travis County.

CONCLUSION

The City and the County urge the Court to remedy the illegalities in Plan 1374C in time for the upcoming elections. They further urge the Court to include District 25 in that remedy and to move it back towards its historic center of gravity in Travis County and the City of Austin. The County urges the Court to adopt either Plan 1413C or Plan 1414C as the remedial plan for the upcoming elections. The City urges the Court to include the objectives stated in Part III, above, in any remedial plan.

Respectfully submitted,



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ATTORNEYS FOR INTERVENORS
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **TRAVIS COUNTY AND THE CITY OF AUSTIN'S BRIEF ON REMEDY** was forwarded by electronic delivery on this 14th day of July, 2006, to each of the following counsel:

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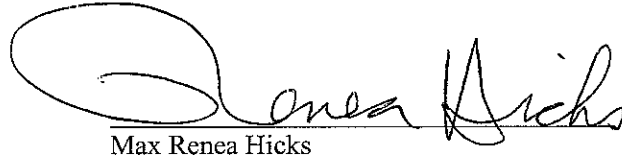
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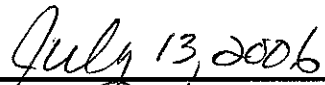
Max Renea Hicks

DECLARATION OF DANA DEBEAUVOIR

1. My name is Dana DeBeauvoir. I am the County Clerk of Travis County, Texas. I am responsible for overseeing the conduct of elections in Travis County.
2. The voting equipment can be programmed in such a way as to provide special instructions to voters on how to vote in an open primary. This will include instructions that the straight-party voting option available for the general election ballot will not apply to the congressional seats that will be contested in the open primary section of the ballot.
3. Although extensive voter education will be necessary to educate voters on this out-of-the-ordinary situation, I do not anticipate that it will have a depressive effect on turnout. If voter education is provided, this situation should not be harmful to the interests of minority voters.
4. A minimal number of split VTDs in Travis County can be managed. Large numbers of VTDs can increase the risk for administrative error by election judges and cause voter confusion.
5. Provided sufficient notice, I can do what is necessary to conform to new districts in time for an open primary on the November General Election Day. This includes the conduct of a runoff election, if needed, that may be held a month or so later.
6. In order for us to conduct an election, we need to begin programming our ballot 70 days prior to the election (immediately following ballot certification). In order for us to begin programming our ballot, the Travis County Voter Registrar must have time to complete their part of the process and provide us with the required ballot format information.

I declare under penalty of perjury that the foregoing is true and correct.


Travis County Clerk Dana DeBeauvoir


Dated

Exh. 1

DECLARATION OF NELDA WELLS SPEARS

- 1 My name is Nelda Wells Spears. I am the Tax Assessor Collector of Travis County, Texas. As the Tax Assessor Collector, I also have the statutory responsibility to be the Travis County Voter Registrar. In that capacity when district lines change, my office recodes voters into new districts and notifies affected voters of the change.

2. With regard to changing congressional district lines, if my office receives the boundary changes by August 10, 2006, and those changes do not include a significant number of split VTD's (Voter Tabular Districts/Voting Precinct) then my office can accomplish its voter registrar responsibilities in time to comply with the current state statutory deadline for ballot certification.

I declare under penalty of perjury that this statement is true and correct.

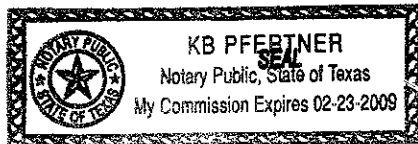
Dated:

Nelda Wells Spears
 NELDA WELLS SPEARS
 Travis County Tax Assessor Collector

State of Texas
County of Travis

Sworn to and subscribed before me on the 13th day of JULY 2006

[Handwritten Signature]
 Notary Public Signature



K.B. Pfeetner
 Printed or Typed Name of Notary