

JSP:RAS:bmp
DJ 166-012-3
V7043; V8901
X0961-63

JUN 2 1975

Mr. Luther J. Britt, Jr.
Attorney for the Lumberton
City School Board
503 North Elm Street
Lumberton, North Carolina 28358

Dear Mr. Britt:

This is in reference to Chapter 498 of the 1973 North Carolina Session Laws, and to the Lumberton City School District annexations, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. This submission was completed on April 2, 1975.

The Attorney General does not interpose an objection to Chapter 498 of the 1973 North Carolina Session Laws. Additionally, the Attorney General does not interpose an objection to Chapter 636 of the 1967 North Carolina Session Laws, "B" Addition (South Lumberton). However, we feel a responsibility to point out that Section 5 of the Voting Rights Act of 1965 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.

While the Attorney General does not object to the above changes, we are unable, however, to reach a like conclusion with respect to the remainder of the annexations you have submitted. After careful consideration of your original submission and the

additional information you have provided; demographic data relating to the City of Lumberton and Robeson County; and information provided us from other sources, we are unable to conclude that the annexations known as Barker-Ten Mile (Chapter 636, 1967 North Carolina Session Laws, "A" Addition); Lakewood Estates (Chapter 638, 1967 North Carolina Session Laws as amended by Senate Bill 809 Chapter 687, 1971 North Carolina Session Laws); and Clyburn Pines and Country Club (Chapter 443, 1969 North Carolina Session Laws, as repealed and re-enacted by Chapter 611, 1969 North Carolina Session Laws) were not accomplished with a racially discriminatory purpose or effect.

Extensive contact with minority group members, both blacks and Indians, throughout Robeson County, indicates the existence of a racially discriminatory purpose behind the annexations, i.e., to assure that the children of suburban whites could continue to attend City of Lumberton Schools, rather than attending the predominantly-minority Robeson County Schools. We have received substantial evidence that the boundaries of these annexations were outlined in a convoluted, meandering fashion with the result that blacks and Indians were virtually excluded from the three annexations in question. Since each area to be annexed resulted in the formation of a new special electorate for the purpose of voting in the preferential election on the question of annexation, such exclusion of blacks and Indians is a clear violation of the Fifteenth Amendment. Comillion v. Lightfoot, 364 U.S. 339 (1960).

In view of these considerations, therefore, on behalf of the Attorney General I must interpose an objection to those annexations known as Barker-Ten Mile, Lakewood Estates, Clyburn Pines and Country Club, and to Senate Bill 809.

- 3 -

Of course, as provided by Section 5 of the Voting Rights Act, you have the alternative of instituting action in the United States District Court for the District of Columbia, seeking a declaratory judgment that the present submission does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

John W. Campbell, Esq.
408 North Chestnut Street
Post Office Box 1424
Lumberton, North Carolina 28358

Dear Mr. Campbell:

This is in reference to your request that the Attorney General reconsider his June 2, 1975, objection under Section 5 of the Voting Rights Act of 1965, as amended, to three annexations to the Lumberton City School District in Robeson County, North Carolina. These annexations are known as Barker Ten Mile (Chapter 636, 1967 North Carolina Session Laws), Lakewood Estates (Chapter 638, 1967 North Carolina Session Laws, as amended by Senate Bill No. 808, Chapter 687, 1971 North Carolina Session Laws), and Clyburn Pines and Country Club (Chapter 443, 1969 North Carolina Session Laws, as repealed and re-enacted by Chapter 611, 1969 North Carolina Session Laws). Your request was received on February 10, 1981.

As we indicated in our original letter of objection, a copy of which is attached for your reference, our objection was based on our inability to conclude that the annexations were nondiscriminatory in purpose or effect in the wake of unrefuted allegations from minority residents of Robeson County that the annexation boundaries were created in a convoluted, meandering fashion to exclude blacks and Indians and that the annexations were undertaken for the purpose of assuring that white children residing therein would continue to attend predominantly white city schools. At that time we concluded that since each area to be annexed resulted in the formation of a special electorate for the purpose of the annexation referendum, the exclusion of blacks and Indians from the proposed annexations violated the Fifteenth Amendment. Comillion v. Lightfoot, 364 U.S. 339 (1960).

We have carefully reviewed the further information that you have provided to us, as well as comments and information provided by other interested parties. However, the information we have been presented still is not sufficiently specific in terms of our previous requests for information to allow us to alter the conclusions previously reached. Accordingly, on behalf of the Attorney General, I must decline to withdraw the objection at this time.

3. Documents setting out the legal boundaries of each of the subdivisions annexed in whole or in part.

4. The current population, by race (white, black, Native American) for each of the submitted annexations.

5. Copies of correspondence between the petitioners for annexation, the Lumberton City School District, and/or members of the North Carolina legislature relating to the annexations.

6. Copies of correspondence pertaining to the proposed Saddletree area annexation.

Of course, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have 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, irrespective of whether the changes have previously been submitted to the Attorney General. As previously noted, until such a judgment is rendered by that court, the legal effect of the objection by the Attorney General is to render the changes in question unenforceable insofar as they affect voting.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter of the course of action the Lumberton City School District plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-7439), Director of the Section 5 Unit of the Voting Section.

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division