



U.S. DEPARTMENT OF JUSTICE

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 21, 1984

Michael D. Smith, Esq.
Hall, Clark & Smith
P. O. Box 790
Eutaw, Alabama 35462

Dear Mr. Smith:

This refers to the change in the method of electing councilmembers from at-large to single-member districts, the districting plan, and the additional polling place for the City of Eutaw in Greene County, Alabama, 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 initial submission on June 3, 1984; supplemental information was received on June 18 and 22, 1984.

We have carefully considered the information you have provided, as well as that provided by other interested parties, and information available from the Bureau of the Census. The Attorney General does not interpose any objection to the change from at-large elections to election from five single-member districts or to the additional polling place for the City of Eutaw. 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 the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

In considering the districting plan, we note that, according to the 1980 Census, blacks constitute 53.7 percent of the city's population. However, on the basis of information coming to our attention subsequent to your submission and confirmed by statements made during your visit on June 22, 1984, blacks constitute approximately 92.3 percent of the population in District No. 1 and approximately 100 percent of the population in District No. 2. As a result of these configurations, proposed District No. 3 is 27.7 percent black instead of 54.1 percent as indicated by your submission. Although we have contacted you repeatedly to confirm or clarify

the statistics that appear to result from our information, the city has failed to provide accurate information in support of the submitted plan or, in the alternative, to redefine the district boundaries so as more nearly to conform minority voting strength to the levels portrayed in your submission.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.39(e). In failing to provide the Attorney General with the information necessary for the proper evaluation of this change, you have failed to sustain your burden of proof. Therefore, on behalf of the Attorney General, I must object to the implementation of the proposed districting plan for the City of Eutaw.

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. In addition, Section 51.44 of the guidelines permits you to 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 effect of the objection by the Attorney General is to make the implementation of the proposed districting plan legally unenforceable. 28 C.F.R. 51.9.

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

Sincerely,


Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division