August 1, 1988

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P.O. Box 1151
Raleigh, North Carolina 27602

Dear Mr. Crowell:

This refers to the change from at-large to single-member district elections, the districting plan, and the election schedule for the board of education in Granville County, North Carolina, 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 the information to complete your submission on June 2, 1988.

We have examined carefully the information which you have provided, as well as information provided by other interested parties. With respect to the school board's proposed transition from at-large to single-member district elections and the proposed districting plan, we note that these changes are essentially identical to the single-member district plan proposed by the Granville County Commission which the United States District Court found to violate Section 2 of the Voting Rights Act, 42 U.S.C. 1973, as amended, in McGhee v. Granville County, North Carolina, No. 87-29-CIV-5 (E.D. N.C. February 5, 1988). We are unable to find any significant differences, in terms of the opportunities presented to minority voters, between the county commission plan and the school board plan. I must therefore conclude at this time that the findings of the District Court in the McGhee decision are applicable equally to the present submission pertaining to the Granville County Board of Education. I should note, however, that the referenced district court decision is currently pending on appeal in the Fourth Circuit Court of Appeals. Should the appeal result in reversal of the McGhee decision, reconsideration and withdrawal of the instant objection may well be warranted. See also 28 C.F.R 51.45.

Under Section 5 of the Voting Rights Act, a submitted change may not be precleared if we find that the plan clearly violates Section 2 of the Voting Rights Act, as amended, 42 U.S.C. 1973; S. Rep. No. 97-417, 97th Cong., 2d.Sess. 12 n.31 (1982). Accordingly, given the McGhee decision, I cannot conclude, as I must under

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Section 5, that the proposed changes meet the Act's preclearance requirements. Therefore, on behalf of the Attorney General, I must object to the proposed change from at-large to single-member district elections and the proposed single-member district plan. The Attorney General will make no determination on the proposed election schedule at this time.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the proposed single-member district plan legally unenforceable. 28 C.F.R. 51.10.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the Granville County Board of Education plans to take with respect to this matter. If you have any questions, feel free to call Sandra S. Coleman (202-724-6718), Director of the Section 5 Unit of the Voting Section.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

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DJ 166-012-3
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December 29, 1988

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P. O. Box 1151
Raleigh, North Carolina 27602

Dear Mr. Crowell:

This refers to your request that the Attorney General reconsider the August 1, 1988, objection under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, to the change from at-large to single-member district elections and the districting plan for the board of education in Granville County, North Carolina.

This also refers to the implementation schedule, including the April 11 and May 2, 1989, special elections, for the new election system, submitted to the Attorney General pursuant to Section 5. We received your letter and submission on November 4, 1988.

As indicated in the August 1, 1988 objection letter, the objection was interposed because we could not find any significant differences, in terms of the opportunities presented to minority voters, between the school board plan and the county commission plan, which the United States District Court found to violate Section 2 of the Voting Rights Act, as amended, 42 U.S.C. 1973, in McGhee v. Granville County, No. 87-29-CIV-5 (E.D.N.C. Feb. 5, 1988). In view of the pending appeal of that decision, we noted that if the appeal resulted in a reversal of the McGhee decision, reconsideration and withdrawal of the objection could be warranted.

As your request for reconsideration points out, the United States Court of Appeals for the Fourth Circuit has reversed the district court. McGhee v. Granville County, No. 88-1553 (4th Cir. Oct. 21, 1988). Accordingly, pursuant to the reconsideration guidelines promulgated in the Procedures for the Administration of Section (28 C.F.R. 51.48), the objection interposed to the single-

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member district election system and districting plan is hereby withdrawn. In addition, the Attorney General does not interpose any objection to the 1989 implementation schedule. However, we feel a responsibility to point out that Section 5 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. See also 28 C.F.R. 51.41.

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division

cc: Leslie J. Winner, Esq.
G. K. Butterfield, Esq.