



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

October 21, 1991

James W. Burgoon, Jr., Esq.  
Burgoon & Oakes  
P.O. Drawer 1640  
Greenwood, Mississippi 38930-1640

Dear Mr. Burgoon:

This refers to the proposed board of supervisors redistricting plan and the realignment of voting precincts for Leflore County, Mississippi, 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 response to our June 28, 1991, request for additional information on August 21 and September 24, 1991.

We have considered carefully the information you have provided, along with Census data and comments and information from other interested persons. At the outset, we note that the proposed redistricting plan now before us reduces significantly the black population share in District 2 by shifting 599 persons, of whom 598 are black, out of that district. Our analysis indicates that this reduction was unnecessary, and that alternative population shifts would have maintained or enhanced black voting strength in that district.

Our analysis of local election returns indicates that the proposed reduction in the black population of District 2, when recent elections have been decided by fewer than 100 votes, would significantly impair the ability of black citizens of Leflore County to elect candidates of their choice. The county has presented nothing to show that such a result was necessary. To the contrary, it would appear that readily available or easily discernible alternatives would have avoided such a consequence.

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 your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the supervisor 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 proposed change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. 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 supervisor redistricting plan continues to be legally unenforceable. Clark v. Roemer, 59 U.S.L.W. 4583 (U.S. June 3, 1991); 28 C.F.R. 51.10 and 51.45.

With respect to the precinct realignment, the Attorney General will make no determination concerning this matter at this time since it is directly related to the objected-to change. 28 C.F.R. 51.35.

To enable us to meet our responsibility to enforce the Voting Rights Act, and in light of the impending county elections, please inform us of the action Leflore County plans to take concerning this matter. If you have any questions, you should call John K. Tanner (202-307-2897), an attorney in the Voting Section.

Sincerely,



John R. Dunne  
Assistant Attorney General  
Civil Rights Division